



Personnel Rules

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SECTION 1 – AUTHORITY FOR AND COVERAGE OF THE PERSONNEL RULES

A. AUTHORITY

The Town of Truckee Town Council authorizes the Town Manager to establish and enforce these personnel rules and policies.

B. COVERAGE

These Rules apply to all Town employees, except that nothing in these Rules regarding disciplinary rights and disciplinary processes applies to those who serve in an at-will capacity, or at the pleasure of the Council, or by contract. Nothing in these Rules gives those who serve at-will, or at the pleasure of the Council, or by contract the right to continued employment. Elected officials, Council appointees, volunteer personnel and temporary or seasonal employees may not be covered by certain sections of these rules.

C. NO CONTRACT CREATED

Nothing in these Rules is intended to create or creates any contractual right in Town employment, express or implied.

D. CONFLICTS WITH OTHER PROVISIONS

If a provision of these Rules actually conflicts with any provision of an applicable Memorandum of Understanding, Town ordinance, or state or federal law, the Memorandum of Understanding, Town ordinance, or state or federal law shall control. In all other cases, these Rules apply.

E. VIOLATION OF THE PERSONNEL RULES

A violation of any Rule contained herein shall be grounds for discipline, up to and including termination from Town employment.

F. DELEGATION OF AUTHORITY

Any of the Town's management staff may delegate any of the responsibilities listed in these Rules to any other appropriate management staff member, regardless of whether the Rule at issue specifically authorizes the delegation of the matter.

G. SEVERABILITY

If any court finds any section, subsection, sentence clause or phrase of these Rules to be inconsistent with the law, such finding(s) shall not affect the validity of the remaining portion of these Rules. Any inconsistent provision of the Rules shall be null and void but all other provisions, including those of the same Rule, shall remain in full force and effect until otherwise canceled or amended.

SECTION 2 - DEFINITIONS

The terms used in these rules shall have the meanings defined below:

Administrative Leave: Leave granted by the Town to certain employees in accordance with the terms of a Memorandum of Understanding or contractual agreement.

Advancement: A wage increase within the limits of a pay range established for a class.

Allocation: The assignment of a single position to its proper class in accordance with the duties performed and the authority and responsibilities exercised.

Appointing Authority: The Town Manager and Department Heads of the Town who have the final authority to make decisions about appointment to Town employment.

Classification: All positions sufficiently similar in duties, authority, and responsibility, to permit grouping under a common title in the application with equity of common standards of selection, transfer, demotion and wage.

Competitive Service: All positions of employment in the service of the Town except those excluded by the Municipal Code.

Days: Means calendar days unless otherwise stated.

Demotion: The movement of an employee from one classification to another classification having a lower maximum base rate of pay.

Disciplinary Action: The discharge, demotion, reduction in pay, written reprimand, or suspension of a regular employee for punitive reasons and not for any non-punitive reasons. While part of the levels of performance feedback, disciplinary action does not include counseling, verbal reprimands and performance evaluations.

Eligible: A person whose name is on an employment list.

Employment List: (1) Open employment list: A list of names of persons who have taken an open- competitive examination for a class in the competitive service and have qualified. (2) Promotional employment list: A list of names of persons who have taken a promotional examination for a class in the competitive service and have qualified.

Examination: (1) Open-competitive examination: An examination for a particular class which is open to all persons meeting the qualifications for the class. (2) Promotional examination: An examination for a particular class which is open only to employees meeting the qualifications for the class.

Grievance: An allegation by one or more employees that the Town has violated an express provision of these Rules or a current Memorandum of Understanding.

Lay-Off: The separation of employees from the active work force due to lack of work or funds, or to the abolition of positions by the Town council or Town Manager for the above reasons or due to organization changes.

Probationary period: Unless otherwise specified by MOU, a twelve-month period (eighteen months for sworn police department employees upon hire into the department) to be considered an integral part of the examination, recruiting, testing and selection

process during which an employee is required to demonstrate fitness for the position to which the employee is appointed by actual performance of the duties of the position.

Promotion: The movement of an employee from one classification to another classification having a higher maximum base rate of pay.

Provisional Appointment: An appointment of a person who possesses the minimum qualifications established for a particular class and who has been appointed to a position in that class in the absence of available eligibles. In no instance shall a provisional appointment exceed six months without prior approval of the Town Manager or his or her designee.

Domestic Partner: A person who is part of a registered domestic partner relationship under California Family Code section 297 and 298. Proof of declaration filing with the California Secretary of State must be provided to the Town's Administrative Services Director to qualify for consideration as a domestic partner under these policies.

Regular Employee: An employee in the competitive service who has successfully completed the probationary period and is scheduled to work on a continuing basis.

Reinstatement: The restoration without examination of a former regular employee or probationary employee, who left Town employment in good standing, to a classification in which the employee formerly served as a regular non-probationary employee.

Relief of Duty: The temporary assignment of an employee to a status of leave with pay.

Supervisor: An Administrator having immediate jurisdiction over another employee and who has the authority to make certain decisions about the employment status of employees under his or her supervision.

Suspension: The temporary separation from service of an employee without pay for disciplinary purposes.

Temporary Employee: An employee who is appointed to a position for a limited period of time.

Transfer: A change of an employee from one position to another position.

Working Day: Any day the Town Administrative Offices are open for business.

Work Week: The work week begins on Sunday at 12:00 a.m. and ends on Saturday at 11:59 p.m.

SECTION 3 – EQUAL EMPLOYMENT OPPORTUNITY

A. GENERAL POLICY

The Town does not discriminate against qualified applicants or employees on the basis of actual or perceived race, genetic information, sex (including gender, gender identity and gender expression), military or veteran status, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition (cancer-related or genetic characteristics), marital status, sex, age (40 or over), sexual orientation (including heterosexuality, homosexuality, and bisexuality) or any other status protected by law, actual or perceived, except where an actual bona-fide occupational qualification exists. The Town will afford an equal employment opportunity to all qualified applicants and employees with regard to all terms and conditions of employment, including hiring, compensation, training, promotion, transfer, discipline and termination.

B. REASONABLE ACCOMMODATION POLICY

1. Policy

The Town provides employment-related reasonable accommodations to qualified individuals with disabilities within the meaning of the California Fair Employment and Housing Act and the Americans with Disabilities Act.

2. Procedure

An employee or applicant who desires a reasonable accommodation in either the employment selection process or in order to perform essential job functions should make such a request in writing to the Administrative Services Director. The request must identify:

- a) the portion(s) of the selection process or the job-related functions at issue; and
- b) the desired accommodation.

Following receipt of the request, the Administrative Services Director or his/her designee may require additional information. For example, the Administrative Services Director may require reasonable information to support the existence of a disability. The Administrative Services Director may also require an employee to undergo a fitness-for-duty examination to determine whether the employee can perform the essential functions of the job with or without accommodation. The Administrative Services Director may also require that a Town-approved medical provider conduct the examination.

The Town will arrange to meet with the applicant or employee, and his or her representatives, for an interactive discussion, to work in good faith to fully consider all feasible potential reasonable accommodations, alternative available jobs for which employee qualifies, and whether employee qualifies for disability retirement or family medical leave.

After the interactive discussion process, whether a reasonable accommodation can be made and what reasonable accommodation will be provided shall be determined by the Town Manager on a case-by-case basis. The Town will not provide accommodations that pose an undue hardship upon Town finances or operations.

The Town will inform the applicant or employee of its decision as to reasonable accommodation(s) in writing.

An employee or applicant who alleges a denial of a reasonable accommodation may file a complaint pursuant to the Complaint Procedure in Section 4 of these Personnel Rules.

SECTION 4 – ANTI-HARASSMENT, DISCRIMINATION AND RETALIATION POLICIES

A. POLICY AGAINST HARASSMENT, DISCRIMINATION AND RELATED RETALIATION

1. Purpose and Application

The purpose of this Policy against Harassment, Discrimination and Retaliation is to reaffirm the Town's zero tolerance of: (1) harassment and discrimination; and (2) retaliation against those who report or oppose harassment or discrimination.

The Town is committed to providing a work environment free of harassment and discrimination. Town policy prohibits harassment or discrimination against an applicant or employee by a supervisor, management employee, co-worker, elected or appointed officials, or contractor on the basis of the individual's perceived or actual race, religion, sex (including gender, gender identity, gender expression), national origin, ancestry, physical or mental disability, medical condition, marital status, age (40 or over), sexual orientation, pregnancy, and breastfeeding, military or veteran status, or any other basis protected by federal, state or local law or ordinance or regulation. All such harassment or discrimination is unlawful.

The Town will take remedial action reasonably calculated to end any harassing or discriminatory conduct. Any employee determined by the Town to be responsible for unlawful harassment or discrimination will be subject to appropriate disciplinary action, up to and including termination. This Policy also prohibits retaliation against any individual for making a complaint of harassment or discrimination or for participating in an investigation under this Policy. Accordingly, retaliation constitutes a violation of this Policy.

2. Policy Coverage

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

This Policy prohibits harassment or discrimination by or of Town employees, officials, officers, volunteers, contractors, and agents because: 1) of an individual's protected classification; 2) of the perception that an individual has a protected classification; or 3) the individual associates with a person who has or is perceived to have a protected classification. The Town does not consider conduct in violation of this Policy to be within the course and scope of employment or the direct consequence of the discharge of Town duties.

Disciplinary action or other appropriate sanction up to and including termination will be instituted for prohibited behavior as defined below. Any retaliation against a person for filing a complaint or participating in the complaint resolution process is prohibited. Individuals found to be retaliating in violation of this Policy will be subject to appropriate sanction or disciplinary action up to and including termination.

This policy applies to all Town employees, officials (elected and appointed), officers, volunteers, contractors, and agents.

3. Prohibition Against Harassment and Discrimination

It is the Town's policy to prohibit any form of harassment or discrimination, as defined below. To that end, this Policy establishes a Complaint Procedure that applicants, employees, officials, officers, volunteers, contractors, and agents can use to report potential violations. Disciplinary action, up to and including termination, will be taken against an employee or officer who is found to have engaged in harassment or discrimination in violation of this Policy. Any official, agent or contractor found to have engaged in harassment and/or discrimination in violation of this Policy will be subject to appropriate sanctions.

4. Prohibition Against Retaliation

In order to deter harassment and discrimination, and to support the integrity of the Complaint Procedure described below, the Town also prohibits retaliation. Any employee found to have retaliated against an employee, official, officer, applicant, volunteer, contractor, or agent because of a complaint of harassment or discrimination or because of participation in the Complaint Procedure, shall be subject to disciplinary action. Any official, officer, agent or contractor who has been found to have retaliated in violation of this Policy will be subject to appropriate sanctions.

5. Definitions: This Policy prohibits harassment or discrimination because of an individual's protected classification.

"Protected classification" includes perceived or actual race, religion, sex (including gender, gender identity, gender expression), national origin, ancestry, physical or mental disability, medical condition, marital status, age (40 or over), sexual orientation, pregnancy, and breastfeeding, military or veteran status, or any other basis protected by federal, state or local law or ordinance or regulation.

"Discrimination" includes treating individuals differently because of the individual's protected classification as defined in this policy. This policy prohibits discrimination.

"Harassment" may include, but is not limited to the following types of behavior that are undertaken because of a person's protected classification:

Verbal: Verbal harassment includes epithets, jokes, comments or slurs that identify a person on the basis of his or her protected classification, intimate or other nicknames, comments on appearance - including dress or physical features - or stories that tend to disparage those with a protected classification. Also includes

propositioning on the basis of a protected classification. This may include inappropriate comments on appearance, including dress or physical features, or dress consistent with gender identification, or race-oriented stories and jokes.

Visual: Visual harassment includes gestures, posters, notices, bulletins, cartoons, photography, drawings or images communicated through electronic systems that tend to disparage those with a protected classification or that depict inappropriate content.

Physical: Physical harassment includes the following conduct taken because of an individual's protected classification: assault, impeding or blocking movement, physically interfering with normal work or movement, pinching, grabbing, patting, propositioning, leering, making express or implied job threats or promises in return for submission of physical acts, mimicking, stalking, or taunting.

Sexual Harassment: Sexual harassment includes unwelcome sexual advances, requests for sexual favors and other acts of a sexual nature, where submission is made a term or condition of employment, where submission to or rejection of the conduct is used as the basis for employment decisions, or where the conduct is intended to or actually does unreasonably interfere with an individual's work performance or create an intimidating, hostile, or offensive working environment.

Harassment is not limited to conduct by Town employees, but can also include conduct by those who are not employees such as elected officials, appointed officials, persons providing services under contracts, volunteers, or members of the public. This policy prohibits harassment.

"Retaliation" is any adverse action taken because an applicant, employee, official, officer, volunteer, contractor, or agent has reported harassment or discrimination, or has participated in the Complaint Procedure described below, is prohibited. "Adverse action" includes: taking sides because an individual has reported harassment, spreading rumors about a complaint, shunning and avoiding an individual who reports harassment, or real or implied threats of intimidation to prevent an individual from reporting harassment.

The following individuals are protected from retaliation: those who make good faith reports of harassment or discrimination, and those who associate with an individual who is involved in reporting harassment or discrimination or who participates in the complaint or investigation process. This policy prohibits retaliation.

6. Guidelines for Identifying Harassment, Discrimination and Retaliation

To help clarify what constitutes harassment in violation of this Policy, the following guidelines should be followed:

Harassment and discrimination include any conduct which would be "unwelcome" to an individual of the recipient's protected classification, and which is taken because of the recipient's protected classification.

Discrimination may result when an individual is treated differently due to his or her membership in a protected classification. In addition, discrimination may result when a Town policy or practice has a negative impact on a particular classification of employees as a whole. A repeated action or type of conduct by the Town need not be in writing or formally approved by the Town to qualify as a policy or practice.

It is no defense that the recipient appears to have voluntarily "consented" to the conduct at issue. A recipient may not protest for many legitimate reasons, including the need to avoid being insubordinate or to avoid being ostracized.

Simply because no one has complained about a joke, gesture, picture, physical contact or comment does not mean that the conduct is welcome. Harassment can evolve over time. Small, isolated incidents might be tolerated up to a point. The fact that no one is complaining now does not preclude anyone from complaining if the conduct is repeated in the future.

Even visual, verbal, and/or physical conduct between two individuals who appear to welcome it can constitute harassment of a third party who observes the conduct or learns about the conduct later. Conduct can constitute harassment even if it is not explicitly or specifically directed at an individual.

Conduct can constitute harassment in violation of this Policy even if the individual engaging in the conduct has no intention to harass. The Town recognizes that it is legitimate for those protected classifications to have heightened sensitivities to harassment as a result of their life experiences. Even well-intentioned conduct can violate this Policy if the conduct is directed at, or implicates a protected classification, and if an individual of the recipient's same protected classification would find it offensive (e.g., gifts, over attention, endearing nicknames).

Conduct can constitute retaliation under this Policy when an action is taken or an employee is treated in a particular manner due to his or her reporting of a violation of this Policy, participation in an investigation of an alleged Policy violation, or any other negative action taken against an individual because of his or her association with the complainant.

A single act can violate this Policy and provide grounds for discipline or other appropriate sanctions. Therefore, if you are in doubt as to whether any particular conduct may violate this Policy, do not engage in the conduct, and seek guidance from a supervisor.

7. Confidentiality

The Town recognizes that confidentiality is important to all parties involved in a harassment investigation. Complete confidentiality cannot occur, however, due to the need to fully investigate and the duty to take effective remedial action. As a result, confidentiality will be maintained to the extent possible.

An individual who is interviewed during the course of an investigation is prohibited from discussing the substance of the interview, except as otherwise directed by a supervisor or a department director or with their employee association and/or legal representative.

Any individual who discusses the content of an investigatory interview will be subject to discipline.

The Town will not disclose a completed investigation report except as it deems necessary to support a disciplinary action, to take remedial action, to defend itself in adversarial proceedings, or to comply with the law or a court order.

8. Complaint Procedure

An applicant, employee, official, officer, volunteer, contractor, or agent who feels he or she has been harassed, discriminated against or retaliated against in violation of this Policy must report the conduct immediately and according to the following procedure so that the complaint can be resolved quickly and fairly.

Reporting to the Offending Individual: The Town strongly encourages any individual who feels that he or she has been harassed or discriminated against in violation of this Policy to let the offending person know immediately and firmly that the conduct at issue is unwelcome, offensive, in poor taste, and/or inappropriate and must stop. The Town also encourages that alleged acts of retaliation be reported in this manner as well.

Reporting to Management: If an individual who has been harassed prefers not to confront the offending person, he or she need not do so. If the individual does not report the harassment or discrimination to the offending individual, or does so but is not satisfied the situation has been resolved, the individual must then immediately report the conduct to any supervisor, department head, or other Town management employee. The individual should provide all details of the incident or incidents, names of individuals involved, and the names of any witnesses. This report can be made orally or in writing, although a written account is preferred. Following the Town's reporting structure is not required.

Interim Relief: Any official, officer, supervisor or management employee who receives a complaint or learns of a potential violation of this Policy must promptly report the information to the Administrative Services Director and if necessary, take action to diffuse volatile circumstances. If the complaint involves the Administrative Services Director, the person receiving the complaint must notify the Town Manager.

Investigation: The Administrative Services Director or his or her designee will immediately either direct or undertake an effective, discrete, thorough and objective investigation of the allegations at issue. The investigation will normally include interviews with the reporting individual, the accused, and any other person who is believed to have relevant knowledge concerning the allegations. The investigator will remind all witnesses to maintain the confidentiality of the content of the interview, and that retaliation against those who report alleged harassment or who participate in the complaint procedure is prohibited.

Investigation Into Unreported Potential Violations: The Town takes a proactive approach to the problems of harassment, discrimination and retaliation and will conduct an investigation if its officers, officials, supervisors or managers become aware that

harassment may be occurring, regardless of whether the recipient or a third party reports a potential violation of this Policy.

Remedial and Disciplinary Action: If the investigation concludes that harassment or retaliation in violation of this Policy has occurred, the Town will notify the offended and offending parties of the general conclusion(s) of the investigation and will take effective remedial action that is designed to end the violation(s). Any employee or officer determined to be responsible for violating this Policy will be subject to appropriate disciplinary action, up to and including termination. Disciplinary action may also be taken against any official, supervisor or manager who condones or ignores potential violations of this Policy or otherwise fails to take appropriate action to enforce this Policy. Any official or contractor found to be responsible for violating this Policy will be subject to appropriate sanctions.

Option to Report to Outside Administrative Agencies: Applicants, employees, officials, officers, volunteers, contractors, and agents have the option to report harassment, discrimination or retaliation to the U.S. Equal Employment Opportunity Commission (EEOC) or the California Department of Fair Employment and Housing (DFEH). These governmental agencies offer legal remedies and a complaint process. The nearest DFEH and EEOC offices are listed on the internet or employees can check the equal employment opportunity posters that are located on Town bulletin boards for office locations and telephone numbers.

The Employee Protection Line® enables reporting of workplace wrongdoing without giving your name or identifying yourself in any way, however, the party must give enough information to allow his/her concerns to be addressed.

The toll-free Employee Protection Line® is monitored by an independent third party. This third party monitors reports for many organizations.

When making a report, the party must state the name of the organization, but the call will not be traced. The party may make a report by calling (800) 576-5262 or online at <http://www.employeeprotectionline.com/xplonline/>. The Town of Truckee Employee Protection Line® organization code number is 10189.

9. Individual Responsibilities

It is the responsibility of all Town personnel to ensure that the work environment is free from harassment.

Managers and Supervisors are responsible for:

- (a) Informing employees of this Policy.
- (b) Modeling appropriate behavior.
- (c) Taking all steps necessary to prevent harassment, discrimination or retaliation from occurring.
- (d) Receiving complaints in a fair and serious manner, documenting steps taken to resolve complaints.
- (e) Monitoring the work environment and taking immediate appropriate action to stop potential violations, such as removing inappropriate pictures or correcting

- inappropriate language.
- (f) Following up with those who have complained to ensure that the behavior has stopped and that there are no reprisals.
 - (g) Informing those who complain of harassment or discrimination of his or her option to contact the EEOC or DFEH regarding alleged Policy violations.
 - (h) Assisting, advising, or consulting with employees and the Administrative Services Director regarding this Policy.
 - (i) Assisting in the investigation of complaints involving employee(s) in their departments and, if the complaint is substantiated, recommending appropriate corrective or disciplinary action in accordance with the Town's Personnel Rules and Policies, up to and including discharge.
 - (j) Implementing appropriate disciplinary and remedial action.
 - (k) Reporting potential violations of this Policy of which he or she becomes aware, regardless of whether a complaint has been submitted, to the Administrative Services Director or the department head.
 - (l) Participating in periodic training and scheduling employees for training.

Each employee, official, officer, and volunteer, is responsible for:

- (a) Treating everyone with respect and consideration.
- (b) Modeling appropriate behavior.
- (c) Participating in periodic training.
- (d) Fully cooperating with any Town investigation by responding fully and truthfully to all questions posed during the investigation.
- (e) Maintaining the confidentiality of any investigation that the Town conducts by not disclosing the substance of any investigatory interview, except as directed by the department head or the Administrative Services Director.
- (f) Reporting any act he or she believes in good faith constitutes harassment, discrimination, or retaliation as defined in this Policy, to his or her immediate supervisor, or department head, or Administrative Services Director.

The Town will provide periodic training to all Town personnel, including elected and appointed officials, as required by California law. All elected and appointed officials, managers and supervisors will receive at least two hours of training every two years. Non-supervisory employees will receive at least one hour of training every two years. All new personnel shall receive a copy of this Policy and shall complete their initial training within six months of taking office or commencing employment. Employees promoted to a supervisory position shall receive two hours of training within six months of assuming the supervisory position. Temporary and seasonal Employees shall be trained within 30 days of hire or within 100 hours worked, whichever occurs first. The Town will also comply with any legislatively mandated change to training in this subject.

Administrative Services Director:

The Administrative Services Director or his or her designee is responsible for administering the complaint procedure and authorizing and/or conducting an investigation.

Any questions about this Policy should be directed to the Administrative Services Director.

B. POLICY AGAINST RETALIATION FOR REPORTING, OPPOSING OR PARTICIPATING IN INVESTIGATIONS INTO ALLEGED MISCONDUCT

1. General Policy

It is the Town's policy to prohibit retaliation against those who report, oppose, or participate (as witnesses or accused) in investigations into complaints of alleged retaliation because of that reporting, opposition, or participation. To that end, this policy establishes a complaint procedure that applicants, officials, officers, employees or contractors can use to report potential violations. Disciplinary action, up to and including termination, will be taken against an employee or officer who is found to have violated this Policy Against Retaliation. Any elected official or contractor who violates this Policy Against Retaliation will be subject to appropriate sanctions.

2. Protected Activity

This Policy against Retaliation protects those who engage in a protected activity from being retaliated against because of that protected activity. "Protected activity" includes any of the following:

- a) Filing a complaint with a federal or state enforcement or administrative agency.
- b) Participating in or cooperating with a federal or state enforcement agency that is conducting an investigation of the Town regarding alleged unlawful activity.
- c) Testifying as a party, witness, or accused regarding alleged unlawful activity.
- d) Associating with another employee who is engaged in any of the protected activities enumerated here.
- e) Making or filing an internal complaint with the Town regarding alleged unlawful activity.
- f) Providing informal notice to the Town regarding alleged unlawful activity.

3. Policy Coverage

This Policy against Retaliation prohibits Town employees, officials, officers, volunteers, contractors, and agents from retaliating against applicants, employees, officials, officers, volunteers, contractors, and agents because of any of the protected activity as defined herein.

4. Adverse Action

Except as otherwise provided, this Policy against Retaliation prohibits adverse action that is taken because an applicant, employee, official, officer, volunteer, contractor, or agent has engaged in any of the forms of protected activity as defined herein. Adverse action includes any of the following:

- (a) Taking sides because an individual has reported alleged wrongdoing.
- (b) Spreading rumors about a complaint of alleged wrongdoing.
- (c) Shunning or avoiding an individual who has engaged in any of the forms of protected activity described above.
- (d) Real or implied threats of intimidation to attempt to prevent an individual from reporting alleged wrongdoing or because of protected activity.

- (e) Refusing to hire an individual because of protected activity.
- (f) Denying promotion to an individual because of protected activity.
- (g) Taking any form of disciplinary action because of protected activity.
- (h) Issuing a poor evaluation because of protected activity.
- (i) Extending a probationary period because of protected activity.
- (j) Altering work schedules or work assignments because of protected activity.

5. Causal Connection

This Policy against Retaliation prohibits adverse action that is taken because of an individual's protected activity. The Policy does not prohibit adverse action that is taken for legitimate or non-discriminatory reasons, such as: discipline for legal cause or refusing to hire because of inadequate qualifications. As a result, adverse action is only prohibited if it is causally connected to, or taken because of, the alleged protected activity.

6. Complaint Procedure

An applicant, employee, official, officer, volunteer, contractor, or agent who feels he or she has been retaliated against in violation of this Policy should immediately report the conduct according to the following procedure so that the complaint can be resolved fairly and quickly.

Reporting to Management: The individual may make a complaint to any supervisor, department head, or a member of the Administrative Services Department. The complaint should be in writing and provide all details of the incident or incidents, names of individuals involved, and the names of any witnesses. The complaint should contain a statement that the individual swears that the contents of the complaint are true, or that the individual believes them to be true. The complaint shall be filed as soon as possible after either the alleged act of retaliation or the date the individual first becomes aware of alleged retaliation, but no later than three months thereafter.

Interim Relief: Any official, officer, supervisor or management employee who receives a complaint or learns of a potential violation of this Policy against Retaliation must promptly report the information to the Administrative Services Department or another in the chain of command, and if necessary, take action to diffuse volatile circumstances.

Investigation: The Administrative Services Director or his or her designee will immediately undertake an effective, discrete, thorough and objective investigation of the allegations at issue. Each complaint that complies with the requirements stated in this Policy against Retaliation will be investigated to the extent that the Town deems appropriate. The investigation may include interviews with the reporting individual, the accused, and any other person who is believed to have relevant knowledge concerning the allegations. The investigator will remind all witnesses to maintain the confidentiality of the content of the interview, and that retaliation against those who report alleged wrongdoing or who participate in the complaint procedure is prohibited.

Remedial and Disciplinary Action: If the investigation concludes that a violation of this Policy has occurred, the Town will notify the offended and offending parties of the

general conclusion(s) of the investigation and will take effective remedial action that is designed to end the violation(s). Any employee or officer determined to be responsible for violating this Policy will be subject to appropriate disciplinary action, up to and including termination. Disciplinary action may also be taken against any official, supervisor or Administrative Officer who condones or ignores potential violations of this Policy or otherwise fails to take appropriate action to enforce this Policy. Any official or contractor who is found to have violated this Policy will be subject to appropriate sanctions.

Requirement to Exhaust Administrative Remedies: This Policy Against Retaliation provides an administrative remedy that individuals must use prior to resorting to judicial remedies to address the conduct described herein.

7. Individual Responsibilities

Every Town employee, official, officer, volunteer, contractor, or agent is required to:

- (a) Conduct him or herself consistently with this Policy Against Retaliation;
- (b) Report any act he or she believes in good faith constitutes retaliation as defined here, to his or her immediate supervisor or department head or to the Administrative Services Department;
- (c) Maintain the confidentiality of any investigation the Town conducts under this Policy Against Retaliation by not disclosing the substance of any investigatory interview, except as directed by the department head or the Administrative Services Department;
- (d) Cooperate fully with the Town's investigation into alleged violations of this Policy against Retaliation, by responding fully and truthfully to all questions posed during the investigation.

Management and Supervisory Employees (including Officers and Officials): In addition to the responsibilities listed above for individual employees, management and supervisory personnel (including officers and officials) are responsible to help enforce this Policy Against Retaliation within their departments or areas of responsibility by:

- (a) Being familiar with this Policy against Retaliation and modeling behavior that is consistent with it;
- (b) Informing all employees under their direction of this Policy against Retaliation and providing training as appropriate;
- (c) Receiving complaints in a fair and serious manner, documenting steps taken to resolve the problem, and following up with the complaining employee to ensure that there have been no reprisals.
- (d) Reporting any potential violations of this Policy against Retaliation of which he or she becomes aware, regardless of whether a complaint has been submitted, to the Administrative Services Department or the department head.
- (e) Based on the findings of the investigation, implementing appropriate disciplinary and remedial action.

Administrative Services Director: The Administrative Services Director is responsible for administering the complaint procedure, authorizing and/or conducting an investigation and, in consultation with the department head, recommending disciplinary action

commensurate with the severity of the offense, and recommending other appropriate remedial action.

SECTION 5 – GENERAL PROVISIONS FOR EMPLOYMENT STATUS, CLASSIFICATION AND APPOINTMENT

A. TOWN EMPLOYMENT DEFINITIONS:

FLSA-Exempt Employee: An employee who meets one or more of the duties test exemptions from overtime under the FLSA (Fair Labor Standards Act) (e.g. executive, administrative, and professional, employee) and who is paid on a salary basis, meaning that he or she is compensated in a predetermined amount that is not reduced, regardless of the quality or quantity of work actually performed.

FLSA Overtime-Eligible Employee: An employee who is entitled to FLSA overtime, regardless of whether paid on a salary or hourly basis. An employee who is assigned to an FLSA-exempt position on an acting or temporary basis only will remain overtime-eligible.

At-Will Employee: “At-will” refers to any Town employee who 1) does not hold regular status; or 2) serves at the pleasure of the Council or another Town employee or appointee; or 3) can be terminated at any time without cause and without the opportunity to appeal. Employees who move from a regular employment status to an at-will position will be required to sign a notification and acknowledgment of at-will employment as a condition of employment. All department heads are at-will employees.

Probationary Employee: An employee who is serving a probationary period. The probationary period is part of the selection process, during which the Town determines whether work performance or work-related behavior meets the required standards of the position.

Regular Employee: An employee who is regularly scheduled to work on a continuing basis and has completed the probationary period for the position he or she holds. A regular employee may only be terminated from Town employment for cause and has associated procedural due process, appeal and grievance rights.

Full-Time Employee: An employee who is assigned to work the maximum number of work hours scheduled by a particular department or division.

Part-Time Employee: An employee who is assigned to work on a continuing basis less than the maximum number of work hours scheduled by a particular department or division. Employees who work or have paid hours three quarters or more of a full schedule per week each month are eligible for full Town benefits in accordance with the employee’s Memorandum of Understanding. Employees who work one-half time or more but less than a full schedule will receive pro-rata accruals and paid holidays based on actual hours worked each pay period. Retired annuitants are not eligible for any benefits or accruals.

Temporary, On-Call or Seasonal Employee: An employee who is assigned to work on a particular project or for a job of limited or indefinite duration is a seasonal or temporary employee. A temporary or seasonal employee: 1) does not hold regular status; 2) does not serve a probationary period; 3) can be dismissed at-will from Town employment at any time without right of procedural due process, appeal, grievance or hearing; and 4) is not entitled to earn, accrue, or participate in any Town employee benefit plans, paid or unpaid leaves, or California Public Employee Retirement enrollment, except as required by law.

Contract Employee: A person employed by the Town for a particular project. Unless otherwise agreed to by the Town Manager, a contract employee: 1) does not hold regular status; 2) does not serve a probationary period; 3) can be dismissed at-will from Town employment at any time without right of procedural due process, appeal, grievance or hearing; and 4) is not entitled to earn, accrue, or participate in any Town employee benefit plans, or paid or unpaid leaves unless otherwise stated in their contract.

B. CLASSIFICATION

1. Preparation of Plan

The Administrative Services Director, or a person or agency employed for that purpose, shall ascertain and record the duties and responsibilities of all positions and shall recommend a classification plan for such positions. The classification plan shall consist of classes of positions defined by class specifications, including the title. 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 similar working conditions to all positions in the same class.

2. Adoption, Amendment, and Revision of Plan

The classification plan shall be adopted by the Town Council and may be amended from time to time. During the process of consideration, any employee organizations affected shall be advised. Amendments and revisions of the plan may be suggested by any interested party, including any employee organization, and shall be submitted to the Town Manager for consideration. The Town Manager, at his or her sole discretion, will determine whether or not to pursue requested considerations.

3. Allocation of Positions

Following the adoption of the classification plan and consultation with any employee organization affected, the Administrative Services Director shall allocate every position to one of the classes established by the plan.

4. New Positions

A new position shall not be created and filled until the classification plan has been amended to provide therefore.

5. Reclassification

Positions, the assigned duties of which have been materially changed by the Town so as to necessitate reclassification, whether new or already created, shall be allocated by the Administrative Services Director to a more appropriate class. Reclassification shall not be used for the purpose of avoiding restrictions concerning demotions and promotions, and not to effect a change in wage, in the absence or a significant change in assigned duties and responsibilities.

C. APPLICATIONS AND APPLICANTS

1. Announcement

All examinations for classes in the competitive service shall be publicized by such methods as the Town Manager or the Administrative Services Director deem appropriate. The announcement shall specify the title and pay of the position for which the examination is announced; the nature of the work to be performed and the essential functions of the position; prior work experience or preparation desirable for the performance of the work of the class; the manner of making application, and other pertinent information.

2. Application Forms

Applications shall be made as prescribed on the job announcement. Application forms shall require information covering training, experience, and other pertinent information, and may include references and fingerprints. All applications must be signed by the person applying.

3. Disqualification

Applications not meeting the minimum qualifications required for the position will be rejected. Applications may also be rejected for any of the following reasons: (1) the applicant has submitted an incomplete or untimely application, (2) the applicant is medically determined to be physically or psychologically unfit for the performance of duties for the position to which he/she seeks appointment, and if disabled, cannot be reasonably accommodated, (3) the applicant is addicted to the use of drugs, (4) the applicant has practiced or attempted to practice any deception or fraud in the application, (5) the applicant has a poor driving record as determined by the Town for positions that require driving, (6) the applicant is unable to show proof of authorization to work in the United States, or (7) for any material cause which in the judgment of the appointing authority may render the applicant unsuitable for the position, including a prior resignation from the Town, termination from the Town or a significant disciplinary action.

After the Town makes a conditional offer of employment, the Administrative Services Director, or his or her designee, may then request information about criminal convictions in accordance with the law. Job candidates who have been convicted of a crime which is job related may be disqualified.

D. EXAMINATIONS

1. Examination Process

The selection techniques used in the examination process shall be impartial and relate to those subjects which, in the opinion of the Administrative Services Director, fairly measure the relative capacities of the persons examined to execute the duties and responsibilities of the class to which they seek to be appointed. Examinations shall consist of selection

techniques which will test fairly the qualifications of candidates such as, but not necessarily limited to, achievement and aptitude tests, other written tests, personal interview, performance tests, physical agility tests, evaluation of daily work performance, work samples, successful completion of prescribed training, or any combination of these or other tests. The probationary period shall be considered as a portion of the examination process. Examinations shall be designed to provide equal opportunity to all candidates by being based on an analysis of the essential requirements of the class, covering only factors related to such requirements.

2. Promotional Examinations

Promotional examinations may be conducted whenever, in the opinion of the Administrative Services Director, the needs of the service require. Promotional examinations may include any of the selection techniques mentioned in Section 1 of this rule, or any combination of them. Town employees who meet the requirements set forth in the promotional examination announcements may compete in promotional examinations.

3. Conduct of Examination

The Town Manager may contract with any competent agency or individual for the preparing and/or administering of examinations. In the absence of such a contract, the Administrative Services Director shall see that such duties are performed. The Administrative Services Director shall arrange for the use of public buildings and equipment for the conduct of examinations.

E. EMPLOYMENT LISTS

1. Employment Lists

As soon as possible after the completion of an examination, the Administrative Services Director shall prepare and maintain an employment list consisting of the names of candidates who qualified in the examination.

2. Duration of Lists

Employment lists shall remain in effect until exhausted or abolished by the Administrative Services Director.

F. METHOD OF FILLING VACANCIES

1. Types of Appointment

All vacancies in the competitive service shall be filled by transfer, demotion, re-employment, reinstatement, or from eligible persons certified by the Administrative Services Director from an appropriate employment list, if available. In the absence of persons eligible for appointment in these ways, provisional appointments may be made in accordance with these Personnel Rules.

2. Notice to Administrative Services Director

If a vacancy in the competitive service is to be filled, the appointing power shall notify the Administrative Services Director in the manner prescribed. If there is no reemployment list available for the class, the appointing power shall have the right to decide whether to

fill the vacancy by reinstatement, transfer, demotion, appointment from a promotional employment list, or appointment from an open employment list.

3. Certification of Eligibles

If the appointing power does not consider it in the Town's best interest to fill the vacancy by reinstatement, transfer, or demotion, or if it is not possible to fill the vacancy by re-employment, certification shall be made from an appropriate employment list, provided eligibles are available.

When the appointing power requests a vacancy be filled by appointment from an open employment list, the Administrative Services Director will certify from the specified list the names of all individuals willing to accept appointment. Whenever there are fewer than three names of individuals willing to accept appointment on a promotional employment list or on an open employment list, the appointing power may make an appointment from among such eligibles or may request the Administrative Services Director to establish a new list. When so requested, the Administrative Services Director shall hold a new examination and establish a new employment list.

4. Appointment

After interview and investigation, the appointing power shall make appointments from among those certified and shall immediately notify the Administrative Services Director of the person(s) appointed. Starting pay shall be recommended by the department head and approved by the Administrative Services Director and the Town Manager. The person accepting appointment shall report to the Administrative Services Director, or the Administrative Services Director's designated representative, for processing on or before the date of appointment. If the applicant accepts the appointment and reports for duty within such period of time as the appointing authority shall prescribe, the applicant shall be deemed to be appointed; otherwise, the applicant shall be deemed to have declined the appointment.

A conditional offer of employment may be made pending the outcome of a medical or psychological examination, drug screening, Department of Motor Vehicle record search, credit check and other background information, if necessary.

5. Provisional Appointment

In the absence of there being names of individuals willing to accept appointment from appropriate employment lists, a provisional appointment may be made by the appointing authority of a person meeting the minimum training and experience qualifications for the position. Such an appointment may be made during the period of suspension of an employee or pending final action on proceedings to review suspension, demotion or discharge of an employee and such vacancy may be filled by the appointing authority subject to the provisions of the personnel ordinance and the personnel rules. A provisional employee may be removed at any time without the right of appeal or hearing. No provisional appointment shall exceed six months.

A provisional appointee shall accrue the same benefits as probationary employees. If a provisional appointee is selected for a full-time position with the Town, the time served as a provisional appointee shall be counted as time toward the fulfillment of the required probationary period.

No special credit shall be allowed in meeting any qualifications or in the giving of any test or the establishment of any open-competitive promotional lists for service rendered under a provisional appointment.

G. PROBATIONARY PERIOD

1. Regular Appointment Following Probationary Period

All original and promotional appointments shall be tentative and subject to a probationary period of not less than twelve (12) months actual service to be determined for each class by the Administrative Services Director. Sworn police department employees are subject to an eighteen (18) month probationary period upon hire into the department. The appointing authority may extend such probationary period up to six additional months. The Administrative Services Director shall notify the appointing authority and the probationer concerned two weeks prior to the termination of any probationary period. If the service of the probationary employee has been satisfactory to the appointing authority, then the appointing authority shall file with the Administrative Services Director a statement in writing to such effect and stating that the retention of such employee in the service is desired. If such a statement is not filed, the employee will be deemed to be unsatisfactory and such employment terminated at the expiration of the probationary period. Where a statement of satisfactory service has not been filed, notice of the separation of a probationary employee shall be served on the separated employee before the expiration of the probationary period.

An employee's probationary period is tolled during time spent on an approved leave of absence, including time spent on a military leave.

2. Objective of Probationary Period

The probationary period shall be regarded as a part of the selection 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 position.

3. Rejection of Probationary Employee

During the probationary period, an employee may be rejected at any time by the appointing power without cause and without the right of appeal. Notification of rejection by the appointing authority shall be served on the probationer.

4. Rejection Following Promotion

Any employee rejected during the probationary period following a promotional appointment, or at the conclusion of the probationary period by reason of failure of the appointing power to file a statement that the employee's services have been satisfactory, shall be reinstated to the position from which the employee was promoted unless charges are filed and the employee is discharged in the manner provided in the Personnel

Ordinance and these rules for positions in the competitive service. If there is no vacancy in such position, the employee may request to be placed on a re-employment list.

**SECTION 6 – EMPLOYEE MOVEMENT WITHIN THE COMPETITIVE SERVICE:
TRANSFER, PROMOTION, DEMOTION, SUSPENSION, RESIGNATION,
REINSTATEMENT, AND JOB ABANDONMENT**

A. TRANSFER

No person shall be transferred to a position for which that person does not possess the minimum qualifications. Upon notice to the Administrative Services Director, an employee may be transferred by the appointing power or designee at any time from one position to another position in a comparable class. For transfer purposes, a comparable class is one with the same maximum wage, involves the performance of similar duties, and requires substantially the same basic qualifications.

If the transfer involves a change from one department to another, both Department Heads must consent thereto unless the Town Manager orders the transfer. Transfer shall not be used to effectuate a promotion, demotion, advancement, or reduction, each of which may be accomplished only as provided in the Personnel Rules.

B. PROMOTION

The Appointing Authority will consider whether any vacancy can be filled from a promotional list, and if this is deemed in the best interest of the Town, the Administrative Services Director shall arrange to create such a list from internal candidates.

If, in the opinion of the appointing authority, it is in the best interests of the Town, a vacancy in the position may be filled by an open-competitive examination instead of promotional examination, in which event the Administrative Services Director shall arrange for an open-competitive examination and for the preparation and certification of an open-competitive employment list.

C. DEMOTION

The appointing authority may demote an employee whose ability to perform the required duties falls below standard, or for disciplinary purposes. Upon request of the employee, and with the consent of the appointing authority, demotion may be made to a vacant position. No employee shall be demoted to a position for which he or she does not possess the minimum qualifications. Disciplinary demotion action shall be in accordance with Section 13 below.

D. SUSPENSION

An employee may be suspended at any time for a disciplinary purpose. Intended suspension action shall be reported immediately to the Administrative Services Director, and shall be taken in accordance with Section 13.

E. SUSPENSION OF FLSA-EXEMPT EMPLOYEES

Except for a violation of a major safety rule, exempt employees may not be subject to suspensions other than in full work week increments or full work day increments. FLSA-

exempt employees who believe they have been disciplined in violation of this policy may contact the Administrative Services Director who will conduct an investigation and take appropriate action. The Town will not discipline FLSA exempt employees in a manner that threatens their exempt status.

F. RESIGNATION

An employee wishing to leave the competitive service in good standing shall file with the appointing authority a written resignation stating the effective date and reasons for leaving at least two weeks before leaving the service, unless such time limit is waived by the appointing authority. A statement as to the resigned employee's service performance and other pertinent information shall be forwarded to the Administrative Services Director by the appointing authority. Failure to give notice as required by this rule shall be cause for denying future employment by the Town.

F. REINSTATEMENT

With the approval of the appointing authority, a regular employee or probationary employee who has completed at least six months of probationary service and who has resigned with a good record may be reinstated within two years of the effective date of resignation, to a vacant position in the same or comparable class. Upon reinstatement, the employee shall be subject to the probationary period prescribed for the class. No credit for former employment shall be granted in computing wage, vacation, sick leave, or other benefits except on the specific recommendation of the appointing authority at time of reinstatement.

G. JOB ABANDONMENT

An employee is deemed to have resigned if the employee is absent for three consecutive workdays without prior authorization and without notification during the period of the absence. Only regular employees will receive notice of intent to terminate, an opportunity to respond, and final notice of termination for job abandonment. An employee separated for job abandonment may be reinstated upon proof of justification for such absence, such as severe accident, severe illness, false arrest, or mental or physical impairment which prevented notification.

SECTION 7 – PERSONNEL FILES

A. FILE MAINTENANCE

The Administrative Services Director maintains a personnel file for each Town employee. Personnel files are the property of the Town, and access to files is restricted as stated in this section.

B. FILE CONTENT

The personnel file contains documents that: 1) relate to employee performance; 2) form the basis for, or reflect decision making about the employee; or 3) assist the Town in personnel administration.

C. EMPLOYEE'S RESPONSIBILITY TO NOTIFY TOWN OF CHANGES

Each employee is responsible for promptly notifying the Administrative Services Department of any changes in relevant personal information, including but not limited to change of name, mailing address, telephone number, emergency contacts, and number and names of dependents.

D. MEDICAL INFORMATION

"Medical information" means any information that identifies the employee and pertains to his or her medical history, mental or physical condition, or treatment. All employee medical information shall be kept in separate, confidential files.

E. ACCESS TO PERSONNEL FILES

1. Town Employees

A Town employee may review his or her personnel file at reasonable times and intervals to the extent provided by State law. An employee who wishes to review his or her file must contact the Administrative Services Director or designee to arrange for an appointment. The review will be conducted in the presence of a Town designee. On request, an employee is entitled to receive a copy of any employment-related document he or she has signed. An employee or his/her designee is not permitted to add or remove a document or other item from the personnel file during an inspection.

2. Employee Representatives

An employee representative may inspect an employee's personnel file without the employee only if the employee has provided written consent.

3. Town Management or Confidential Personnel

Town management personnel may access employee personnel files as needed for legitimate personnel administration purposes. Confidential personnel may access personnel files as required by their job duties. Those who access personnel files as part of their job duties are required to maintain the confidentiality of personnel file information.

4. Confidential Material

Notwithstanding any of the above, neither an employee nor an employee representative may have access to: a) documents that pertain to pending investigations regarding the employee's conduct; or b) references and related information given in confidence as part of the Town employment application or promotion. The Town will not disclose employee medical information, except to Town management personnel with a legitimate need for access, without prior written authorization from the employee, or except as required by law, subpoena, or Court order.

F. REFERENCE REQUESTS

All requests for employee references shall be referred to the Administrative Services Director. Information will be released as authorized in writing by the employee or former employee. If there is no written authorization, the Town will release only the following information: the employee's term of employment, title, and wage upon departure from Town employment.

G. DESTRUCTION OF PERSONNEL RECORDS

Personnel records, including employment applications, shall be destroyed only in accordance with the Town's retention schedule and applicable state and federal law.

SECTION 8 – PERFORMANCE EVALUATIONS

A. FREQUENCY

A supervisor has authority to evaluate a subordinate's performance as often as the supervisor deems appropriate, and at least one time each year.

B. PROCESS

The evaluation of an employee's performance is an ongoing process. Evaluations must be documented in writing. The supervisor(s) will review the evaluation in a private meeting with the employee. The employee shall sign the performance evaluation to acknowledge that the employee is aware of its contents and has discussed the evaluation with his or her supervisor. The employee's signature on the evaluation does not necessarily indicate agreement with its contents. The employee will receive a copy of the evaluation after the meeting with the supervisor(s). After the Employee has completed a review of his/her performance appraisal, the employee may request a meeting with his/her department head to discuss and review the contents of the employee's performance appraisal.

C. NO APPEAL

An employee has no right to appeal any matter relating to a performance evaluation. Instead, the employee may comment on the evaluation in a written statement within 10 days of receipt of the evaluation. The evaluation, and any written comment, will be filed in the employee's personnel file.

SECTION 9 – COMPENSATION AND PAYROLL PRACTICES

A. WAGE ADVANCEMENTS

Regular employees who have not reached the top of their wage range are eligible for a wage advancement annually on the anniversary date of employment or appointment to current position. Advancements shall not be automatic, but shall depend upon increased service value of an employee to the Town as evidenced by performance evaluations. Employees who are promoted shall receive a wage within the new wage range equal to or above that which such employee had been receiving in the lower range. Wage advancements shall be recommended by the department head and approved by the Administrative Services Director and the Town Manager.

B. WAGE UPON APPOINTMENT

Employees are eligible for a merit increase at the conclusion of a successful probationary period combined with the completion of a performance appraisal. If the probationary period is extended up to an additional six months, pursuant to these Rules, the employee will be eligible for a merit increase one year after their tentative appointment combined with the completion of a performance appraisal. Sworn Officers and Sworn Police Division Heads are eligible for a merit increase after one year of service. The employee is then

eligible for a merit increase each year thereafter until reaching the top of the wage range.

C. WAGE UPON ACTING ASSIGNMENT

An employee is entitled to begin receiving acting pay in the acting classification that is at least 5% higher than the employee's regular pay only after 15 continuous work days in the classification and only if all of the following criteria are met:

- The department head or Town Manager assigns the employee to work in a regular position that is vacant, or whose incumbent is absent;
- The wage range of the assigned classification is at least 5% higher than the employee's regular classification; and
- The employee performs all of the duties of the higher-paid classification for 15 continuous days;
- If the position to which the employee is assigned is vacant, the Town Manager has the option to waive the 15 day waiting period.

Allowances beyond five percent (5%) may be approved by the Town Council upon a finding of special circumstances to warrant such special adjustment.

D. WAGE FOR EXTRAORDINARY TEMPORARY ADDITIONAL DUTIES

The Town Manager may, at their sole discretion, provide incentive pay up to 5% of base wage in the following circumstances:

- The employee is assigned to work that requires skills beyond what is required in their current job classification, such as when responding to emergency conditions or to meet an emergent condition impacting the Town of Truckee as an organization or the Town at large.
- The employee possesses the required skills.
- The assignment of these duties is expected to last 15 days or longer, but not more than one year.

Allowances beyond five percent (5) may be approved by the Town Council upon a finding of special circumstances to warrant such adjustment.

E. WAGE UPON TRANSFER

An employee who is transferred from one position to another in the same classification, or to a position in a different classification, will be paid within that new range at a level determined by the appointing authority.

F. WAGE UPON RECLASSIFICATION

1. Reclassification to a Higher Wage Range

When an employee is reclassified to a position within a classification that has a higher wage range than the prior classification, the employee receives pay at the higher of the bottom of the new range or their current pay.

2. Reclassification to a Lower Wage Range

An employee receives a Y-rated wage upon reclassification to a position with a lower wage range than the prior classification. "Y-rated" means that the employee's wage remains the same until his/her new position would earn him/her more. The maximum of the wage range to which the employee has been reclassified must first reach the level of the reclassified employee's pay before he or she will receive a wage increase.

G. WAGE UPON PROMOTION

An employee who is promoted will receive pay within the new classification.

H. WAGE UPON DEMOTION FOR CAUSE

An employee who is demoted for cause receives the lower wage assigned to the demoted classification and at the same relative level that the employee held prior to demotion.

I. WAGE UPON DEMOTION DUE TO LAYOFF

An employee demoted pursuant to a layoff receives the lower wage assigned to the demoted classification as determined by the appointing authority.

J. PAY FOR PERFORMANCE WAGE INCREASE

Merit wage increases are granted at the discretion of the department head and solely upon outstanding job performance. There is no entitlement to a merit increase. Only regular employees are eligible for merit increases. No employee is entitled to receive an increase that exceeds the maximum rate established for his or her classification.

K. OVERTIME COMPENSATION

1. Prior Approval Required

Overtime-eligible employees are not permitted to work overtime except as the department head authorizes or directs. No employee may work overtime without receiving the approval of the appropriate supervisor prior to performing the work. Working overtime without advance approval is grounds for discipline. Supervisors shall, if possible, attempt to notify employees three working days in advance when overtime or a temporary schedule change will be required, however, this notification is waived in the case of emergencies or snow operations.

2. Overtime Defined.

Unless otherwise stated in a memorandum of understanding, "overtime" is all hours an overtime-eligible employee actually works over 40 in his or her work week. Overtime is compensated at 1.5 times the Fair Labor Standards Act regular rate of pay. Only actual hours worked shall be counted toward the 40-hour threshold for purposes of calculating FLSA overtime pay. All employees must report overtime worked except that no overtime shall be recorded or reported for less than 8 minutes of work.

L. COMPENSATORY TIME OFF:

1. Supervisor Approval Required Before Work

An employee may opt to accrue compensatory time-off ("CTO") in lieu of cash payment for overtime worked if his or her supervisor agrees prior to overtime work being performed.

2. Accrual Rate

CTO accrues at the rate of 1.5 hours for each hour worked over 40 hours of actual work in the employee's work week. CTO cannot be accumulated in excess of 120 hours at any given time.

3. Employee Requests to Use CTO

The Town will grant an employee's request to use accumulated CTO provided that: 1) the department can accommodate the use of CTO on the day requested; and 2) the employee makes the request no later than five days prior to the date requested. If the employee does not provide five days' notice, or if the department cannot accommodate the time off, the Town will provide the employee the opportunity to cash out the CTO requested at the end of the current pay period.

4. Town Cash Out

The Town reserves the right to cash out accumulated CTO at any time.

5. Employee Cash Out.

During employment, CTO is cashed out at the employee's current base pay plus any differentials required by the applicable memorandums of understanding. Terminating employees shall be compensated for all accrued, unused compensatory hours at their current base pay, plus any differentials required by the applicable memorandums of understanding .

M. PROHIBITED SALARY DEDUCTIONS

Notwithstanding any other provision in these Rules, the Town will not reduce the pay of any FLSA-exempt employee for any of the following reasons:

- Any disciplinary penalty other than a major safety violation, except when the employee does not work any hours in the employee's work day or work week;
- Jury duty (up to 10 days);
- Temporary military leave for the first 30 days of the leave, provided the employee has at least one year of Town service, or at least one year of combined military/employment service; or
- Witness leave except when the leave is to pursue the employee's own legal action.

N. Work Periods

Management has the right and responsibility to schedule work hours with due regard for the wishes of the employee and particular regard for the needs of the service. For non-exempt employees, the work week for calculation overtime will be determined by the Administrative Services Director in accordance with the Fair Labor Standards Act (FLSA). Employees may be assigned to the following work shifts:

- a) 5/8 – Employees assigned to this work period will have a regular schedule of five days a week for eight (8) hours a day. Employees scheduled for this work period will have a work week starting on Sunday that will reset the following Sunday.

Unless otherwise assigned, employees will be assigned to this work period.

- b) 4/10 – Employees assigned to this work period will have a regular schedule of four days a week for ten (10) hours a day. Employees scheduled for this work period will have a work week starting on Sunday that will reset the following Sunday. Employees may be assigned to this work period at the discretion of, and with approval from, the applicable department head.
- c) 9/80 – Employees assigned to this work period will have a regular schedule of nine (9) hours a day, four days every week, and one eight (8) hour day every other week. Employees scheduled for this work period will have a workweek starting at the midpoint of their shift on their eight (8) hour workday resetting at the same time the following week. This will result in one calendar week consisting of 44 hours and the alternating calendar week consisting of 36 ours. Employees may be assigned to this work period at the discretion of, and with approval from, the applicable department head.

Ex: If the employee's eight-hour workday is on Friday and they normally work 8:00 AM to 5:00 PM, their workweek will run from noon on Friday to noon on the following Friday.

Additional work periods may be negotiated with specific bargaining units to ensure proper coverage for Town business.

O. SAFE HARBOR

The Town prohibits any reductions from an FLSA-exempt employee's pay that are contrary to FLSA requirements. Any FLSA-exempt employee who believes that his or her wage has been reduced in violation of the FLSA, can file a written complaint with the Administrative Services Director. The complaint must be dated, signed, and describe the specific pay reduction at issue. The Administrative Services Director will review the complaint. If a reduction in violation of the FLSA is found, the Town will promptly reimburse the employee for the amount of the pay reduction, and institute good faith measures to ensure that the error does not occur in the future.

SECTION 10 – TRAVEL POLICY

A. POLICY

The Town will reimburse certain travel costs for employee travel that is related to Town business. All employee travel, travel schedules and travel expenses must receive prior approval from the department head and must comply with Council Resolution #2006-06 or any subsequent modification thereof as well as California Assembly Bill 1234.

The department head will determine on a case-by-case basis: (1) whether or not particular travel is considered to be for Town business and therefore subject to the terms of this policy. The Administrative Services Director will determine whether or not the employee travel time in question is considered hours worked and therefore subject to the FLSA rules governing employee travel time.

B. ADVANCES

With approval, the Town will advance the full estimated cost of attendance at meetings, conferences and training sessions.

Requests for advances should be submitted as early as possible. Generally, advance payments will be issued at the date as close as possible to the requested date based on existing accounts payable processing schedule. Requests for travel not following these procedures will be accounted for on a reimbursement basis only.

C. RATES OF COMPENSATION

1. Mileage

Town employees should make every effort to use a Town vehicle for travel. Authorized travel on Town business using privately-owned vehicles shall be compensated at the prevailing IRS mileage rate. Travel using any other vehicle or mode of transport shall be compensated in accordance with actual costs incurred. The department head shall certify that the compensation for travel is at the most economical means in accordance with this policy.

2. Meal Allowance

Employees traveling on Town business are entitled to a meal allowance to be compensated at the prevailing IRS per diem rate tables using the high-low method if the employee is required to be away from his or her normal place of business. To qualify for meal allowance, travel must be to a destination greater than 60 miles outside the Town. The department head may determine that a meal or overnight stay is appropriate within the 60 mile area based on a business need.

Breakfast will be reimbursed for travel prior to 7 a.m. and dinner will be reimbursed for travel after 7 p.m. When travel is wholly between the hours of 7:00 a.m. and 7:00 p.m., lunch is the only meal expense that may be claimed. Employees shall receive a per diem rate allowance as published by the Federal Government Per Diem Rule by submitting a travel requisition. Advances or reimbursement requests will be adjusted to account for meals included in meeting registration fees. Meals included in the registration fee, but not eaten, cannot be claimed for reimbursement under the above schedule. Also, if a separate charge is made for fixed meals that are integral to a meeting or training session, the Town will reimburse the full cost of such a meal.

3. Lodging

The Town will reimburse the actual cost of reasonable lodging required for overnight travel. Cost is the base room rate charged plus lodging taxes. All persons incurring overnight lodging costs on behalf of the Town will seek appropriate economical lodging accommodations.

The following items will not be reimbursed:

- Lodging costs in private homes except those operating as a short term rental and registered for transient occupancy with the local jurisdiction.
- Phone calls not strictly related to Town business.
- In-room television or movie costs.
- Personal expenses.

D. INCIDENTAL EXPENSES

In addition to any mileage, meal or lodging expenses, an employee traveling on Town business shall be reimbursed for incidental expenses incurred. Incidental expenses shall include, but are not limited to, such items as:

- Ferry and toll bridge fares.
- Taxi fares.
- Registration fees at conferences and conventions.
- Parking fees.
- Wi-Fi for business needs.
- Baggage fees.
- Tips for Sky Caps, Bell Hops.

E. PERSONAL EXPENSES

No personal expenses, including but not limited to barbering, alcoholic beverages, entertainment, laundry, or dry cleaning shall be eligible for reimbursement.

F. EMPLOYEE PAY

FLSA eligible employees shall be compensated for travel in accordance with current FLSA rules for such travel.

SECTION 11 – ANTI-NEPOTISM/FRATERNIZATION POLICY

The Town of Truckee recognizes the rights of its employees to become involved in personal, financial or business relationships with employees/volunteers of the Town of Truckee and/or others who do not work for the Town. The Town will not discriminate on the hiring or promoting of employees who are in a personal or business relationship. However, it is the policy of the Town to ensure that employees carry out their duties with impartiality and fairness, so that public and organizational confidence in the actions of our employees is maintained.

In the event that a Town employee is in or enters into a personal, financial, or business relationship that gives rise to an actual or potential conflict of interest between his/her professional duties and responsibilities and his/her personal relationship, financial, or business interests, the employee shall immediately notify their department head or division manager.

Once the department head or division manager becomes aware of a personal, financial, or potential business relationship between Town employees that gives rise to an actual or potential conflict of interest the department head or division manager shall take appropriate action to eliminate the potential conflict of interest.

A. DEFINITIONS

The following definitions apply to this Rule:

Relative: spouse, domestic partner, child, step-child, parent, grandparent, grandchild, brother, sister, half-brother, half-sister, aunt, uncle, niece, nephew, parent-in-law, brother-in-law or sister-in-law.

Spouse/Legal Domestic Partner: two persons who have a valid marriage or state-recognized domestic partnership.

Significant Other: two individuals who are living together and/or sharing a significant domestic life together.

Supervisory relationship: one in which one exercises the right to control, direct, reward, or punish another by virtue of the duties and responsibilities assigned to his or her Town appointment.

Employee: for purposes of this section only, is one who receives a Town payroll check for services rendered.

B. POLICY AS TO RELATIVES

A department head has discretion not to appoint, promote or transfer a person to a position within the same department in which the person's relative already holds a position, when such employment would result in any of the following:

- A direct or indirect supervisory relationship.
- Two employees having job duties which require performance of shared duties on the same or related work assignment.
- Both employees having the same immediate supervisor.
- A potential for creating an adverse impact on supervision, safety, security, morale or efficiency that is greater for relatives than for unrelated persons.

C. POLICY AS TO SPOUSES, SIGNIFICANT OTHERS AND DOMESTIC PARTNERS

If two Town employees who work in the same department become spouses, Significant Others or registered Domestic Partners, the department head has discretion to transfer one of the spouses/partners to a similar position in another department. Although the wishes of the spouses/partners will be given consideration, the department head retains sole discretion to determine which spouse/partner is to be transferred based upon Town needs, operations, or efficiency. Notwithstanding any provision in these Rules, any such transfer that results in a wage reduction is not disciplinary and is not subject to any grievance or appeal. If continuing employment of both spouses/partners cannot be accommodated in a manner the department head finds to be consistent with the Town's interest in the promotion of safety, security, morale, and efficiency, then the department head retains sole discretion to separate one spouse/partner from Town employment. Absent the resignation of one spouse/partner, the less senior spouse/partner will be separated. Notwithstanding any provision in these Rules, any such separation is not considered to be disciplinary and is not subject to any grievance or appeal.

SECTION 12 – FITNESS FOR DUTY

A. CURRENT EMPLOYEE EXAMINATIONS

The Town Manager or designee may require an employee to submit to a fitness for duty examination to determine if the employee is able to perform the essential functions of his or her job when there is significant evidence that: 1) the employee appears to be unable to perform or has difficulty performing one or more essential functions of his or her job; and 2) there is reason to question the employee's ability to safely or efficiently complete work duties.

B. ROLE OF HEALTH CARE PROVIDER

A Town-selected health care provider will examine the employee at Town expense. The Town will pay for the employee's time at the examination. The Town will provide the health care provider with a letter requesting a fitness for duty examination and a written description of the essential functions of the employee's job. The health care provider will examine the employee and provide the Town with non-confidential information regarding whether:

- The employee is fit to perform essential job functions;
- There are any reasonable accommodations that would enable the employee to perform essential job functions; and
- The employee's continued employment poses a threat to the health and safety of him or herself or others. Should the health care provider exceed the scope of the Town's request and provide confidential health information, the Town will return the report to the health care provider and request another report that includes only the non-confidential fitness for duty information that the Town has requested.

C. MEDICAL INFORMATION

During the course of a fitness for duty examination, the Town will not seek or use information regarding an employee's medical history, diagnoses, or course of treatment without an employee's written authorization.

D. MEDICAL INFORMATION FROM THE EMPLOYEE'S HEALTH CARE PROVIDER

An employee may submit confidential medical information to the Town from his or her personal health care provider. If the employee provides written authorization, the Administrative Services Director will submit the information that the employee provides to the Town-paid health care provider who conducted the examination. The Administrative Services Director will request the Town-paid health care provider to determine whether the information alters the original fitness for duty assessment.

E. INTERACTIVE PROCESS DISCUSSION

After receipt of both the health care provider's fitness for duty report, and the analysis of the employee's personal health care information (if any) the Administrative Services Director or designee will arrange for a discussion or discussions, in person or via conference telephone call or video call, with the employee and his or her representatives, (if any). The purpose of the discussions will be to work in good faith to fully discuss all feasible potential reasonable accommodations. During the discussions, the

Administrative Services Director or designee will also discuss, if relevant, alternate available jobs for which the employee is qualified, or whether the employee qualifies for disability retirement or family and medical leave.

F. DETERMINATION

After the discussions, the Administrative Services Director or designee will review the information received, and determine if there is a reasonable accommodation that would enable the employee to perform essential job functions, or if the accommodations would pose an undue hardship on Town finances or operations. The Administrative Services Director will inform the employee of his or her determination. The Administrative Services Director will use his or her discretion based upon the particular facts of each case.

SECTION 13 - DISCIPLINARY ACTION

A. POLICY

Prior to the suspension, demotion, reduction in pay, or discharge of a regular employee for disciplinary purposes, the procedure set forth in this Rule shall be complied with. Paid administrative leave pending completion of a disciplinary investigation shall not constitute discipline, nor require compliance with the procedures set forth in this Rule.

B. GROUNDS FOR DISCIPLINE

Include, but are not limited to, the following:

- (a) Fraud in securing employment or making a false statement on an application for employment.
- (b) Incompetence, i.e., inability to comply with the minimum standard of an employee's position for a significant period of time.
- (c) Inefficiency or inexcusable neglect of duty, i.e., failure to perform duties required of an employee within his/her position.
- (d) Willful disobedience or insubordination, a willful failure to submit to duly appointed and acting supervision or to conform to duly established orders or directions of persons in a supervisory position or insulting or demeaning the authority of a supervisor or manager.
- (e) Dishonesty involving employment.
- (f) Possession, distribution, sale, use, or being under the influence of alcohol or illegal drugs or narcotics while on duty or while operating a Town vehicle or potentially dangerous equipment leased or owned by the Town.
- (g) Excessive absenteeism.
- (h) Unexcused absence without leave, including the failure of an employee absent without leave to return to duty within twenty-four hours after notice to return.
- (i) Abuse of sick leave, i.e., taking sick leave without a doctor's certificate when one is required, or misuse of sick leave.
- (j) The conviction of either a misdemeanor or a felony related to the position held will constitute grounds for dismissal of any employee. The record of conviction will be conclusive evidence of the fact that the conviction occurred. The Administrative Services Director may inquire into the circumstances surrounding the commission of the crime in order to support the degree of

- discipline. A plea or verdict of guilty, or a conviction showing a plea of nolo contendere is deemed to be a conviction within the meaning of this Section.
- (k) Discourteous treatment of the public or other employees.
 - (l) Improper or unauthorized use of agency property.
 - (m) Refusal to subscribe to any oath or affirmation which is required by law in connection with agency employment.
 - (n) Any willful act or conduct undertaken in bad faith, either during or outside of duty hours which is of such a nature that it causes discredit to the agency, the employee's department or division.
 - (o) Inattention to duty or negligence in the care and handling of Town property.
 - (p) Violation of the rules and regulations in any department.
 - (q) Outside employment not specifically authorized.
 - (r) Acceptance from any source of a reward, gift, or other form of remuneration in addition to regular compensation to an employee for the performance of his or her official duties.
 - (s) The refusal of any officer or employee of the Town to testify under oath before any Grand Jury having jurisdiction over any then pending cause of inquiry in which the investigation of government bribery or misconduct in agency office is involved shall constitute of itself sufficient ground for the immediate discharge of such officer or employee.
 - (t) Willful violation of any of the provisions of an ordinance, resolution, rule, regulation or policy prescribed by the department or Town.
 - (u) Improper political activity. Example: Campaigning for or espousing the election or non-election of any candidate in national, state, county or municipal elections while on duty and/or during working hours or in Town uniform on or off duty; or the dissemination of political material of any kind while on duty and/or during working hours or in uniform.
 - (v) Working overtime without authorization.
 - (w) Possession of illegal or unauthorized weapons on agency property.
 - (x) Making false or malicious statements concerning any employee, the Town or the Town's policies or practices.

C. LEVELS OF DISCIPLINE

1. Counseling Memo

A counseling memo shall become part of the employee's permanent record and may not be appealed under this policy.

2. Verbal Admonishment or Reprimand

A verbal admonishment or reprimand shall be memorialized in writing, become part of the employee's permanent record, and may not be appealed under this policy.

3. Written Admonishment or Reprimand

A department head or his/her designee may reprimand an employee by furnishing him/her with a written statement of the specific reasons for reprimand. A copy of the reprimand will be retained in the employee's personnel file, and may not be appealed. The employee shall have the right to have a written rebuttal attached to the reprimand in the employee's personnel file.

4. Unpaid Suspension

The department head may suspend an employee without pay from his or her position for cause. Documents related to an unpaid suspension shall become part of the employee's permanent record. An employee subject to an unpaid suspension will receive prior written notice and appeal as provided herein. FLSA-exempt employees may only be disciplined by an unpaid suspension if: (1) the suspension is imposed in increments of one full workweek; (2) the suspension is for one or more full days for violation of a written workplace conduct rule; or (3) the suspension is due to a violation of a major safety rule. FLSA-exempt employees who believe they have been disciplined in violation of this policy may contact the Administrative Services Director who will conduct an investigation and take appropriate action.

5. Demotion

The department head may demote an employee from his or her position for cause. Documents related to a demotion shall become part of the employee's permanent record. An employee subject to demotion shall be entitled to the prior written notice and appeal as provided herein.

6. Reduction in Pay

The department head may reduce an employee's pay for cause. A reduction in pay for disciplinary purposes may take one of two forms: 1) a decrease in wage to a lower level within the wage range; or 2) a decrease in wage paid to an employee for a fixed period of time. Documents related to a reduction in pay shall become part of the employee's permanent record. An employee subject to a reduction in pay equivalent to more than five days' wages shall be entitled to prior written notice and appeal as provided herein. FLSA-exempt employees are only subject to a reduction in pay for major safety violations.

7. Discharge

The department head may discharge an employee from his or her position. A discharged employee is entitled to prior written cause. Documents related to discharge shall become a part of an employee's notice and appeal based upon the terms described herein.

D. WRITTEN NOTICE

Written notice of the proposed disciplinary action shall be given to the employee. The written notice shall include a statement of the reason(s) for the proposed action and the charges(s) being considered.

E. EMPLOYEE REVIEW

The employee shall be given an opportunity to review the documents or materials upon which the proposed disciplinary action is based, and, if practicable, the employee shall be supplied with a copy of the documents.

For suspensions of five days or fewer, or a reduction in pay equivalent to five days' wages or less, the disciplinary action may take effect during this review period, including immediately upon receipt of the written notice. This does not affect the employees' right to respond as described in section F below.

F. EMPLOYEE RESPONSE

Within five (5) working days after the employee has had the review opportunity provided above, the employee shall have the right to respond, orally or in writing, at the employee's option, to the appointing authority concerning the proposed action.

G. RELIEF OF DUTY

Notwithstanding the provisions of this Rule, upon the recommendation of the Administrative Services Director, the Town Manager may approve the temporary assignment of an employee to a status of leave with pay pending conduct or completion of such investigations or opportunity to respond as may be required to determine if disciplinary action is to be taken.

H. APPEAL

Regular employees may appeal termination, demotion, unpaid suspension or reduction in pay pursuant to the grievance procedure established within these Personnel Rules.

SECTION 14 - LAYOFF POLICY AND PROCEDURE

A. STATEMENT OF INTENT

Whenever, in the judgment of the Town Manager, it becomes necessary to abolish any position or employment, the employee holding such position or employment may be laid off or demoted without disciplinary action and without the right of appeal.

B. NOTIFICATION

Employees to be laid off shall be given, whenever possible, at least fourteen (14) calendar days prior notice.

C. VACANCY AND DEMOTION

Except as otherwise provided, whenever there is a reduction in the workforce, the appointing authority shall first demote to a vacancy, if any, in a lower class for which the employee who is the latest to be laid off in accordance with Section F is qualified. All persons so demoted shall have their names placed on the re-employment list.

D. EMPLOYEE BUMPING RIGHTS

An employee affected by layoff shall have the right to displace an employee in the same department who has less seniority in a lower class in the same class series or in a lower classification in which the affected employee once had regular status. For the purpose of this section and Section E, seniority includes all periods of full-time service at or above the classification level where layoff is to occur.

E. SENIORITY

In order to retreat to a former or lower class, an employee must meet the minimum job qualifications and have more seniority than at least one of the incumbents in the retreat class and request displacement action in writing to the Administrative Services Director within five (5) working days of receipt of notice of layoff.

Employees retreating to a lower or similar class shall be placed at the wage grade representing the least loss of pay. In no case shall the wage be increased above the wage received in the class from which the employee was laid off.

Employees retreating to a lower or similar class shall serve a probationary period in the new class unless they have previously successfully completed a probationary period in the class or a class in the class series.

F. ORDER OF LAYOFF

The order of layoff shall be by inverse seniority within the below indicated groupings. Seniority is defined as the length of time worked for the Town. In cases where there are two or more employees in the class from which the layoff is to be made, layoffs shall be grouped in the following order:

- Group 1: Temporary and part-time employees not included in the CalPERS retirement system
- Group 2: Temporary employees included in the CalPERS system
- Group 3: Probationary employees in regular full-time or part-time positions
- Group 4: Regular employees who received an overall "below expectations" rating on the average of their last three performance appraisals
- Group 5: Regular employees who received an overall "meets expectations" rating for the average of their last three performance appraisals
- Group 6: Regular employees who received an overall "exceeds expectations" rating or higher on the average of their last three performance appraisals

For purposes of this policy, regular employees (groups 4-6) who have an average performance appraisal score for the last three years that is .25 (on a scale of 1-5) above another employee in his group will be laid off in inverse order of performance ratings (e.g. an employee with a score that is at least .25 lower than another employee in his group will be laid off first out of that group). Any two or more employees whose average score is within .25 (on a scale of 1-5) shall be considered to be equal in performance and therefore laid off in inverse order of seniority.

Employees having less than three years evaluations ratings will use the average scores from all completed evaluations.

G. EXCEPTIONS TO LAYOFF SENIORITY

When, after considering seniority as set forth above, the Administrative Services Director or department head believes that the best interest of the Town requires the retention of employees with special qualifications, characteristics, skills or fitness for the work, the Administrative Services Director may prepare a written request to the Town Manager to vary from the order of layoff if the best interest of the Town. The decision by the Town Manager shall be final.

H. RE-EMPLOYMENT LIST

The names of persons laid off or demoted in accordance with these rules shall be entered upon a re-employment list. Lists from different departments or at different times for the same class of position shall be combined into a single list. Such list shall be used by every appointing authority when a vacancy arises in the same or lower class of position before certification is made from an eligible list.

I. DURATION OF RE-EMPLOYMENT LIST

Names of persons laid off shall be carried on a re-employment list for one year, except that persons appointed to regular positions of the same level as that which are laid off, shall, upon such appointment, be dropped from the list. Persons who refuse re-employment shall be dropped from the list. Persons re-employed in a lower class, or on a temporary basis, shall be continued on the list for the higher position for one year.

SECTION 15 – LEAVES OF ABSENCE

A. ATTENDANCE

Employees shall be in attendance at their work in accordance with the rules regarding hours of work, holidays, and leaves. All departments shall keep daily attendance records of employees which shall be reported to the Administrative Services Director in the form and on the dates as specified. Failure on the part of an employee, absent without leave, to return to duty within twenty-four (24) hours after notice to return shall be cause for disciplinary action.

B. ABSENCE

Employee absence is subject to the following:

1. Definitions

Planned Time Off: Vacation, compensatory (comp) time, sick leave (e.g., doctor, vision or dentist appointment), or administrative leave requested at least one day prior to the day off and approved by your supervisor. If time off is requested on the same day (e.g., calling in the morning or requesting to take the afternoon off) and is approved by the supervisor, it will be counted as an excused absence. Excused absences to care for family members shall not be considered in evaluating or disciplining employees.

Excused Absences: Sick days of one to two days; sick days of three or more days in a row with documentation of a visit to a hospital or doctor if requested; or vacation, comp time, or administrative leave requested on the same day and approved by the supervisor.

Unexcused Absences: Taking time off without supervisor approval or notification to supervisor of illness; taking sick days without being ill or caring for an ill dependent; taking sick days of three days or more and not providing documentation of hospital or doctor visit if requested.

2. Absences and Annual Evaluations

Supervisors may consider absences when evaluating and/or disciplining employees, but shall assess each case on its own merit

3. Other

This section of the policy does not cover State and Federal laws regarding sick, family medical leave, or pregnancy leave. Leave taken pursuant to these State and Federal laws will be consistent with these laws. This policy does not cover all situations and modifications may be made for extraordinary situations.

C. MILITARY LEAVE

The Town provides military leaves of absence to employees who serve in the uniformed services as required by the Uniformed Services Employment and Reemployment Rights Act of 1994, 38 U.S.C. §4301 et. seq. ("USERRA") and applicable state laws including Section 395 et seq. of the California Military and Veterans Code. An employee requesting military leave must provide the department head a copy of the military orders that specify the dates site and purpose of the activity or mission. Within the limits of such orders, the department head may determine when leave is to be taken and may modify the employee's work schedule to accommodate the request for leave.

Currently, employees with at least one (1) year of Town service (including military time) immediately prior to the day on which the leave begins shall continue to receive their full wage for the first thirty (30) calendar days of an approved military leave of absence. The foregoing thirty (30) day entitlement shall apply to temporary leaves of absence for active military training, encampment, naval cruises, special exercises, or like activity, provided the period of ordered duty does not exceed one hundred eighty (180) calendar days, including time involved in going to and returning from the duty, but not for inactive duty such as scheduled reserve drills (i.e., monthly weekend drills). (Military and Veterans Code 395, 395.01) An employee ordered, on other than a temporary basis, into active military duty or who otherwise is inducted, enlisted, entered, ordered or called into active duty as a member of the armed forces of the United States shall also receive the above thirty (30) day entitlement (Military and Veterans Code 395.02). Pay for such purposes shall not exceed thirty (30) calendar days in any one Town fiscal year or for any one military leave of absence (Military and Veterans Code 395.03). In the event a military leave of absence spans two fiscal years, the thirty (30) day entitlement shall be accounted for in the fiscal year in which the military leave of absence commenced. The employee retains any military pay received.

D. LEAVE OF ABSENCE WITHOUT PAY/PERSONAL LEAVE

The Town provides leaves of absence without pay to regular full time employees who wish to take time off from work duties to fulfill obligations. As soon as eligible employees become aware of the need for a personal leave of absence, they should request a leave from their supervisor.

Personal leave may be granted for a period of up to 30 calendar days in any 12-month period. Granting of the leave of absence may be considered upon application of the department head to the Town Manager. All requests for leaves of absence must be in

writing and must establish reasonable justification for approval of the request. Requests for personal leave will be evaluated based on a number of factors including anticipated work-load requirements and staffing considerations during the proposed period of absence. Any leave of absence without pay exceeding fifteen (15) calendar days shall cause the employee's wage anniversary date and benefit accrual date to be postponed the number of calendar days equal to the number of days of the leave.

Subject to the terms, conditions, and limitations of the applicable plans, health insurance benefits will be provided by the Town until the end of the month in which the approved personal leave begins. At that time, employees will become responsible for the full costs of these benefits if they wish coverage to continue. When the employee returns from personal leave, benefits will again be provided by the Town according to the applicable plans.

Benefit accruals such as vacation, sick leave, or holiday benefits, will be suspended during the leave and will resume upon return to active employment.

Failure of the employee to report to work promptly at the expiration of the approved leave period may be cause for dismissal.

E. ANNUAL VACATION LEAVE

The purpose of annual vacation leave is to enable each eligible employee annually to return to work mentally refreshed. All employees in the competitive service shall be entitled to annual vacation leave with pay except the following:

- Employees who work on a provisional or seasonal basis, and all employees who are not employed in regular positions.

Eligible employees shall earn vacation credits as follows:

<u>Years of Service</u>	<u>Number of Working Hours/Month</u>
1-4 inclusive	6.6667 hours per month
5-11 inclusive	10 hours per month
12 and over	13.3334 hours per month

Regular employees who work less than full time shall be credited vacation on a pro-rated basis.

An employee starting work after the first day of a month will earn pro-rate credit of vacation benefits for that month. This rule will not run contrary to the provisions of this section. Pro-rata credits shall be determined based on the number of days worked in the pay period.

The times during a calendar year at which an employee may take vacation shall be determined by the department head with due regard for the wishes of the employee and particular regard for the needs of the service. If the requirements of the service are such that an employee cannot take part or all of annual vacation in a particular calendar year, such vacation shall be taken during the following calendar year. When an employee has

been denied vacation leave based on the Town's business needs, they may be allowed to exceed the maximum vacation accrual limit of 240 hours upon approval of the department head and the Administrative Services Director.

In the event one or more municipal holidays fall within an annual vacation leave, such holidays shall not be charged as vacation leave.

Employees may accumulate up to and including two hundred forty (240) hours of vacation. If a department head, mid manager, or general employee reaches the 240 hour accrual limit, a maximum of 40 hours per fiscal year may be contributed to their deferred compensation account while they are at the maximum accrual. Calculation will be made on base pay rate only. This contribution will be made annually for the value of vacation accrued in that year. If an employee reaches the maximum accrual of 240 hours and has had 40 hours contributed to his/her deferred compensation account for that fiscal year the employee will not accrue additional vacation leave until the accrued leave amount drops below 240 hours.

Employees who separate from Town employment shall be paid for all accrued vacation leave earned prior to the effective date of separation. No such payment shall be made for vacation accumulated contrary to the provisions of these rules.

F. SICK LEAVE

The Town provides paid sick leave benefits to all full and eligible part-time employees for periods of temporary absence due to illnesses or injuries. Eligible employees will accrue sick leave benefits at the rate of 8 hours per month of service. Sick leave is accrued pro-rata per each two week pay period beginning on the first day of employment. The initial probationary period does not have to be completed before sick leave can be taken. Employees may use sick leave as it is accrued.

The Town provides separate paid sick leave benefits for temporary, part-time, and seasonal employees under a separate policy. Such employees may contact Administrative Services with questions or to review said policy.

Sick leave benefits will be calculated based on the employee's base pay rate at the time of absence and will include any special forms of compensation, such as incentives or shift differentials. Employees who work a flex time schedule will use sick leave based on the number of hours they are scheduled to work. An employee with adequate accrued sick leave who works four tens, for example, would receive ten hours of sick pay for one day's absence.

Employees who are unable to report to work due to illness or injury must notify their direct supervisor at least one hour before the scheduled start of their workday if possible. The direct supervisor must also be contacted on each additional day of absence.

If an employee is absent for three or more consecutive days due to illness or injury, a physician's statement may, at the supervisor's discretion, be required verifying the disability, its beginning and expected ending dates, and confirming the date that the

employee may safely return to work. Such verification may be requested for other sick leave absences as well and may be a required condition to receive sick leave benefits.

Sick leave may be used for the following purposes:

- (a) diagnosis, care, or treatment of an existing health condition of, or preventative care for, an employee or any of the following of the employee's family members: child of any age or dependency status; parent; parent-in-law; spouse; registered domestic partner; grandparent; grandchildren; or sibling; or
- (b) for an employee who is a victim of domestic violence, sexual assault, or stalking to: i) obtain or attempt to obtain a temporary restraining order or other court assistance to help ensure the health safety or welfare of the employee or his or her child; or ii) obtain medical attention or psychological counseling; services from a shelter; program or crisis center; or participate in safety planning or other actions to increase safety. Informing employees of this Policy.

Pursuant to Labor Code section 233, any employee with accrued sick leave may in any calendar year use up to the amount of sick leave that would be accrued over a period of six months to care for an ill child, spouse, domestic partner, child of a domestic partner, or parent, or for any other reason specified in Labor Code section 246.5, subdivision (a). The designation of sick leave as being taken for one of these reasons shall be made at the sole discretion of the employee. All conditions and restrictions on the employee's use of sick leave also apply to sick leave use for family illness.

As an additional condition of eligibility for sick leave benefits, an employee on an extended absence must apply for any other available compensation and benefits, such as Workers' Compensation. Sick leave benefits will be used to supplement any payments that an employee is eligible to receive from Workers' Compensation or disability insurance. The combination of any such disability payments and sick leave benefits cannot exceed the employees' normal earnings.

Unused sick leave benefits will be allowed to accumulate until the employee has accrued a total of 1000 hours of sick leave benefits. If the employee's benefits reach this maximum, further accrual of sick leave benefits will be suspended until the employee has reduced the balance below the limit.

Sick leave is a privilege not an entitlement. An employee shall be subject to disciplinary action for abuse of sick leave where the employee claims entitlement to sick leave, but does not meet the requirements of sick leave as set forth herein. Abuse of sick leave will be evaluated on a case by case basis.

Sick leave used will not be counted as hours worked for purposes of determining overtime.

The Town will comply with the California Paid Sick Leave laws for all non-regular employees outlined in the Paid Sick Time Policy for Part Time and Seasonal Employees policy available on the Town's Human Resource website.

1. Sick Leave Benefit Incentives

Annually - Employees with a sick leave hours balance in excess of 240 may cash out a portion of the annual accrual. Employees may cash out the difference of the hours earned during the year (96) less hours used during the year. Twenty-Five percent (25%) of those hours will be cashed out and paid at the employee's then hourly rate. This program will be administered on a December 1 to November 30 fiscal period and the payment made on a paycheck in December. Employees must make an irrevocable choice before the start of the tax year regarding whether they will be cashing out leave in the coming year. Employees who have successfully completed their initial probationary period are eligible. The employee may either cash out the eligible hours or retain the hours as part of their balance. For mid-manager and general employees, if the amount is placed into a deferred comp account, the Town will match that amount with an additional matching deferred comp contribution. Cash out would occur during the first payroll in December of each year.

5 to 10 Years of Service -Upon separation, for employees with greater than 5 years but less than 10 years of service, 25% (50% for mid-managers, general employees, and department heads) of the sick leave balance may be paid in cash at the then-current hourly rate, for up to a maximum of 250 hours (500 hours for mid-managers, general employees, and department heads). In cases of retirement, the employee may cash out the 25% (50% for mid-managers, general employees, and department heads) or retain it as part of the balance to be reported to PERS for the sick leave credit.

10 Plus Years of Service - Upon separation, for employees with 10 or more years of service, 50% (75% for mid-managers, general employees, and department heads) of the sick leave balance may be paid in cash at the then-current hourly rate, for up to a maximum of 500 hours (750 hours for mid-managers, general employees, and department heads). In cases of retirement, the employee may cash out the 50% (75% for mid-managers, general employees, and department heads) or retain it as part of the balance to be reported to PERS for the sick leave credit.

If an employee separates from Town employment with less than five years of service and is re-hired by the Town within one year of the date of separation, previously accrued, unused, and uncompensated paid sick leave hours shall be reinstated up to a cap of six (6) days or forty-eight (48) hours, whichever is greater.

The Town provides separate paid sick leave benefits for temporary, part-time, and seasonal employees under separate policy. Such employees may contact Administrative Services with questions or to review said policy.

G. HOLIDAYS

Town employees shall be entitled to the following holidays:

New Year's Day	(January 1)
Martin Luther King Jr. Day	(third Monday in January)
President's Day	(third Monday in February)
Memorial Day	(last Monday in May)
Juneteenth	(June 19)
Independence Day	(July 4)
Labor Day	(first Monday in September)
Indigenous Peoples' Day	(second Monday in October)
Veterans' Day	(November 11)
Thanksgiving Day	(fourth Thursday in November)
Day after Thanksgiving	(fourth Friday in November)
Christmas Eve Day	(December 24)
Christmas Day	(December 25)

In addition, every day designated by the President or Governor for a public fast, thanksgiving, or holiday and approved by the Town Council shall be a paid holiday for Town employees.

In addition to the recognized holidays listed above, eligible employees will receive one floating holiday each year. This floating holiday will be earned on a pro-rata basis for new employees. The floating holiday hours will be added to an employee's vacation balance at July 1 each year.

To be eligible for holiday pay, an employee must have paid time including regular hours worked and/or use of approved paid leave during the pay period encompassing the holiday. Approved paid leave of absence is defined as paid sick leave, paid vacation, paid floating holiday, paid compensatory time off, paid administrative leave, or paid authorized leave of absence.

All regular full-time employees who meet the "paid time criteria discussed above are eligible for holiday pay whether or not the Probationary Period for their job classification. Holiday pay will be eight (8) hours compensation calculated on the employee's straight-time base pay rate (as of the date of the holiday). For employees who work less than 80 hours in the pay period, holiday pay will be prorated based on the total number of hours worked, and/or paid leave hours utilized in the pay period in which the holiday falls. Employees working a flex schedule (i.e., four tens) will be compensated eight (8) hours for a paid holiday.

If a recognized holiday occurs when an eligible employee is on an approved paid leave of absence, that day off will not be subtracted from the employee's paid leave.

Management has the right and the responsibility to schedule work hours. This includes the right to schedule employees to work on holidays and to schedule work to avoid working on holidays. Employees who are required to work more than thirty-two (32) hours

in a week containing a recognized holiday will be paid at an overtime rate for those hours in excess of thirty-two (32). When a recognized holiday falls on Saturday, the preceding Friday shall be observed as a holiday. When a holiday falls on a Sunday, the following Monday shall be observed as a holiday.

Paid time off for holidays will be counted as hours worked for the purpose of determining overtime.

H. BEREAVEMENT LEAVE

1. Statement of Policy

Unpaid bereavement leave shall be granted to all employees who have been employed with the Town for the 30 days prior to when the leave commences. Regular and probationary employees shall receive paid bereavement leave as outlined below. Paid and unpaid bereavement leave shall run concurrently.

2. Definitions

For the purposes of unpaid bereavement leave, "**Covered Family Members**" are defined as spouse, domestic partner, child, parent, parent-in-law, sibling, grandparent, or grandchild.

For the purposes of paid bereavement leave, "Family Members" are defined as spouse, domestic partner, child, parent, parent-in-law, sibling, grandparent, grandchild, anyone with whom the employee has had an extended relationship with, or any relative living in the same residence as the employee.

3. Unpaid Bereavement Leave

Employees who have worked with the Town for at least 30 days before the leave commences are entitled to five days of unpaid leave following the death of a covered family member. This leave shall run concurrently to paid bereavement leave for those employees who are eligible. Unpaid leave must be used within three (3) months of the date of the death.

The leave need not be taken consecutively.

Employees may use accrued leaves during the unpaid bereavement leave period including any accrued vacation, accrued sick leave, accrued compensatory time off, or accrued administrative leave. Additional leave or other reasons may be granted at the discretion of the Administrative Services Director.

4. Paid Bereavement Leave

Regular and probationary employees will be granted their full pay for up to three (3) days or five (5) days if one way travel of greater than 300 miles is required for

a leave of absence following the death of family member. Additional leave for other reasons may be granted at the discretion of the Administrative Services Director.

5. Documentation

The Town may require employees to provide documentation of the death of a covered family member within 30 days of the first day of the unpaid bereavement leave. Documentation includes, but is not limited to, a death certificate, a published obituary, or written verification of death, burial, or memorial service from a mortuary, funeral home, burial society, crematorium, religious institution, or governmental agency. Any records received will remain confidential except to internal personnel or leave counsel as necessary, or as required by law.

I. REPRODUCTIVE LOSS LEAVE

1. Statement of Policy

All employees who have been employed by the Town during the 30-day period immediately preceding a qualifying reproductive loss event shall be entitled to reproductive loss leave under this policy.

2. Definitions

“Assisted reproduction” means a method of achieving pregnancy through an artificial insemination or an embryo transfer and includes gamete and embryo donation. It does not include any pregnancy achieved through intercourse.

“Failed adoption” means the dissolution or breach of an adoption agreement with the birth mother or legal guardian, or an adoption that is not finalized because it is contested by another party. This event applies to a person who would have been a parent of the adoptee if the adoption had been completed.

“Failed surrogacy” means the dissolution or breach of a surrogacy agreement, or a failed embryo transfer to the surrogate. This event applies to the person who would have been a parent of a child born as a result of the surrogacy.

“Miscarriage” means a miscarriage by a person, by the person’s current spouse or domestic partner, or by another individual if the person would have been a parent of a child born as a result of the pregnancy.

“Reproductive Loss Event” means the day, or for a multiple-day event, the final day of a failed adoption, failed surrogacy, miscarriage, stillbirth, or an unsuccessful assisted reproduction.

“Stillbirth” means a stillbirth resulting from a person’s pregnancy, the pregnancy of a person’s current spouse or domestic partner, or another individual, if the person would have been a parent of a child born as a result of the pregnancy that ended in stillbirth.

“Unsuccessful assisted reproduction” means an unsuccessful round of intrauterine insemination or of an assisted reproductive technology procedure. This event applies to

a person, the person's current spouse or domestic partner, or another individual, if the person would have been a parent of a child born as a result of the pregnancy.

3. Leave

Employees shall be eligible for up to five (5) days of unpaid leave following a reproductive loss event. Employees may use their accumulated paid leave including vacation time, paid sick leave, compensatory time off, or administrative leave during their reproductive loss leave.

Employees are limited to a total of twenty (20) days of unpaid leave for reproductive loss leave within a 12-month period, but employees may not take more than five (5) days per event. A day means an employee's regularly scheduled workday. If an employee is assigned to an alternative work schedule such as a 9/80 or 4/10 work period, the employee shall be eligible for a full day of unpaid leave in accordance with their regularly scheduled workday.

Leave days may be taken nonconsecutively for each event. Employees must take the time within three (3) months of the reproductive loss event.

If the Town employs multiple individuals who would have been a parent of a child born or adopted, all such individuals shall be eligible for reproductive loss leave.

J. JURY DUTY AND COURT APPEARANCES

Every regular and probationary employee of the Town who is called or required to serve as a trial juror, upon notification and appropriate verification submitted to the supervisor, shall be entitled to be absent from duties with the Town during the period of such service or while necessarily being present in court as a result of such call. The employee shall be compensated for the scheduled time actually spent up to a maximum of ten days per fiscal year serving as a juror, without a deduction to vacation, comp time or sick leave hours balances. The hours for which the employee is compensated will not include travel time and will not be considered actual hours worked for computing overtime. Any employee serving as a juror or prospective juror shall be compensated up to a maximum of (10) days per fiscal year. To receive compensation for any additional time off taken in conjunction with jury duty, the employee must receive supervisor approval, and the employee must use vacation, administrative leave, or comp time hours. The employee shall submit to the Town any payment received for the first ten days of jury duty, except travel pay. If an employee is summoned for jury duty on a regularly scheduled day off, there shall be no compensation from the Town, and the employee may retain all payments received for that time served.

K. FAMILY AND MEDICAL LEAVE

1. Statement of Policy; Concurrent Running of FMLA and CFRA Leaves

The Town provides family and medical care leave for eligible employees as required by State and federal law. Employees who misuse or abuse family and medical care leave may be disciplined up to and including termination. Employees who fraudulently obtain or use California Family Rights Act ("CFRA") leave are not protected by the CFRA's job restoration or maintenance of health benefits provisions. This Policy is supplemented by

the Federal Family and Medical Leave Act ("FMLA"), CFRA. Unless otherwise stated in this Policy, "Leave" means leave pursuant to the FMLA and CFRA. To the extent permitted by law, where an employee's leave qualifies under both the FMLA and CFRA, the Town will run each employee's FMLA and CFRA leaves concurrently.

2. Definitions

"12-Month Period" means a rolling 12-month period measured backward from the date leave is taken and continuous with each additional leave day taken.

"Single 12 Month Period" means a 12-month period which begins on the first day the eligible employee takes FMLA leave to take care of a covered service member and ends 12 months after that date.

"Child" means the following:

- (a) For the purpose of the FMLA leave "child" means a child under the age of 18 years of age, or 18 years of age or older who is incapable of self-care because of a mental or physical disability. An employee's child is one for whom the employee has actual day-to-day responsibility for care, and includes a biological, adopted, foster or step-child. A child is "incapable of self-care" if he/she requires active assistance or supervision to provide daily self-care in three or more of the activities of daily living or instrumental activities of daily living, such as caring for grooming and hygiene, bathing, dressing and eating, cooking, cleaning shopping, taking public transportation, paying bills, maintaining a residence, or using telephones and directories.
- (b) For purposes of CFRA leave, "child" means an employee's child regardless of age or incapacity. An employee's child means a biological, adopted, foster, step-child, legal ward, a child of a domestic partner, or a person to whom the employee stands in loco parentis.

"Parent" means the biological parent of an employee or an individual who stands or stood in loco parentis (in place of a parent) to an employee when the employee was a child. This term does not include parents-in-law.

"Spouse" means one or two persons to a marriage, regardless of the sex of the persons, and for purposes of CFRA leave, includes a registered domestic partner as defined below.

"Domestic Partner" is another adult with whom the employee has chosen to share their life in an intimate and committed relationship of mutual caring and with whom the employee has filed a Declaration of Domestic Partnership with the Secretary of State, and who meets the criteria specified in California Family Code section 297. A legal union formed in another state that is substantially equivalent to the California domestic partnership is also sufficient.

“Serious Health Condition” means an illness, injury impairment, or physical or mental condition that involves:

- (a) Inpatient Care in a hospital, hospice, or residential medical care facility, including Any period of incapacity (e.g., inability to work or perform other regular daily activities due to the serious health condition, treatment involved, or recovery therefrom). A person is considered “inpatient” when a health care facility admits him or her to the facility with the expectation that he or she will remain at least overnight, even if it later develops that such person can be discharged or transferred to another facility, and does not actually remain overnight; or
- (b) Continuing treatment by a health care provider: A serious health condition involving Continuing treatment by a health care provider includes any one or more of the following:
 - a. A period of incapacity (i.e., inability to work, or perform other regular daily activities) due to serious health condition of more than three consecutive calendar days; and
 - i. Any subsequent treatment or period of incapacity relating to the same condition, that also involves:
 - ii. Treatment two or more times by a health care provider, by a nurse or physician’s assistant under direct supervision by a health care provider, or by a provider of health care services (e.g., a physical therapist) under orders of, or on referral by a health care provider; or
 - iii. Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider. This includes, for example, a course of prescription medication or therapy requiring special equipment to resolve or alleviate the health condition. If the medication is over the counter, and can be initiated without a visit to a health care provider, it does not constitute a regimen of continuing treatment.
 - b. Any period of incapacity due to pregnancy or for prenatal care. Note that pregnancy is a “serious health condition” only under the FMLA. Under California law, an employee disabled by pregnancy is entitled to pregnancy leave. (See Section P, Pregnancy Disability Leave)
 - c. Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which:
 - i. Requires periodic visits for treatment by a health care provider, or by a nurse or physician’s assistant under direct supervision of a health care provider;
 - ii. Continues over an extended period of time (including recurring episodes of a single underlying condition); and
May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.). Absences for such incapacity qualify for leave even if the absence lasts only one day.
 - d. A period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by health care provider.
 - e. Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either

for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment.

“Health Care Provider” means:

- (a) A doctor of medicine or osteopathy who is authorized to practice medicine or surgery in the State of California;
- (b) Individuals duly licensed as a physician, surgeon, or osteopathic physician or surgeon in another state or jurisdiction, including another country, which directly treats or supervises treatment of a serious health condition;
- (c) Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by x-ray to exist) authorized to practice in California and performing within the scope of their practice as defined under California State law;
- (d) Nurse practitioners, physician assistants, nurse-midwives and clinical social workers who are authorized to practice under California State law and who are performing within the scope of their practice as defined under California State law;
- (e) Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts; and
- (f) Any health care provider from whom an employer or group health plan’s benefits manager will accept certification of the existence of a serious health condition to substantiate a claim for benefits.

“Covered active duty” means, in the case of a member of a regular component of the Armed Forces, duty during deployment of the member with the Armed Forces to a foreign country; or

in the case of a member of the reserve component of the Armed Forces, duty during the deployment of members of the Armed Forces to a foreign country under a call or order to active duty under certain specified provisions.

“Covered Servicemember” means a current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness; or a veteran who is undergoing medical treatment, recuperation, or therapy, for a serious injury or illness and who was a member of the Armed Forces, including a member of the National Guard or Reserves, at any time during the period of five years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy.

“Outpatient Status” means, with respect to a covered servicemember, the status of a member of the Armed Forces assigned to either:

- (a) a military medical treatment facility as an outpatient; or
- (b) a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients.

“Designated Person” for the purposes of CFRA leave, means an individual whose association with the employee is the equivalent of a family relationship. The designated person may be identified by the employee at the time the employee requests leave. An employee is limited to one designated person per 12-month period for family care and medical leave under the CFRA.

“Next of Kin of a Covered Servicemember” means the nearest blood relative other than the covered servicemember’s spouse, parent, son, or daughter, in the following order of priority: blood relatives who have been granted legal custody of the covered servicemember by court decree or statutory provisions, brothers and sisters, grandparents, aunts and uncles, and first cousins, unless the covered servicemember has specifically designated in writing another blood relative as his or her nearest blood relative for purposes of military caregiver leave under the FMLA.

“Serious Injury or Illness” means:

(a) in the case of a member of the Armed forces, including a member of the National Guard or reserves, means an injury or illness that a covered servicemember incurred in the line of duty on active duty in the Armed Forces (or existed before the beginning of the member’s active duty and was aggravated by the service in the line of duty on active duty in the Armed Forces) and that may render the servicemember medically unfit to perform the duties of the member’s office, grade, rank, or rating; or

(b) in the case of a veteran who was a member of the Armed Forces, including a member of the National Guard or Reserves, means an injury or illness that was incurred by the member in the line of duty on active duty in the Armed Forces (or existed before the beginning of the member’s active duty and was aggravated by service in the line of duty on active duty in the Armed Forces) and that manifested itself before or after the member became a veteran.

3. Reasons for Leave

Leave is only permitted for the reasons listed below.

- (a) The birth of a child or to care for a newborn of an employee;
- (b) The placement of a child with an employee in connection with the adoption or foster care of a child;
- (c) Leave to care for a child, parent, or spouse, who has a serious health condition;
- (d) Under the CFRA only: leave to care for a domestic partner, grandparent, grandchild, sibling, or designated person who has a serious health condition.
- (e) Leave because of a serious health condition that makes the employee unable to perform any one or more essential functions of his/her position;
- (f) Leave for “qualifying exigencies” arising out of the fact that an employee’s spouse, son, daughter, or parent is on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation;
- (g) For purposes of CFRA leave only, leave for a “qualifying exigency” arising out of the fact that an employee’s domestic partner is on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation; or
- (h) Leave to care for a spouse, son, daughter, parent, or “next of kin” who is a covered servicemember of the U.S. Armed Forces who has a serious injury or illness: incurred in the line of duty while on active military duty; or existed before the

beginning of the member's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces. This leave can run up to 26 weeks of unpaid leave during a single 12-month period.

4. Employees Eligible for Leave

An employee is eligible for leave if:

- (a) The employee has been employed by the Town for at least 12 months; and
- (b) The employee has been employed by the Town for at least 1,250 hours during the 12-month period immediately preceding the commencement of the leave.

In addition, an employee is only eligible for FMLA leave if the Town directly employs at least 50 full or part-time employees within a 75-mile radius for each working day during each of 20 or more calendar workweeks in the current or preceding calendar year. The workweeks do not have to be consecutive. The phrase "current or preceding calendar year" refers to the calendar year in which the employee requests the leave or the calendar year preceding this request.

5. Amount of Leave

Under both the FMLA and CFRA, eligible employees are entitled to a total of 12 workweeks (or 26 workweeks to care for a covered servicemember) of leave during any 12-month period. If FMLA leave qualifies as both military caregiver leave and care for a family member with a serious health condition, the leave will be designated as military caregiver leave first. (29 CFR § 825.127.)

6. Minimum Duration of Leave

If leave is requested for the birth, adoption or foster care placement of a child of the employee, leave must be concluded within one year of the birth or placement of the child. In addition, the basic minimum duration of such leave is two weeks. However, an employee is entitled to leave for one of these purposes (e.g. bonding with a newborn) for less than two weeks duration on any two occasions.

If leave is requested to care for a child, parent, spouse or the employee him/herself with serious health condition, there is no minimum amount of leave that must be taken. However, compliance with the notice and medical certification provisions in this Policy is required.

7. Parents Both Employed by the Town

If both parents of a child, adoptee, or foster child are employed by the Town and are entitled to bonding leave, the following rules apply:

For purposes of FMLA leave, both parents may be limited to a combined aggregate of 12 workweeks of FMLA leave during any 12-month period.
Each parent is entitled to take 12 workweeks of CFRA leave during any 12-month period.

If both parents of a covered servicemember are employed by the Town and are entitled to leave to care for a covered servicemember, the aggregate number of workweeks of leave to which both may be entitled is limited to 26 work weeks during the 12-month period.

These limitations do not apply to any other type of leave under this Policy.

8. Employee Benefits While On Leave

Group Health Insurance During Unpaid Leave: Leave under this Policy is unpaid. While on unpaid leave, employees will continue to be covered by the Town's group health insurance for up to 12 weeks each leave year to the same extent that coverage is provided while the employee is on the job. If the employee is disabled by pregnancy, coverage will continue up to four months each leave year. If an employee disabled by pregnancy also uses leave under the CFRA for baby-bonding, the Town will maintain her coverage while she is disabled by pregnancy (up to four months or 17 1/3 weeks) and during her CFRA leave (up to 12 weeks).

Benefit Plans Not Provided through the Town's Group Health Plan During Unpaid Leave Do Continue: While on unpaid leave, employees will continue to be covered by the Town's benefits plans that are not part of its group health plan for up to 12 weeks each leave year to the same extent that coverage is provided while the employee is on the job. (2 Cal.Code Regs § 11092(e).)

Payment of Premiums: Employees may make the appropriate contributions for continued coverage under the health benefits plans by payroll deductions (if the employee is using his or her paid leave) or direct payments (if the employee is not using his or her paid leave). The Town will inform the employee whether the direct payments for premiums should be paid to the carrier or to the Town, and the deadlines for paying premiums in order to prevent coverage from being dropped. Employee contribution rates are subject to any changes in rates that occur while employee is on leave.

Recovery of Premium if the Employee Fails to Return from Leave: If an employee fails to return to work after his/her leave entitlement has been exhausted or expires, the Town shall have the right to recover its share of health plan premiums for the entire leave period, unless the employee does not return because of the continuation, recurrence, or onset of a serious health condition of the employee or his/her family member which would entitle the employee to leave, or because of circumstances beyond the employee's control.

9. Substitution of Paid Accrued Leaves

Although family and medical care leave is unpaid, an employee may elect to concurrently use all paid accrued leaves during family and medical care leave as described below.

10. Employee's Right to Use Paid Accrued Leave Concurrently with Family Leave

An employee may choose to use any earned or accrued paid leave except sick leave for all or part of any unpaid family and medical care leave. An employee is entitled to use sick leave concurrently with family and medical care leave for the employee's own serious health condition or that of the employee's parent, spouse, domestic partner or child. Employees are not required to use paid leave during leave pursuant to a disability plan that pays a portion of the employee's wage while on leave unless the employee

agrees to use paid leave to cover the unpaid portion of the disability leave benefit.

11. Town's Right to Require an Employee to Exhaust FMLA/CFRA Leave Concurrently with Other Leaves

If an employee takes a leave of absence for any purpose which also qualifies under the FMLA and/or CFRA, the Town will designate that leave as running concurrently with the employee's 12-week FMLA/CFRA leave entitlement. This does not apply to sworn police officers who are on paid industrial injury leave. FMLA leave may run concurrently with pregnancy disability leave; CFRA leave does not.

12. Town's and Employee's Rights if an Employee Requests Accrued Leave without Mentioning FMLA or CFRA.

If an employee requests to utilize accrued vacation leave or other accrued paid time off without reference to a FMLA/CFRA qualifying purpose, the Town may ask the employee if the leave is for a FMLA/CFRA qualifying purpose. If the Town denies the employee's request and the employee provides information that the requested time off is for a FMLA/CFRA qualifying purpose, the employee may use accrued leave as described above.

13. Medical Certification/Recertification

Employees who request leave must provide a medical certification and/or recertification to support the need for the leave as described below:

Employee's Own Serious Health Condition: Employees who request leave for their own serious health condition must provide written certification from the health care provider that contains all of the following: the date, if known, on which the serious health condition commenced; the probable duration of the condition; and a statement that, due to the serious health condition, the employee is unable to work at all or is unable to perform any one or more of the essential functions of his or her position. Upon expiration of the time period the health care provider originally estimated that the employee needed for his/her own serious health condition, the employee must obtain recertification if additional leave is requested.

Family Member Serious Health Condition: Employees who request leave to care for a child, parent, domestic partner or a spouse who has serious health condition must provide written certification from the health care provider of the family member requiring care that contains all of the following: the date, if known, on which the serious health condition commenced; the probable duration of the condition; an estimate of the amount of time which the health care provider believes the employee needs to care for the child, parent, domestic partner, or spouse, and a statement that the serious health condition warrants the participation of the employee to provide care during a period of treatment or supervision of the child, parent or spouse. The term "warrants the participation of the employee" includes, but is not limited to, providing psychological comfort, and arranging third party care for the covered family member, as well as directly providing, or participating in, the medical care. Upon expiration of the time period the health care provider originally estimated that the employee needed to care for a covered family member, the employer must obtain recertification if additional leave is requested.

Servicemember Serious Injury or Illness: Employees who request FMLA leave to care for a covered servicemember who is a child, spouse, parent or "next of kin" of the employee, must provide written certification from a health care provider regarding the

injured servicemember's serious injury or illness. The Town will verify the certification as permitted by the FMLA regulations.

Qualifying Exigency: The first time an employee requests FMLA leave because of a qualifying exigency, an employer may require the employee to provide a copy of the military member's active duty orders or other documentation issued by the military which indicates that the military member is on covered active duty or call to active duty status in a foreign country, and the dates of the military member's active duty service. A copy of the new active duty orders or similar documentation shall be provided to the Town if the need for leave because of a qualifying exigency arises out of a different active duty or call to active duty status of the same or a different military member. The Town will verify the certification as permitted by the FMLA and CRFA regulations.

14. Time to Provide a Medical Certification

When an employee has provided at least 30 days' notice for a foreseeable leave, the employee must provide a medical certification before the leave begins. When this is not possible, the employee must provide the medical certification to the Town within the time frame requested by the Town (which must allow at least 15 calendar days after the employer's request), unless it is not practicable under the particular circumstances to do so despite the employee's diligent, good faith efforts.

15. Consequences for Failure to Provide an Adequate or Timely Certification

If an employee provides an incomplete medical certification, the employee will be given a reasonable opportunity to cure any such deficiency. However, if an employee fails to provide a medical certification within the time frame established in this Policy, the Town may delay the taking of FMLA/CFRA leave until required certification is provided, or deny FMLA/CFRA protections following the expiration of the time period to provide an adequate certification.

16. Administrative Services Director Review of the Contents of Medical Certification for Employee's Own Serious Health Condition

Complete and Sufficient: The employee must provide a certification for his or her own serious health condition that is complete and sufficient to support the request for leave. A certification is incomplete if one or more of the applicable entries on the certification form have not been completed. A certification is insufficient if the information on the certification form is vague, ambiguous, or not responsive. If the certification is incomplete or insufficient, the Administrative Services Director will give the employee written notice of the deficiencies and seven days to cure, unless a longer period is necessary in light of the employee's diligent, good faith efforts to address the deficiencies.

Authentication and Clarification: After giving the employee an opportunity to cure the deficiencies in a medical certification for the employee's own serious health condition, the Administrative Services Director may contact the health care provider who provided the certification to clarify and/or authenticate the certification. "Authentication" means providing the health care provider with a copy of the certification form and requesting verification that the information on the form was completed or authorized by the health care provider who signed the form. "Clarification" means contacting the health care provider to understand the handwriting on the medical certification or to understand the meaning of the response. The Administrative Services Director may not ask for additional information beyond that required on the certification form.

For Employee's Own Serious Health Condition: If the Town has a good faith, objective reason to doubt the validity of a certification for the employee's serious health condition, the Town may require a medical opinion of a second health care provider chosen and paid for by the Town. If the second opinion is different from the first, the Town may require the opinion of a third provider jointly approved by the Town and the employee, but paid for by the Town. The opinion of the third provider will be binding. The Town must provide the employee with a copy of the second and third medical opinions, where applicable, without cost, upon the request of the employee.

L. INTERMITTENT LEAVE OR LEAVE ON A REDUCED LEAVE SCHEDULE

If an employee requests leave intermittently (a few days or hours at a time) or on a reduced leave schedule for his or her own serious health condition, or to care for an immediate family member with serious health condition, the employee must provide medical certification that such leave is medically necessary. "Medically necessary" means there must be a medical need for the leave and that the leave can best be accomplished through an intermittent or reduced leave schedule. The Town may require an employee who certifies the need for a reduced schedule or intermittent leave to temporarily transfer to an alternate position of equivalent pay and benefits that better accommodates the leave schedule.

M. EMPLOYEE NOTICE OF LEAVE

Although the Town recognizes that emergencies arise which may require employees to request immediate leave, employees are required to give as much verbal or written notice as possible of their need for leave. If leave is foreseeable, at least 30 days' notice is required. In addition, if an employee knows that he/she will need leave in the future, but does not know the exact day(s) (e.g. for the birth of a child or to take care of a newborn), the employee shall inform his/her supervisor as soon as possible that such leave will be needed. For foreseeable leave due to a qualifying exigency, an employee must provide verbal or written notice of the need for leave as soon as practicable, regardless of how far in advance such leave is foreseeable.

1. Reinstatement Upon Return From Leave

Reinstatement to Same or Equivalent Position: Upon expiration of leave, an employee is entitled to be reinstated to the position of employment held when the leave commenced, or to an equivalent position with equivalent benefits and pay. Employees have no greater rights to reinstatement, benefits, and other conditions of employment than if the employee had been continuously employed during the FMLA/CFRA period.

Date of Reinstatement: If a definite date of reinstatement has been agreed upon at the beginning of the leave, the employee will be reinstated on the date agreed upon. If the reinstatement date differs from the original agreement of the employee and the Town, the employee will be reinstated within two business days, where feasible, after the employee notifies the employer of his/her readiness to return.

Employee's Obligation to Periodically Report on their Condition: Employees may be required to periodically report on their status and intent to return to work. This will avoid any delays to reinstatement when the employee is ready to return.

Fitness for Duty Certification: As a condition of reinstatement of an employee whose leave was due to the employee's own serious health condition, which made the employee unable to perform his or her job, the employee must obtain and present a fitness-for-duty certification from the health care provider stating that the employee is able to resume work. Failure to provide such certification will result in denial of reinstatement.

Reinstatement of "Key Employees": For FMLA leave only, the Town may deny reinstatement to a "key" employee (i.e., an employee who is among the highest paid 10 percent of all employed by the Town within 75 miles of the worksite) if such denial is necessary to prevent substantial and grievous economic injury to the operations of the Town, and the employee is notified of the Town's intent to deny reinstatement on such basis at the time the employer determines that such injury would occur.

2. Unpaid Leave

Except as otherwise provided by law, any leave of absence without pay, (such as California Pregnancy Disability Leave, and Active Military Leave), exceeding fifteen (15) calendar days shall cause the employee's wage anniversary date to be postponed the number of calendar days equal to the number of days of the unpaid leave.

Benefits accruals such as vacation, sick leave, or holiday benefits will be suspended during the unpaid leave and will resume upon return to active employment.

N. DONATION OF PAID TIME OFF

In order for an employee to be eligible to be a recipient of paid time off, the recipient must exhaust all accrued leave prior to the use of donated time.

An employee may, upon approval, transfer all or any portion of her/his accrued vacation, compensatory or administrative leave to another employee of the Town. An employee may, upon approval, transfer up to 8 hours of sick leave. The donor must have a balance of 240 or more accrued sick hours in order to transfer any sick hours. Transfer of vacation, compensatory, sick or administrative leave from one employee to another shall be permitted only in unusual, unanticipated, emergency situations involving serious illness or injury of an employee or serious illness, injury, pregnancy or maternity/paternity leave, imminent death or death of a member of the employee's immediate family.

Transferred time will be credited to the recipient at the then current rate of the donor. For example: A recipient earning a lower hourly rate than the donor will receive more than 4 hours in the case where 4 hours were donated. The recipient will receive his/her equivalent value (based on recipient's hourly rate) of the time donated. For purposes of the Sick Leave Benefit Incentive in section 15, donated sick time will not count toward hours used during the year.

A request for transfer of vacation, sick, administrative or compensatory leave may be initiated by either the employee in need of additional time or by an employee or employees who wish to donate time to another employee.

A request for transfer of vacation leave shall be processed as follows:

- (a) The employee(s) making the request shall do so in writing to his/her department head.
- (b) The department head shall then forward the request, with recommendation, to the Town Manager.
- (c) The Town Manager shall review the request and recommendation and shall communicate his/her decision to the department head.
- (d) Upon receipt of the Town Manager's approval, employees willing to donate accrued leave for transfer to another employee shall do so on the Leave Transfer Form.
- (e) Completed Leave Transfer Forms shall be submitted directly to Payroll where the donated time will be credited to the recipient employee's appropriate leave account. Hours will be credited to the recipient in each pay period in the order received from the donors by Payroll. Value of Donated time will be transferred based upon the pay rate of the employee making the donation.
- (f) Hours donated but not used by the recipient shall remain in the donor's bank.

The Administrative Services Director will determine when the end of the need for hours exists. The excess hours may be used at a future date depending on the needs of the recipient, with permission of the donor, and as determined by the Administrative Services Director.

A donor's name may not be released to the recipient unless specifically requested by the donor.

Participation in this program shall be strictly voluntary. No employee shall be required or expected to participate and no employee shall be subject to coercion or threat or intimidation of any kind for failure to donate leave time pursuant to this program.

O. PREGNANCY DISABILITY LEAVE

An employee who is disabled because of pregnancy, childbirth, or a related medical condition is entitled to an unpaid pregnancy disability leave for up to four months.

1. Notice & Certification Requirements

Requests for pregnancy disability leave must be submitted in writing and must be approved by the employee's supervisor or department head before the leave begins. The request must be supported by a written certification from the attending physician that the employee is disabled from working by pregnancy, childbirth or a related medical condition. The certification must state the expected duration of the disability and the expected date of return to work.

All leaves must be confirmed in writing, have an agreed-upon specific date of return, and be submitted to the department head prior to being taken. Requests for an extension of leave must be submitted in writing to the department head prior to the agreed date of return and must be supported by a written certification of the attending physician that the

employee continues to be disabled by pregnancy, childbirth, or a related medical condition. The maximum pregnancy disability leave is four months.

2. Compensation During Leave

Pregnancy disability leaves are without pay. However, the employee may use sick leave, vacation leave, and any other accrued paid time off during the leave.

3. Benefits During Leave

An employee on pregnancy disability leave will receive any group health insurance coverage that was provided before the leave for up to four months while the employee is on pregnancy disability leave. If an employee does not return to work following pregnancy disability leave, the Town may recover premiums it paid to maintain health insurance coverage during the leave as consistent with the law.

An employee on pregnancy disability leave who is not eligible to receive group health insurance coverage as described above, may receive health insurance coverage in conjunction with COBRA guidelines, if they qualify for COBRA coverage, by making monthly premium payments to the Town.

4. Sick and Vacation Leave Accrual

Sick leave and vacation leave and paid holidays do not accrue while an employee is on unpaid pregnancy disability leave.

5. Reinstatement

Upon the expiration of pregnancy leave and the Town's receipt of a written statement of the health care provider that the employee is fit to return to duty, the employee will be reinstated to her original or an equivalent position so long as it was not eliminated for a legitimate business reason during the leave.

If the employee's original position is no longer available, the employee will be assigned to an open position that is substantially similar in job content, status, pay, promotional opportunities, and geographic location as the employee's original position.

If upon return from leave an employee is unable to perform the essential functions of her job because of a physical or mental disability, the Town will initiate an interactive process with the employee in order to identify a potential reasonable accommodation.

An employee who fails to return to work after the termination of his/her leave loses his/her reinstatement rights.

P. TIME OFF FOR VICTIMS OF VIOLENT CRIMES OR DOMESTIC ABUSE

1. Leave for Crime Victims' Court Appearance

Any employee, who is a victim of a crime that is a serious or violent felony, or a felony involving theft or embezzlement, may take leave from work to attend judicial proceedings related to that crime, if the employee provides a copy of the notice of the scheduled proceeding in advance. If advance notice is not feasible, the employee must provide the

Town, within a reasonable time after the leave is taken, documentation from the District Attorney, victim's rights office, or court / governing agency that shows that the judicial proceeding occurred when the leave was used. An employee who is an immediate family member of such a crime victim, including: a registered domestic partner; the child of the registered domestic partner; spouse; child; stepchild; brother; stepbrother; sister; stepsister; mother; stepmother; father; or stepfather of the crime victim is also entitled to leave from work to attend judicial proceedings relating to that crime. The leave is unpaid unless the employee elects to use accrued paid leave or compensatory time off.

2. Leave for Court Proceedings Relating to Crime Victim's Rights

Any employee, who is a victim of a crime listed in Labor Code section 230.5(a)(2)(A), may take leave from work to appear in court to be heard at any proceeding in which the right of the victim is at issue, if the employee provides the employer reasonable advance notice. If advance notice is not feasible, the employee must provide the Town, within a reasonable time after the leave is taken, certification from a police report, a District Attorney or court, or from a health care provider or victim advocate, that the employee was a victim of any of the crimes listed in Labor Code section 230.5(a)(2)(A). An employee who is a spouse, parent, child, sibling, or guardian of such a crime victim is also a victim who is entitled to this leave if the above notice or certification requirements are met. The leave is unpaid unless the employee elects to use accrued paid leave or compensatory time off.

3. Leave for Victims of Crime or Abuse to Seek Relief

Any employee, who is a victim of crime or abuse may take leave from work for any of the following purposes:

- (a) to seek medical attention for injuries caused by crime or abuse;
- (b) to obtain services from a domestic violence shelter, program, rape crisis center, or victim services organization or agency;
- (c) to obtain psychological counseling or mental health services related to an experience of crime or abuse;
- (d) to participate in safety planning and take other actions to increase safety from future crime or abuse, including temporary or permanent relocation;
- (e) to obtain or attempt to obtain any relief, including, but not limited to a temporary restraining order, restraining order, or other injunctive relief to help ensure the health, safety, or welfare of the employee or his or her child.

The employee must provide reasonable advance notice, if feasible, of their intention to take time off. If advance notice is not feasible, the employee must provide any of the following certifications within a reasonable time after the leave: a police report indicating that the employee was a victim; a court order protecting the employee from the perpetrator; evidence from the district attorney or court that the employee has appeared in court; or documentation from a health care provider or counselor that the employee was undergoing treatment for physical or mental injuries or abuse, or any other form of documentation that reasonably verified that the crime or abuse occurred.

For purposes of this section, a "victim of crime or abuse" means a victim of stalking, domestic violence, or sexual assault; a victim of a crime that caused physical injury or that caused mental injury and a threat of physical injury, or a person whose immediate

family member is deceased as the direct result of a crime. “Crime” means a crime or public offense as set forth in Section 13951 of the Government Code, regardless of whether any person is arrested for, prosecuted for, or convicted of, committing the crime.

The leave is unpaid unless the employee elects to use accrued paid leave or compensatory time off. An employee who is a victim of domestic violence, sexual assault, or stalking may elect to use accrued sick leave for time off taken under this section.

Q. WORKERS’ COMPENSATION DISABILITY LEAVE

The Town will grant workers’ compensation disability leave to employees with occupational illnesses or injuries in accordance with state law and/or reasonably accommodate such employees with modified work when appropriate.

1. Notice Requirement

Employees must report all on duty accidents, injuries and illnesses—no matter how small—to their immediate supervisor as soon as possible.

2. Compensation During Leave

Employees may first utilize any accrued sick time and then any other accrued paid time off during the leave. All such payments will be coordinated with any short or long-term disability, workers’ compensation, or other wage reimbursement benefits for which employees may be eligible. At no time shall an employee receive a greater total payment than the employee’s regular wage. Sworn employees may be entitled to receive their full wage while temporarily disabled by on-the-job injuries for a period of time.

R. SCHOOL-RELATED LEAVES

An employee who is a parent, guardian or grandparent with custody of a child in a licensed day care facility, kindergarten or grades 1-12, inclusive, may request unpaid time off to visit that facility or school as described below.

1. School Activities

An employee may take off up to 8 hours without pay each month (up to a maximum of 40 hours each calendar year), to participate in the activities of the facility or school, provided that the employee gives reasonable notice to the Town of his or her proposed absence. An employee may utilize his or her existing accrued vacation time or other accrued paid time off. The Town requires the employee to provide documentation from the school or licensed day care facility, within 5 days of the leave, as proof that the employee participated in the school or licensed day care activities on a specific date and time.

If both parents of a child work for the Town, only one parent—the first to provide notice—may take the time off, unless the Town approves both parents taking time off.

2. School Leave – Suspension

An employee who is the parent or guardian of a child who has been suspended from school, and who the school has directed to attend the child's school, may have unpaid leave for this purpose. The employee should alert his or her supervisor as soon as possible so that alternative arrangements may be made. The employee may utilize his or her accrued vacation time or other accrued time off.

S. LACTATION ACCOMMODATION POLICY

The Town of Truckee provides a reasonable amount of break time to accommodate an employee's need to express breast milk for the employee's infant child. The Town will make a reasonable effort to provide the employee with the use of a room or other location in close proximity to the employee's work area for the employee to express milk in private. Such space will meet the requirements of the California Labor Code including a surface to place a breast pump and personal items, a place to sit, and access to electricity. Employees will also have access to a sink with running water, and a refrigerator for storing breast milk.

1. Procedures

An employee may request an accommodation for lactation breaks by submitting a lactation accommodation request form to Human Resources. After consultation with the employee's supervisor, Human Resources must respond to the employee's accommodation request in writing on the same lactation accommodation request form submitted by the employee indicating the approval or denial of the break request. The completed request form must be returned to the employee.

The requested break time should, if possible, be taken concurrently with other scheduled break periods. For non-exempt employees, additional lactation breaks that do not run concurrently with normally scheduled rest periods will be unpaid. The employee may request to use accrued time off for any unpaid time. The Town reserves the right to deny, in writing, an employee's request for a lactation break if the additional break time will seriously disrupt operations. Employees have the right to file a complaint with the labor commissioner for any violation of rights provided under Chapter 3.8 of the California Labor Code regarding lactation accommodations.

T. TEMPORARY LEAVES OF ABSENCE FOR EMERGENCY RESCUE PERSONNEL

An employee who performs duties as a volunteer firefighter, a reserve peace officer, or an emergency rescue personnel, as defined in Section 230.3 of the California Labor Code, shall be permitted to take up to 14 days of unpaid leave per calendar year for the purpose of engaging in fire, law enforcement, or emergency rescue training.

At the discretion of the applicable Department Head, employees who are in good standing and who volunteer for the Tahoe Nordic Search and Rescue, Nevada County Search and Rescue, and/or a similar search and rescue organization that has been approved by the Town based in and/or operating in the greater Truckee area shall be

eligible for up to five (5) days of unpaid leave per calendar year to complete emergency rescue training, provided that the employee gives reasonable notice to the Town of their proposed absence.

The Town may require employees to provide documentation from the emergency search and rescue organization, within 5 days of the leave, as proof that the employee participated in the rescue training on a specific date and time.

A “day” means an employee's regularly scheduled work day. If an employee is assigned to an alternative work schedule such as a 9/80 or 4/10 work period, they shall be eligible for a full day of unpaid leave in accordance with their regularly scheduled workday.

SECTION 16 – COMPREHENSIVE ELECTRONIC MEDIA AND COMPUTING RESOURCES POLICY

A. PURPOSE

The Town of Truckee is dedicated to providing a secure and productive computing environment for its employees, contractors, and visitors. This Computer and Network Acceptable Use Policy (CNAP) establishes guidelines to protect the Town's computing systems and data from unauthorized access, theft, or misuse. This policy applies to all users of the Town's computing resources, including employees, contractors, and visitors, and to all devices, software, and data owned or operated by the Town.

B. SCOPE

This policy applies to all electronic media, documents, recording, and other data contained in or recoverable from such media, used by the Town of Truckee. This policy does not apply to personal electronic devices that are not used within the Town's network. For the purposes of this policy, Town “Public Wifi” is not considered a Town computing resource. Electronic media includes all types of electronic equipment, such as computers, computer peripherals, smart phones, tablets, computer software, laptops voicemail, electronic mail (e-mail), Internet access, World Wide Web access, online information services, and any other electronic type of equipment that the Town deems as electronic media.

1. Employer Equipment

This policy applies to all electronic media provided by the Town of Truckee as well as electronic media used on the Town's property (also referred to as Bring Your Own Device (BYOD) discussed further in Section C (2) below). This policy also applies to all Town computing resources which include but are not limited to all electronic infrastructure such as desktop computers, laptop computers, handheld electronic devices, video conference and teleconference equipment, cellular telephones, software, and computer servers.

2. Confidential Records

This policy does not apply to access to any law enforcement, medical, financial, or client information, which is designated as confidential by state or federal law or regulation. Nothing in this policy allows, or shall be interpreted to allow, any person not authorized by law to receive or review such confidential information to do so. Any person attempting

to access or accessing confidential information will be subject to disciplinary action, up to and including termination.

The Town's computers, software, voicemails, emails, and files stored on the computer or network are Town property and may only be used for its business purposes. Although employees have passwords that restrict access to their computers, the Town may access any files stored on or deleted from the computer system. Except as set forth in Section B 2, the Town reserves the right to access such information for any lawful purpose at any time. All software that resides on any of Town's computers must be licensed to the Town of Truckee.

Information of files deleted from electronic media may not have been permanently deleted from the system. It is possible to recover deleted computer files, deleted e-mail, deleted chat messages, deleted voice mail messages, and deleted text messages at any time.

With limited exceptions as specifically authorized by state or federal law, data, files, messages, and information on Town computers are public records. They are available to any member of the public and the news media upon request. Employees must create and send any electronic media information with that fact in mind. Electronic data is discoverable in litigation, which may be filed against or by the Town or its officers and employees and, if you are uncertain about the content of a message, you or your department head should consult with the Town Attorney before it is created or sent.

C. COMPUTER AND NETWORK ACCEPTABLE USE POLICY

1. General Computer Use:

This section outlines the general guidelines for computer use in the Town of Truckee. It specifies that only authorized personnel are allowed to use the Town's computing resources, and all users must comply with this CNAP. Personal use of the Town's computer resources is not allowed, except where specifically authorized by the department head. Any such authorization shall be granted only if the use will not be disruptive to the workplace and will occur only during the employee's lunch period or other authorized break. Employees shall have no expectation that information they convey, create, file, or store in such media will be confidential or private, except as set force in Section B 2.

Access to the Town's computing resources is restricted to authorized personnel who have a legitimate business need for such access. Unauthorized individuals must not attempt to gain access.

- i. Users must follow applicable laws and regulations, use resources only for legitimate business purposes, and respect the rights and privacy of others.
- ii. Users must not use the Town's computer resources for personal or unauthorized purposes. This includes accessing or transmitting unauthorized or confidential information, engaging in non-work-related activities, or using computing resources for personal use.

- iii. Any suspected or actual security breaches must be immediately reported to the appropriate personnel. This includes lost or stolen equipment, suspected malware or viruses, and any other security incidents.
- iv. Users must not attempt to bypass the security measures put in place to protect the Town's computing resources. Hacking is unauthorized and is a violation of the Federal Electronic Communication Privacy Act (ECPA) 18 U.S.C. § 2510. This includes not disabling or circumventing firewalls, intrusion detection systems, or other security measures, and not using unauthorized software or hardware on Town-owned or operated devices.
- v. Users must not compromise the confidentiality, integrity, or availability of the Town's computing resources. This includes not sharing passwords, accessing, or modifying data without authorization, or engaging in any other activity that could lead to unauthorized access to the Town's data or systems.
- vi. Except as set forth in Section B 2, the Town Manager or department heads of the Town have the right to enter, search, monitor, copy and/or retrieve the computer files, voice mail, e-mail, or any type of electronic file of any employee without notice, including but not limited to investigating theft, disclosure of confidential business information, use of the system for personal reasons (other than those reasons specifically allowed in item iii above), or for any other purpose at any time.
- vii. Employees must receive advance approval from the Chief Information Security and Technology Officer (CISTO) before adding personal software programs to the Town's computers. Any such software must be used for a Town business purpose.
- viii. Copyrighted electronic files shall not be copied or transferred without all legally required written permission.
- ix. Downloading a file from the Internet can bring viruses with it. Unauthorized downloads are prohibited, and employees are encouraged to obtain prior authorization before downloading anything.

2. Bringing Your Own Device (BYOD):

This section outlines the guidelines for using personal devices to access the Town's computing resources. The Town allows users to use their personal devices, provided that the device is approved by the Town's IT department and complies with the Town's security policies. Users are responsible for securing their personal devices and must not share them with unauthorized individuals.

- i. Personal devices, such as smartphones and tablets, may be used to access the Town's computing resources if they meet the minimum-security requirements established by the Town and are approved by the IT department. Users must obtain approval from the IT department before using a personal device to access the Town's computing resources.
- ii. The Town reserves the right to monitor and control access to its computing resources from personal devices. Users should not expect privacy when accessing the Town's computing resources from personal devices, and the Town may take action to protect its systems and data if it believes that a user's device poses a security risk.

- iii. Users must secure their personal devices by installing software updates and keeping their anti-virus software up to date. They must also use a strong password or PIN to protect their device and not share it with anyone else.
- iv. Users are not permitted to share their personal devices or allow unauthorized individuals to access the Town's computing resources. They are responsible for ensuring that their device is not used by anyone else to access the Town's computing resources and must report any suspected or actual security breaches to the appropriate personnel immediately.

3. Security:

This section outlines the Town's security policies, including password management, data backup, and records retention policy. Users must comply with the Town's security policies, protect sensitive data, and not attempt to gain unauthorized access to the Town's computing resources or data. Sharing login credentials is prohibited.

- i. Users are expected to adhere to the Town's security policies, including password management, data backup, and records retention policy. Password policies require the use of strong and unique passwords or passphrases, regular password changes, and not reusing passwords across different systems or services. Additionally, users must back up their data regularly to maintain the availability and integrity of their data.
- ii. Unauthorized access to the Town's computing resources or data is strictly prohibited. Any attempt to access systems or data without proper authorization is a violation of the policy and may result in disciplinary action.
- iii. Users must safeguard their login credentials and not share them with anyone else, nor use another user's login credentials. Each user is responsible for keeping their login credentials confidential and secure, logging out of their accounts when not in use, and securing their devices.
- iv. Sensitive or confidential data, including personal information, financial data, and proprietary information, must be protected. Users must follow the Town's records retention policy and ensure that sensitive data is stored and transmitted securely and in compliance with all state and federal laws and regulations related to such data. Any suspected or actual breaches of data security must be reported immediately to the appropriate personnel.

4. Acceptable and Unacceptable Use:

This section outlines the acceptable and unacceptable uses of the Town's computing resources. Users are allowed to use the Town's computing resources for job-related activities such as email communication, word processing, and data analysis.

- i. Acceptable use of the Town's computing resources includes but are not limited to:
 - a. Facilitate performance of job functions.
 - b. To facilitate communication of information within the Town.
 - c. To coordinate meetings of individuals, locations, and resources of the Town.
 - d. To communicate information and respond to requests for information received from the Town website or from Town constituents via phone or other electronic media source.
 - e. To communicate with outside organizations as required in order to perform an employee's job function.

- ii. Unacceptable use of the Town's computing resources includes, but is not limited to:
 - a. Violating local, state, or federal law; harassing or disparaging others based on any legally protected status including but not limited to race, national origin, sex, sexual orientation, age, disability, or religious or political beliefs (including but not limited to racial slurs, obscene messages, sexually explicit images, cartoons, or messages); accessing or sharing inappropriate material or downloading pirated software.
 - b. Threatening, bullying, extorting and/or intimidating others.
 - c. Soliciting or proselytizing others for commercial ventures, religious, or political causes, outside organizations, or other non-job-related matters.
 - d. Intentionally disrupting business operations or crashing department networks and connected systems (for example, sabotaging, or intentionally introducing a computer virus).
 - e. Using the Town's computing resources for personal or unauthorized purposes, including commercial activities or political campaigning.
 - f. Engaging in fraudulent activities, such as phishing or identity theft.
 - g. Hacking or attempting to gain unauthorized access to the Town's network or data.
 - h. Accessing other's files without authorization and with no substantial business purpose.
 - i. Vandalizing the data of another user; forging electronic mail messages; wasting system resources; sending personal messages such as chain letters; and
 - j. Using electronic media inappropriately in a way deemed by the Town to violate the intended purpose of any electronic media.
- iii. Network Security:
 - a. Users must not attempt to bypass or disable any security measures in place to protect the Town's network, including firewalls or antivirus software.
 - b. Users must not connect any unauthorized device or equipment to the Town's network.
 - c. Users must not access or attempt to access any restricted areas of the Town's network.
- iv. Email and Email Security:
 - a. Users must follow the Town's email policies, which include not sending spam, not forwarding chain emails, and not using email to harass or threaten others.
 - b. Users must not open any suspicious emails or attachments and must report any suspected phishing attempts to the appropriate personnel.
 - c. Although employees have passwords that restrict access to their email system, the Department Head and/or supervisor may access any files or email messages stored on or deleted from the computer system or email system. The Town reserves the right to access such information for any purpose at any time.

- d. Non-substantive e-mail messages are not intended to be retained as public records in the ordinary course of Town business. Pursuant to Government Code Section 6254(a), preliminary drafts, notes, or interagency or intra-agency memoranda that are not retained by the Town in the ordinary course of business are generally exempt from disclosure as public records, unless the public interest in withholding those records outweighs the public interest in disclosure as determined on a case-by-case basis after consultation with the Town Attorney.
- v. Telephone and Voicemail Security:
 - a. Users are prohibited from using the telephone and voicemail systems to harass or threaten others. Any form of harassment or threatening behavior, whether through phone calls or voicemails, is against our policy.
 - b. Users must report any suspicious phone calls or voicemails that could indicate malicious intent or security threats to the appropriate personnel immediately.
 - c. All phone calls and voicemails are subject to review by the Department Head and/or supervisor. The Town reserves the right to access and review any communications stored on or deleted from the system at any time, for any purpose.
 - d. Phone calls and voicemails may be subject to public records requests and could be retained as public records in the ordinary course of Town business. Certain communications, unless deemed significant for retention in the public interest, may be exempt from disclosure. However, this determination will be made on a case-by-case basis after consultation with the Town Attorney, in accordance with Government Code Section 6254(a).
- vi. Video Conferencing, Chat Application, and Cloud Storage Security:
 - a. Users must adhere to the Town's policies for video conferencing, chat applications, and cloud storage, ensuring confidentiality, sensitive information protection, and professional conduct. Unauthorized use of chat platforms, video conferencing tools, or cloud storage services is not permitted.
 - b. To prevent unauthorized access incidents, such as "Zoom bombing," secure meetings with passwords or waiting rooms as part of the Town's security protocols. Malicious practices, including malicious link sharing, are strictly prohibited.
 - c. Sensitive discussions or information sharing should occur on secure, private channels. Obtain consent before recording meetings or sharing confidential data. Unauthorized sharing or storage of sensitive information on unapproved cloud services is prohibited.
 - d. Only use Town-approved video conferencing, chat applications, and cloud storage services to mitigate security risks. Be aware that communications and data stored on these platforms, similar to emails, are retained and may be subject to review or public records requests.

- e. Mandatory participation in training sessions is required to familiarize users with secure and effective practices for using these digital tools, highlighting strategies to avoid security breaches, such as unauthorized access or harmful link sharing.
- vii. Physical Security:
 - a. Users must protect physical computing resources, including computers and mobile devices, from theft or damage.
 - b. Users must not remove any Town-owned equipment from Town facilities without proper authorization.
 - c. Users must secure laptops and mobile devices with a password and must not leave them unattended in public places.
- viii. Incident Response:
 - a. Users must immediately report any suspected or actual security breaches or incidents to the Town's IT Department.
 - b. Users must follow the Town's incident response procedures, which may include isolating infected devices, resetting passwords, or notifying affected parties.
- ix. Training and Awareness:
 - a. Users must complete security training on a regular basis, as required by the Town's IT department.
 - b. Users must be aware of potential security threats, including phishing scams and malware attacks, and must take appropriate measures to protect the Town's computing resources.
 - c. Regular assessments may be conducted following training sessions to ensure users understand the material and can apply it to protect the Town's digital environment.

5. Remote Access:

This section outlines the guidelines for accessing the Town's computing resources remotely. Remote access allows authorized personnel to access the Town's computing resources from a remote location and/or a designated voluntary teleworking location. Users must follow the Town's policies and procedures to ensure secure remote access to the Town's systems and data.

- i. Remote access to the Town's computing resources must be authorized by the IT department. Users must obtain approval from the IT department before remotely accessing the Town's computing resources.
- ii. Users must use secure and approved methods of remote access. The IT department will provide information on approved remote access methods, such as VPN or Privileged Remote Access Solutions, and users must follow the recommended procedures to ensure secure access.
- iii. Users must comply with the Town's security policies when remotely accessing the Town's computing resources. This includes using strong and unique passwords or passphrases, keeping anti-virus software up-to-date, and not sharing login credentials with anyone else.

- iv. Users must protect sensitive data and ensure that it is not compromised during remote access. They must follow the Town's data classification policy and ensure that sensitive data is stored and transmitted securely.
- v. Users must not use public or unsecured networks to remotely access the Town's computing resources. They must use a secure network and, if accessing the Town's resources from a personal device, ensure that the device meets the Town's security requirements, as listed above.
- vi. Users must log off and disconnect from the remote access session when finished. They must not leave their remote access session active and unattended, as this could allow unauthorized access to the Town's computing resources.

6. Employment and Contract Conclusion Procedures:

This section outlines the procedures to be followed in the event of termination of employment or contract, whether voluntary or involuntary. This section aims to ensure the security of the Town's computing resources and data and to protect the Town from any potential risks associated with the termination of a user's access to these resources.

- i. When an employee's employment or contractor's contract with the Town ends, all access to the Town's computing resources and data must be terminated immediately. The employee or contractor must return all Town-owned devices, software, and data in their possession.
- ii. In the event of an involuntary termination, such as termination for cause, the IT department must be notified immediately. The IT department will take appropriate action to secure the Town's computing resources and data, including revoking the user's access to these resources and changing all relevant passwords and access codes.
- iii. In the event of a voluntary termination, such as resignation, the user's access to the Town's computing resources and data will be terminated at the end of the user's last day of work. The IT department will take appropriate action to secure the Town's computing resources and data, including revoking the user's access to these resources and changing all relevant passwords and access codes.
- iv. The Town reserves the right to investigate any potential security breaches or misconduct by a user prior to or following termination of employment or contract. Any suspected breaches or misconduct will be investigated, and appropriate action will be taken if necessary.
- v. The user is responsible for ensuring that any personal data or information that they have stored on the Town's computing resources is deleted or removed before the termination of employment or contract. The Town is not responsible for any personal data or information left on its computing resources after the termination of employment or contract.
- vi. Users are required to comply with this policy even after the termination of their employment or contract. Failure to comply with this policy may result in legal action, disciplinary action, or other appropriate measures.

SECTION 17 – OUTSIDE EMPLOYMENT OR ACTIVITY

A. CONDITIONS

Town employees are permitted to pursue outside employment or activities only when all of the following conditions are met:

Employees shall not engage in any employment, activity, or enterprise for compensation, which is inconsistent, incompatible, in conflict with or, inimical to his or her duties as an officer or employee or with the duties, functions, or responsibilities of his or her appointing authority or the department in which he or she is employed for the Town.

Definition of Outside Employment or Activity: Outside employment or activity is any work performed, on a paid or volunteer basis, by a Town employee outside of his or her Town employment.

- (a) The Town Manager shall determine, in his or her sole discretion those outside activities, which for employees under Town jurisdiction are inconsistent with, incompatible to, or in conflict with, their duties as Town officers or employees. An employee's outside employment, activity, or enterprise will be prohibited if it:
 - i. Involves the use for private gain or advantage of his/her local agency time, facilities, equipment and supplies; or the badge, uniform, prestige, or influence of his or her local agency office or employment.
 - ii. Involves receipt or acceptance by the officer or employee of any money or other consideration from any person or entity other than the Town for the performance of an act which the officer or employee, if not performing such act, would be required or expected to render in the regular course or hours of his or her Town employment or as a part of his or her duties as a Town officer or employee.
 - iii. Involves the performance of an act in other than his or her capacity as a Town officer or employee which act may later be subject directly or indirectly to the control, inspection, review, audit, or enforcement by the officer or employee or any other officer or employee of the Town.
 - iv. Involves such time demands as would render performance of his or her duties as a Town officer or employee less efficient.
 - v. Exposes the employee to conditions in which there is a substantial danger of injury or illness to the employee.
- (b) Every Town employee at the time of adoption of this policy or at the time of appointment shall be provided with a copy of this policy and a notice of those prohibited outside activities.
- (c) Any Town officer or employee violating this rule, including engaging in prohibited activities, shall be subject to disciplinary action.

B. REQUEST TO PURSUE OUTSIDE EMPLOYMENT OR ACTIVITY

Personnel desiring to pursue outside employment, activity, or enterprise for compensation shall submit a written application to the Town Manager on a form provided by the Town stating the following:

- (a) Type or nature of employment, activity, or enterprise for compensation;
- (b) Name of prospective employer;
- (c) Location of employment, activity, or enterprise including physical and mailing address and telephone;
- (d) Time period of engagement in the outside employment or activity, including days and hours and average number of hours per week that will be spent in the outside employment, activity, or enterprise.

The Town Manager's decision will be based on the factors contained in this policy. Annotation regarding the Town Manager's decision will be placed in the employee's personnel file. This request shall be re-submitted when any of the required information changes or when the time period on the application expires.

C. REVOCATION OF APPROVAL TO PURSUE OUTSIDE EMPLOYMENT OR ACTIVITY

Authority to engage in off-duty employment shall be revocable at any time with or without cause by the Town Manager.

D. USE OF TOWN RESOURCES

Under no circumstance shall an employee use any Town resources to conduct any outside business activity. This includes prohibiting the use of Town computers, desk or cell phones, copy or fax machines or any other Town materials or machines.

SECTION 18 – EMPLOYEE POLITICAL ACTIVITIES

A. POLICY

The Town prohibits:

- (a) Employees and officers from engaging in political activities during work hours;
- (b) Political campaigning in Town buildings or on Town premises adjacent to Town buildings; and
- (c) Employees and officers from using his or her office to coerce or intimidate public employees to promote, propose, oppose, or contribute to any political cause or candidate.
- (d) Those who violate this policy will be subject to discipline, up to and including termination.

B. EXAMPLES OF PROHIBITED CONDUCT

- (a) Participate in political activities of any kind while in uniform;
- (b) Participate in political activities during working hours;
- (c) Participate in political activities on Town worksites;
- (d) Place or distribute political communications on Town property;
- (e) Use Town equipment to make political communications;

- (f) Solicit a political contribution from an officer or employee of the Town, or from a person on a Town employment list, with knowledge that the person from whom the contribution is solicited is a Town officer or employee;
- (g) Favor or discriminate against any employee because of political opinions or affiliations;
- (h) Interfere with any election; or
- (i) Attempt to trade job benefits for votes.

C. EXAMPLES OF PERMITTED CONDUCT

- (a) Express opinions on all political subjects or candidates;
- (b) Become a candidate for any local, state, or national election;
- (c) Contribute to political campaigns;
- (d) Join and participate in the activities of political organizations;
- (e) Request, during off-duty time, political contributions, through the mail or other means, from Town officers or employees if the solicitation is part of a solicitation made to a significant segment of the public which may include Town officers or employees;
- (f) Solicit or receive, during off-duty time, political contributions from a Town employee organization if the funds, when collected, were not earmarked for a clearly identifiable candidate for a federal, state or local office; or
- (g) Solicit or receive, during off-duty time, political funds or contributions to promote the passage or defeat of a ballot measure which would affect the rate of pay, hours of work, retirement, civil service, or other working conditions of Town officers or employees.

SECTION 19 – DRUG AND ALCOHOL-FREE WORKPLACE POLICY

A. PURPOSE

The Town is concerned about employees being under the influence of alcohol, drugs, or controlled substances, whether they are on Town property or performing Town-related business elsewhere.

Employees must be in a condition to perform their duties safely and efficiently, in the interest of their fellow workers and the public, as well as themselves. Therefore, it is the intention of this policy to eliminate substance abuse and its effects in the workplace. Employees who think they may have an alcohol or drug usage problem are urged to voluntarily seek confidential assistance from a counselor or medical professional.

While the Town will be supportive of those who seek help voluntarily, the Town will be equally firm in identifying and disciplining those whose continued substance abuse, even if enrolled in counseling or rehabilitation programs, results in performance problems, dangers to the health and safety of others and themselves and/or violations of federal, state or Town laws or policies.

This policy provides guidelines for the detection and deterrence of alcohol and drug abuse. It also outlines the responsibilities of Town managers and employees. To that

end, the Town will act to eliminate any substance abuse (alcohol, illegal drugs, prescription drugs or any other substances which could impair an employee's ability to safely and effectively perform the functions of the particular job) which increases the potential for accidents, absenteeism, substandard performance, poor employee morale or damage to the Town's reputation. All persons covered by this policy should be aware that violations of the policy may result in discipline, up to and including termination, or in not being hired. In recognition of the public service responsibilities entrusted to the employees of the Town, and that drug and alcohol usage can hinder a person's ability to perform duties safely and effectively, the following policy against drug and alcohol abuse is hereby adopted by the Town.

B. POLICY

The Town prohibits the manufacture, distribution, sale, dispensation, possession, or use of alcohol or any controlled substance in either Town workplaces or wherever Town business is performed.

Town employees are prohibited from working or being subject to call-in if impaired by alcohol or any controlled substance.

Compliance with this policy is a condition of Town employment. Disciplinary action, up to and including termination, will be taken against those who violate this policy.

C. APPLICATION

This policy applies to all employees of, and to all applicants for, positions with the Town. Employees who are required to participate in the Town's "Motor Carrier Alcohol and Controlled Substance Testing Policy" and/or the "Drug and Alcohol Policy for Tahoe Truckee Area Regional Transit" are subject to the requirements contained in this policy, as well as those Federally mandated policies.

D. SEARCHES

In order to promote a safe, productive and efficient workplace, the Town has the right to search and inspect all Town property, including but not limited to lockers, storage areas, furniture, Town vehicles, and other places under the common control of the Town, or joint control of the Town and employees. No employee has any expectation of privacy in any Town building, property, or communications system. With regard to employees who are sworn peace officers, the Town will comply with the procedural requirements set forth in the Public Safety Officers Procedural Bill of Rights Act.

E. EMPLOYEE RESPONSIBILITIES

An employee must:

- (a) Not report to work or be subject to duty while their ability to perform job duties is impaired due to on and/or off duty consumption of alcohol, marijuana, other cannabinoid substances, and/or any other lawful or unlawful drugs;
- (b) Not possess or use substances that are considered controlled by both the federal Drug Enforcement Administration and the California attorney general, including illegal drugs and prescription drugs without a prescription, at any time, or use

alcohol, marijuana, or other psychoactive cannabinoid products, at any time while on Town property, while on duty for the Town at any location, or are on standby (paid or otherwise);

- (c) Not directly or through a third party manufacture, sell, distribute, dispense, or provide controlled substances to any person, including any employee, at any time, or manufacture, sell, distribute, dispense, or provide alcohol to any employee while either or both employees are on duty or subject to being called to duty;
- (d) Submit immediately to an alcohol, psychoactive marijuana metabolites, or drug test or searches when required by a Town representative;
- (e) Notify the Administrative Services Director of any criminal conviction for a drug violation that occurred in the workplace within no more than five days after such conviction;
 - i. Notify his or her supervisor immediately of facts or reasonable suspicions when he or she observes behavior or other evidence that a fellow employee poses a risk to the health and safety of the employee or others;
 - ii. An employee must notify his/her supervisor before beginning work when taking medications or drugs which could interfere with the safe and effective performance of duties or operation of Town equipment. If there is a question regarding an employee's ability to safely and effectively perform assigned duties while using such prescribed medications or drugs, the Town may require medical clearance from a qualified physician.
- (f) Employees and job applicants must provide, within 24 hours of request, bona fide verification of a current valid prescription for any potentially impairing drug or medication identified when a drug screen/ test is positive. The prescription must be in the employee's or applicant's name.
- (g) Follow the Town's drug and alcohol-free workplace policy.

F. MANAGEMENT RESPONSIBILITIES

Managers and supervisors are responsible for enforcement of this policy. Managers and supervisors may request that an employee submit to a drug and/or alcohol test when a manager or supervisor has a reasonable suspicion that an employee is intoxicated or under the influence of drugs or alcohol while on the job or subject to being called.

G. DRUG AND ALCOHOL TESTING

1. Reasonable Suspicion Testing

If, based on objective factors, a reasonable person would believe that the employee is under the influence of drugs or alcohol at work, the Town may require a blood test, urinalysis, or other drug or alcohol screening the employee. Any of the following factors, alone or in combination, may constitute reasonable suspicion depending upon the circumstances in which the behavior is observed and/or reported:

- (a) Slurred or altered speech;
- (b) Alcohol odor on breath;
- (c) Body odor;
- (d) Appearance;
- (e) Unsteady walking and movement or a lack of coordination;

- (f) An accident involving Town property, where it appears the employee's conduct is at fault;
- (g) Physical altercation;
- (h) Verbal altercation;
- (i) Unusual Behavior;
- (j) Possession of alcohol or drugs;
- (k) Information obtained from a reliable person with personal knowledge; or
- (l) Other evidence of recent drug or alcohol use

Any manager or supervisor requesting an employee to submit to a drug and/or alcohol test should document in writing the facts constituting reasonable suspicion that the employee in question is intoxicated or under the influence. Any reasonable suspicion testing must be pre-approved by the Administrative Services Director or his/her designee.

If there is a reasonable suspicion of drug or alcohol abuse at work, the manager or supervisor should arrange for the employee to be safely transported to the testing facility and to his or her home after the test. The employee will be relieved from duty and placed on sick or other paid leave until the test results are received.

2. Post-Accident Testing

The Town may require alcohol or drug screening following any work-related accident or any violation of safety precautions or standards, whether or not an injury resulted from the accident or violation, provided that the "reasonable suspicion" factors described above are present.

H. PHYSICAL EXAMINATION AND PROCEDURE

The drug and/or alcohol test may test for any substance which could impair an employee's ability to perform effectively and safely the functions of their job, including, but not limited to, prescription medication, alcohol, heroin, cocaine, morphine and its derivatives, P.C.P., methadone, barbiturates, amphetamines, and psychoactive metabolites related to medicinal or recreational marijuana and/or cannabinoids.

No such drug and/or alcohol test shall be used to test for non-psychoactive cannabis metabolites.

I. RESULTS OF DRUG AND/OR ALCOHOL ANALYSIS

1. Pre-Employment Physical

A positive result from a drug and/or alcohol analysis may result in the applicant not being hired where the applicant's use of drugs and/or alcohol could affect requisite job standards, duties or responsibilities.

If a drug screen is positive at the pre-employment physical, the applicant must provide, within 24 hours of the request, bona fide verification of a valid current prescription for the drug identified in the drug screen. If the prescription is not in the applicant's name or the applicant does not provide acceptable verification, or if the drug is one that is likely to impair the applicant's ability to perform the job duties, the applicant may not be hired.

2. During Employment Physical or Alcohol/Drug Tests

A positive result from a drug and/or alcohol analysis may result in disciplinary action, up to and including, termination.

If the drug screen is positive, the employee must provide, within 24 hours of the request, bona fide verification of a valid current prescription for the drug identified in the drug screen. The prescription must be in the employee's name. If the employee does not provide acceptable verification of a valid prescription, or if the prescription is not in the employee's name, or if the employee has not previously notified his or her supervisor of the same, the employee will be subject to disciplinary action, up to and including termination.

If an alcohol drug test is positive for alcohol or drugs, the Town shall conduct an investigation to gather all facts. The decision to discipline, up to and including termination, will be carried out in conformance with Town procedures for discipline.

J. CONFIDENTIALITY

Laboratory reports and test results shall not appear in an employee's general personnel file. Information of this nature will be contained in a separate confidential medical folder that will be securely kept under the control of the Administrative Services Director. The reports or test results may be disclosed to Town management on a strictly need-to-know basis and to the tested employee upon request.

Disclosures, without patient consent, may also occur when: (1) the information is compelled by law or by judicial or administrative process; (2) the information has been placed at issue in a formal dispute between the employer and employee; (3) the information is to be used in administering an employee benefit plan; or (4) the information is needed by medical personnel for the diagnosis or treatment of the patient who is unable to authorize disclosure.

SECTION 20 – WORKPLACE SECURITY

A. POLICY

The Town of Truckee is committed to providing a safe and secure workplace for employees and the public. The Town will not tolerate acts or threats of violence in the workplace. The workplace includes any location where Town business is conducted, including vehicles and parking lots. Any violation of this policy will lead to criminal prosecution, and/or disciplinary action, up to and including termination.

B. PROHIBITED BEHAVIOR

Employees are prohibited from engaging, or promoting acts of intimidation, violence, threats, coercion, assault and/or abusive behavior toward any person while in the course of Town employment. The Town has zero tolerance for any conduct that references workplace violence, even if it was intended to be harmless, humorous, a prank, blowing off steam, or venting.

Employees engaged in Town business are prohibited from carrying self-defense weapons in violation of any law or this policy. Employees are prohibited from possessing any firearm, weapon, or other dangerous device in the workplace, at the work site, or while engaged in Town business, unless expressly authorized due to the nature of the employee's position. This policy does not prohibit employees from having personal firearms stored in personal vehicles parked on Town property so long as the employee is in compliance with all applicable licensing and registration requirements, the weapon is otherwise legal under state and federal law, and the weapon is secured, out of view from those passing by the vehicle, and not accessible from the passenger compartment.

C. DEFINITIONS

Workplace Violence: is any conduct that causes an individual to reasonably fear for his or her personal safety or the safety of his or her family, friends, and/or property. Specific examples of workplace violence include, but are not limited to, the following: Threats or acts of physical harm directed toward an individual or his/her family, friends, associates, or property;

- (a) The destruction of, or threat of destruction of Town property or another employee's property;
- (b) Harassing or threatening phone calls;
- (c) Surveillance;
- (d) Stalking;
- (e) Possession of offensive or defensive weapons (firearms, illegal knives, clubs, mace, pepper spray, tear gas, etc.) unless specifically required or authorized and approved by the Town Manager;
- (f) Any conduct relating to violence or threats of violence that adversely affects the Town's legitimate business interests;

Weapons are defined as firearms, chemical sprays, clubs or batons, and knives, and any other device, tool, chemical agent or implement that can cause bodily harm if used as a weapon or displayed in such a manner to cause harm or threaten a person with harm.

D. INCIDENT REPORTING PROCEDURES

Employees must immediately report workplace violence to their supervisor or department head. The supervisor or department head will report the matter to the Administrative Services Director.

The Administrative Services Director will document the incident, including the employee names(s), date/time, location, incident description, witness names and statements, description of unidentified parties, description of the act(s) and/or behavior arising from the incident, action taken, and provide any other relevant information regarding the incident.

The Town Manager will take appropriate steps to provide security, such as:

- (a) Placing the employee alleged to have engaged in workplace violence on administrative leave, pending investigation;
- (b) Asking any threatening or potentially violent person to leave the site;
- (c) Immediately contacting an appropriate law enforcement agency.

E. INVESTIGATION

The Town Manager will see that reported violations of this policy are investigated as appropriate.

F. MANAGEMENT RESPONSIBILITIES

Each department head has authority to enforce this policy by:

- (a) Training supervisors and subordinates about their responsibilities under this policy;
- (b) Assuring that reports of workplace violence are documented accurately and timely;
- (c) Notify the Town Manager and/or law enforcement authorities of any incidents;
- (d) Making all reasonable efforts to maintain a safe and secure workplace; and
- (e) Maintaining records and follow up actions as to workplace violence reports.

G. FOLLOW UP AND DISCIPLINARY PROCEDURES

An employee found in violation of this policy will be subject to disciplinary action, up to and including termination of employment. The Town may also direct that an employee submit to a fitness for duty examination. In addition, employees found in violation of this policy may be subject to criminal prosecution.

SECTION 21 – GRIEVANCE PROCEDURE

A. STATEMENT OF INTENT

It is the purpose of this policy to establish a clear process to resolve issues raised by employees related to interpretation of personnel rules and any current Memorandum of Understanding. It is the desire of the Town to resolve all grievance issues at the lowest possible level within the organization; however, it is important to have a policy in place that assures employees that there are a series of appeal processes available to deal with grievance issues.

B. DEFINITION OF GRIEVANT

A grievant is any employee, or the Association on behalf of one or more than one employee, adversely affected by an alleged violation of personnel rules and/or the Memorandum of Understanding.

C. DEFINITION OF GRIEVANCE

A grievance is defined as any dispute that: 1) is job-related; 2) is wholly or partially within the province of the Town to rectify or remedy; 3) concerns terms and conditions of employment; 4) involves the interpretation, application, or alleged violation of these Rules or a current Memorandum of Understanding (MOU) between the Town and an exclusively recognized employee organization representing Town employees; and 5) is not subject to any other Town dispute resolution process or procedure that is provided by statute, ordinance, resolution or agreement.

D. PRE-GRIEVANCE STEP

Potential grievances shall be discussed in informal conferences between the employee and the immediate supervisor outside of the bargaining unit. At least one informal

meeting between parties shall take place before the grievance procedure is invoked. If the potential grievance is not resolved at this step, then the aggrieved employee may declare that a grievance exists and the provisions of this Rule will be implemented.

E. FORMAL GRIEVANCE

Step One. Within ten (10) working days of the occurrence or discovery of an alleged grievance, the grievance shall be presented in writing to the department head or his/her designee. The grievance by the aggrieved or their representative shall contain information which identifies:

- (a) The aggrieved;
- (b) The specific nature of the grievance;
- (c) The time or place of its occurrence;
- (d) The section of these Rules or a current Memorandum of Understanding alleged to have been violated;
- (e) The consideration given or steps taken to secure informal resolution;
- (f) The corrective action desired.

A meeting shall take place if it is agreed by the parties that such a meeting would assist to clarify or resolve the grievance. The employee may be accompanied by his/her representative at the meeting.

A decision shall be made within ten (10) working days of receipt of the grievance. A copy shall be sent to the aggrieved.

Step Two. If the grievant is not satisfied with the Step One Decision, he/she may appeal the decision in writing to the Director of Administrative Services (Director) or his/her designee within ten (10) working days after receiving a written decision at Step One.

The Director or his/her designee shall meet with the grievant and may include other persons involved in the grievance. The grievant may be accompanied by his/her representative. Additional meetings may be held as per mutual agreement.

The Director or his/her designee shall communicate his/her decision to the grievant in writing within ten (10) working days after receiving the grievance (unless there is a mutually agreed upon extension of time), which answer shall be final and binding on the grievant unless it is timely appealed in accordance with the procedures set forth in Step Three.

Step Three. Any grievance as defined in these rules that has been properly and timely processed through the Grievance Procedures set forth in this section and that has not been settled at the conclusion thereof, may be appealed to a grievance hearing by the aggrieved party or their designee in writing. The failure to appeal a grievance to a grievance hearing in accordance with this Section in writing, within ten (10) working days after receipt of the written answer of the Town at Step Two of the Grievance Procedure shall constitute a waiver of the aggrieved party's right to appeal to this hearing, and the written answer of the Town at Step Two of the Grievance Procedure shall be final and binding on the aggrieved employee and the Town.

A request for a grievance hearing shall be filed with the office of the Town Manager. Upon receipt of a properly filed request for a grievance hearing, the Town Manager (or his/her designee) and the grievant (or his/her representative) shall mutually select a hearing officer, who shall not be an employee of the Town. If the parties are unable to agree on a hearing officer, who shall be selected from a listing of hearing officers supplied by the State Mediation and Conciliation Service. The hearing officer shall be selected from a listing of seven (7) individuals identified by the State Mediation and Conciliation Service. The party filing the notice of appeal shall first strike a name from the list and the other party shall then strike a name from the list until the remaining member of the panel submitted is chosen as a hearing officer. The hearing officer's compensation and expenses shall be borne equally by the Town and the grievant.

The hearing officer shall schedule hearing date(s) as necessary. The hearing shall be informal and the formal rules of evidence shall not apply. The hearing officer shall render his/her advisory decision within thirty (30) calendar days of the close of the hearing, receipt of transcripts, submission of briefs or such other date as the parties may mutually select.

The hearing officer shall be bound by the language of the Memorandum of Understanding, Personnel Rules, bargaining history, and law consistent therewith in considering any issue before them. The hearing officer shall have no authority to add to, delete or alter any provision of the MOU or Rules but shall limit their decision to the application and interpretation of their provisions and law.

The hearing officer's decision shall be a recommendation to the Town Manager. The Town Manager may accept, reject, modify or remand the recommendation for further proceedings before the hearing officer. If the Town Manager does not accept the recommendation of the hearing officer, he/she shall review the entire record of the hearing officer proceeding. The decision of the Town Manager shall be final and binding.

SECTION 22 – INJURY AND ILLNESS PREVENTION PROGRAM

The Town's Injury and Illness Prevention Program can be found under separate cover and is an essential policy of the Town. The Injury and Illness Prevention Program document is available on the Human Resources section of the Town's website.

SECTION 23 - USE OF TOWN PROPERTY AND EQUIPMENT

A. POLICY

Town property is to be used only for conducting Town business unless otherwise authorized. Town property includes, but is not limited to:

- (a) Telephones,
- (b) Desks,
- (c) Computers (including hardware and software),
- (d) File cabinets, lockers, communications stored or transmitted on Town property (such as e- and voice-mails),

- (e) Vehicles and other Town property used by Town employees in their work.

Town property may be monitored and searched at any time and for any reason. Messages sent or received on Town equipment may be saved and reviewed by others. As a result, Town employees have no expectation of privacy in the messages sent or received on Town property or equipment.

B. USE OF TOWN VEHICLES AND PRIVATE VEHICLES FOR TOWN BUSINESS

The following governs the use of Town vehicles and the use of private vehicles on Town business. Each department head of the Town of Truckee shall be responsible for assuring that all employees and volunteers within his or her department who drive vehicles on Town business are thoroughly aware of and comply with these rules and regulations.

1. General Rules and Regulations:

Town vehicles shall be operated only by an authorized Town employee, officer, volunteer or agent possessing a valid California or Nevada driver's license of proper class for the vehicle being operated. Prior authorization by a department head is required for use.

- (a) Use of Town vehicles for any purpose other than Town business is prohibited unless specifically approved by the Town Manager.
- (b) Use of a Town vehicle for transportation to home or a restaurant, for meals, is prohibited unless the employee is en route while on field duty or attending a meeting on official Town business unless specifically approved by the Town Manager.
- (c) Transportation of any person not connected with Town business shall be prohibited in Town vehicles except with prior approval of the department head.
- (d) Use of a Town vehicle for commuting purposes is prohibited unless retention of the Town vehicle is authorized.

2. Driver Responsibilities

All Town employees and volunteers, when using any vehicle on Town business, shall:

- (a) Operate vehicles in a safe, reasonable manner consistent with the intended use of the vehicle.
- (b) Observe all traffic laws, rules and regulations. Fines and penalties imposed for violation of traffic laws, rules and regulations while on Town business, other than those due to Town equipment violations, are the responsibility of the driver.
- (c) Not smoke in any type of Town vehicle.
- (d) Town officers, employees, volunteers, and members of boards, commissions and committees who use any vehicle on Town business shall maintain a current valid driver's California or Nevada license and ensure that any restrictions on such license are met.
- (e) The driver and any privately owned vehicle used on Town business must be insured by a company authorized to do business in the State of California in the minimum amounts specified by law.

3. Retention of Town Vehicles

When not being used on Town business, all Town vehicles shall be kept on Town property except as herein provided. Retention of a Town vehicle may be authorized by the Town

Manager, Town Council or department head when the interests of the Town are best served by permitting the retention. "Retention" shall constitute the ongoing retention of a Town vehicle by a Town employee at his or her place of residence.

Unless otherwise authorized by the Town Manager, any employee permitted to retain a Town vehicle shall not use said vehicle for any private purpose. Retention of a Town vehicle is a taxable fringe benefit and shall be reflected as such in the employee's taxable income.

Seat belts shall be worn while operating or riding in Town vehicles.

Drivers of Town or personal vehicles on Town business must adhere to the cell phone use policy of the Town.

Employees who operate a motor vehicle on Town business must be registered on the Department of Motor Vehicles Pull Notice System.

SECTION 24 – EMPLOYER-EMPLOYEE RELATIONS

A. GENERAL PROVISIONS

1. Statement of Purpose

This policy implements Chapter 10, Division 4, Title 1 of the Government Code of the State of California (Sections 3500 *et seq.*) captioned "Local Public Employee Organizations", by providing orderly procedures for the administration of employer-employee relations between the Town and its employee organizations. However, nothing contained herein shall be deemed to supersede the provisions of state law, Town ordinances, resolutions and rules which establish and regulate the merit and civil service system, or which provide for other methods of administering employer-employee relations through the establishment of uniform and orderly methods of communications between employees, employee organizations and the Town.

It is the purpose of this section to provide procedures for meeting and conferring in good faith with exclusively recognized employee organizations regarding matters that directly and significantly affect and primarily involve the wages, hours and other terms and conditions of employment of employees in appropriate units and that are not preempted by federal or state law. However, nothing herein shall be construed to restrict any legal or inherent exclusive Town rights with respect to matters of general legislative or managerial policy, which includes, among other things: the exclusive right to determine the mission of its constituent departments, commissions and boards; set standards of service; determine the procedures and standards for selection for employment; direct its employees; take disciplinary action; relieve its employees from duty because of lack of work or for other lawful reasons; determine the content of job classifications; subcontract work; maintain the efficiency of governmental operations; determine the methods, means and personnel by which government operations are to be conducted; take all necessary actions to carry out its missions in emergencies; and exercise complete control and discretion over its organization and the technology of performing its work.

2. Definitions

As used in this section, the following terms have the following meanings:

Appropriate unit: a unit of employee classes or positions, established pursuant to Section B hereof.

Town: the Town of Truckee, and where appropriate herein, refers to the Town Council or any duly authorized Town representative as herein defined.

Confidential Employee: an employee, who in the course of his or her duties, has access to confidential information relating to the Town's administration of employer-employee relations.

Consult/Consultation in Good Faith: to communicate orally or in writing with all effected employee organizations, whether exclusively recognized or not, for the purpose of presenting and obtaining views or advising of proposed actions in an effort to reach a consensus; and, as distinguished from meeting and conferring in good faith regarding matters within the required scope of such meet and confer process, does not involve an exchange of proposals and counterproposal with an exclusively recognized employee organization in an endeavor to reach an agreement in the form of a Memorandum of Understanding, nor is subject to Section E hereof. "Consult/Consultation in Good Faith" for purposes of adopting employer-employee relations rules and regulations, is restricted to exclusively recognized employee organizations.

Day: calendar day unless expressly stated otherwise.

Exclusively Recognized Employee Organization: an employee organization which has been formally acknowledged by the Town as the sole employee organization representing the employees in an appropriate representation unit pursuant to Section B hereof, having the exclusive right to meet and confer in good faith concerning the statutorily required subjects pertaining to unit employees, and thereby assuming the corresponding obligation of fairly representing such employees. Such recognition status may only be challenged by another employee organization as set forth in Section B.

Administrative Services Director: the Town Manager or his/her duly authorized representative.

Impasse: the representatives of the Town and an exclusively recognized employee organization have reached a point in their meeting and conferring in good faith where their differences on matters to be included in a Memorandum of Understanding, and concerning which they are required to meet and confer, remain so substantial and prolonged that further meeting and conferring would be futile.

Management Employee: an employee having responsibility for formulating, administering or managing the implementation of Town policies and programs.

Proof of Employee Support: (1) an authorization card recently signed and personally dated by an employee, provided that the card has not been subsequently revoked in

writing by the employee, or (2) a verified authorization petition or petitions recently signed and personally dated by an employee, or (3) employee dues deduction authorization, using the payroll register for the period immediately prior to the date a petition is filed hereunder, except that dues deduction authorizations for more than one employee organization for the account of any one employee shall not be considered as proof of employee support for any employee organization. The only authorization, which shall be considered proof of employee support hereunder, shall be the authorization last signed by an employee. The words "recently signed" shall mean within ninety (90) days prior to the filing of a petition.

Supervisory Employee: any employee having authority, in the interest of the Town, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them, or to adjust their grievances, or effectively to recommend such action if, in connection with the foregoing, the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

B. REPRESENTATION PROCEEDINGS

1. Filing of Recognition Petition by Employee Organization

An employee organization which seeks to be formally acknowledged as an exclusively recognized employee organization representing the employees in an appropriate unit shall file a petition with the Administrative Services Director containing the following information and documentation:

- (a) Name and address of employee organization.
- (b) Names and titles of its officers.
- (c) Names of employee organization representatives who are authorized to speak on behalf of the organization.
- (d) A statement that the employee organization has, as one of its primary purposes, the responsibility of representing employees in their employment with the Town.
- (e) A statement whether the employee organization is a chapter of, or affiliated directly or indirectly in any manner, with a local, regional, state, national or international organization, and if so, the name and address of each other such organization.
- (f) Certified copies of the employee organization's constitution and bylaws.
- (g) A designation of those persons, not exceeding two in number, and their addresses, to whom notice sent by regular United States mail will be deemed sufficient notice on the employee organization for any purpose.
- (h) A statement that the employee organization has no restriction on membership based on race, color, religion, sex, national origin, age, sexual orientation, mental or physical disability or medical condition.
- (i) The job classifications or position titles of employees in the unit claimed to be appropriate and the approximate number of member employees therein.
- (j) A statement that the employee organization has in its possession proof of employee support as herein defined to establish that a majority of the employees in the unit claimed to be appropriate have designated the employee

organization to represent them in their employment relations with the Town. Such written proof shall be submitted for confirmation to the Administrative Services Director or to a mutually agreed upon disinterested third party (i.e., representatives of the California State Mediation and Conciliation Service).

- (k) A request that the Administrative Services Director formally acknowledge the petitioner as the exclusively recognized employee organization representing the employees in the unit claimed to be appropriate for the purpose of meeting and conferring in good faith.
- (l) The petition, including the proof of employee support and all accompanying documentation, shall be declared to be true, correct and complete, by the duly authorized officer(s) of the employee organization executing it.

2. Town Response to Recognition Petition

Upon receipt of the petition, the Administrative Services Director shall determine whether:

- (a) There has been compliance with the requirements of the recognition petition, and
- (b) The proposed representation unit is an appropriate unit in accordance with Section 7 of Section B of this section.

If an affirmative determination is made by the Administrative Services Director in the foregoing two matters, he/she shall so inform the petitioning employee organization, shall give written notice of such request for recognition to the employees in the unit and shall take no action on said request for thirty (30) days thereafter. If either of the foregoing matters are not affirmatively determined, the Administrative Services Director shall offer to consult thereon with such petitioning employee organization and, if such determination thereafter remains unchanged, shall inform the organization of the reasons therefore in writing. The petitioning employee organization may appeal such determination in accordance with Section 10 of this section.

3. Open Period for Filing/Challenging Petition

Within thirty (30) days of the date written notice was given to affected employees that a valid recognition petition for an appropriate unit has been filed, any other employee organization may file a competing request to be formally acknowledged as the exclusively recognized employee organization of the employees in the same or in an overlapping unit (one which corresponds with respect to some, but not all the classifications or positions set forth in the recognition petition being challenged), by filing a petition evidencing proof of employee support in the unit claimed to be appropriate of at least thirty (30) percent and otherwise in the same form and manner set forth in Section 1 of this Section B. If such challenging petition seeks establishment of an overlapping unit, the Administrative Services Director shall call for a hearing on such overlapping petitions for the purpose of ascertaining the more appropriate unit, at which time the petitioning employee organizations shall be heard. Thereafter, the Administrative Services Director shall have fifteen (15) days from the date notice of such unit determination is communicated to them by the Administrative Services Director to amend their petitions to conform to such determination or to appeal such determination pursuant to Section 10 of this Section B.

4. Granting Recognition Without an Election

If the petition is in order, and the proof of support shows that a majority of the employees in the appropriate unit have designated the petitioning employee organization to represent them, and if no other employee organization filed a challenging petition, the petitioning employee organization and the Administrative Services Director shall request the California State Mediation and Conciliation Service, or another agreed upon neutral third party, to review the count, form, accuracy and propriety of the proof of support. If the neutral third party makes an affirmative determination, the Administrative Services Director shall formally acknowledge the petitioning employee organization as the exclusive recognized employee organization for the designated unit.

5. Election Procedure

Where recognition is not granted pursuant to Section 4 of this Section B, The Administrative Services Director shall arrange for a secret ballot election to be conducted by a party agreed to by the Administrative Services Director and the concerned employee organization(s), in accordance with such party's rules and procedures subject to the provisions of this section. All employee organizations who have duly submitted petitions that have been determined to be in conformance with this Section B shall be included on the ballot. The ballot shall reserve to employees the choice of representing themselves individually in their employment relations with the Town. Employees entitled to vote in such election shall be those persons employed in regular positions within the designated appropriate unit who were employed during the pay period immediately prior to the date which ended at least fifteen (15) days before the date of the election. An employee organization shall be formally acknowledged as the exclusively recognized employee organization for the designated appropriate unit following an election or run-off election if it received a numerical majority of all valid votes cast in the election. In an election involving three or more choices, where none of the choices receives a majority of the valid votes cast, a run-off election shall be conducted between the two choices receiving the largest number of valid votes cast; the rules governing an initial election being applicable to a run-off election.

There shall be no more than one valid election under this section pursuant to any petition in a twelve (12) month period affecting the same unit.

In the event that the parties are unable to agree on a third party to conduct an election, the election shall be conducted by the California State Mediation and Conciliation Service.

Costs of conducting elections shall be borne in equal shares by the Town and by each employee organization appearing on the ballot.

6. Procedure for Decertification of Exclusively Recognized Employee Organization

A decertification petition alleging that the incumbent exclusively recognized employee organization no longer represents a majority of the employees in an established appropriate unit may be filed with the Administrative Services Director only during the month of March of any year following the first full year of recognition or during the thirty (30) day period commencing one hundred twenty (120) days prior to the termination date

of a Memorandum of Understanding then having been in effect less than three (3) years, whichever occurs later. A decertification petition may be filed by two or more employees or their representative, or an employee organization, and shall contain the following information and documentation declared by the duly authorized signatory to be true, correct and complete:

- (a) The name, address and telephone number of the petitioner and a designated representative authorized to receive notices or requests for further information.
- (b) The name of the established appropriate unit and of the incumbent exclusively recognized employee organization sought to be decertified as a representative of that unit.
- (c) An allegation that the incumbent exclusively recognized employee organization no longer represents a majority of the employees in the appropriate unit, and any other relevant and material facts relating thereto.
- (d) Proof of employee support that at least thirty (30) percent of the employees in the established appropriate unit no longer desire to be represented by the incumbent exclusively recognized employee organization. Such proof shall be submitted for confirmation to the Administrative Services Director or to a mutually agreed upon disinterested third party within the time limits specified in the first paragraph of this section.

An employee organization may, in satisfaction of the decertification petition requirements hereunder, file a petition under this section in the form of a recognition petition that evidences proof of employee support of at least thirty (30) percent, that includes the allegation and information required under paragraph (c.) of this Section 7, and otherwise conforms to the requirements of this Section B.

The Administrative Services Director shall initially determine whether the petition has been filed in compliance with the applicable provisions of this Section B. If his/her determination is in the negative, he/she shall offer to consult thereon with the representative(s) of such petitioning employees or employee organization and, if such determination thereafter remains unchanged, shall return such petition to the employees or employee organization with a statement of the reasons therefore in writing. The petitioning employees or employee organization may appeal such determination in accordance with Section 10 of this Section B. If the determination of the Administrative Services Director is in the affirmative, or if his/her negative determination is reversed on appeal, he/she shall give written notice of such decertification or recognition petition to the incumbent exclusively recognized employee organization and to the unit employees.

The Administrative Services Director shall thereupon arrange for a secret ballot to be held on or about thirty (30) days after such notice to determine the wishes of unit employees as to the question of decertification and, if a recognition petition was duly filed hereunder, the question of representation. Such election shall be conducted in conformance with Section 5 of this section B.

During the "open period" specified in the first paragraph of this section 6, the Administrative Services Director may on his/her own motion, when he/she has reason to

believe that a majority of unit employees no longer wish to be represented by the incumbent exclusively recognized employee organization, give notice to that organization and all unit employees that he/she will arrange for an election to determine that issue. In such event, any other employee organization may within fifteen (15) days of such notice file a recognition petition in accordance with this section 1, which the Administrative Services Director shall act on in accordance with this section 2.

If, a different employee organization is formally acknowledged as the exclusively recognized employee organization, such organization shall be bound by all the terms and conditions of any Memorandum of Understanding then in effect for its remaining term, or until a new Memorandum of Understanding is negotiated, whichever occurs first.

7. Policy and Standards for Determination of Appropriate Units

The policy objectives determining the appropriateness of units shall be the effect of a proposed unit on (1) the efficient operations of the Town and its compatibility with the primary responsibility of the Town and its employees to effectively and economically serve the public, and (2) providing employees with effective representation based on the recognized community of interest considerations. These policy objectives require that the appropriate unit shall be the broadest feasible grouping of positions that share an identifiable community of interest. Factors to be considered shall be:

- (a) Similarity of the general kinds of work performed, types of qualifications required, and the general work conditions.
- (b) History of representation in the Town and similar employment; except, however, that no unit shall be deemed to be an appropriate unit solely on the basis of the extent to which employees in the proposed unit have organized.
- (c) Consistency with the organizational structure of the Town;
- (d) Effect of differing legally mandated impasse resolution procedures.
- (e) Number of employees, classifications, and the effect on the administration of employer-employee relations created by the fragmentation of classifications and proliferation of units.
- (f) Effect on the classification structure and impact on the stability of the employer-employee relationship of dividing a single or related classifications among two or more units.

Notwithstanding the foregoing provisions of this section, managerial, supervisory and confidential responsibilities, as defined in section 2 of this section, are determining factors in establishing appropriate units hereunder, and therefore, managerial, supervisory and confidential employees may only be included in a unit consisting solely of managerial, supervisory and confidential employees respectively. Managerial, supervisory and confidential employees may not represent any employee organization that represents other employees.

The Administrative Services Director shall, after notice to and consultation with affected employee organizations, allocate new classifications or positions, delete eliminated classifications or positions, and retain, reallocate or delete modified classifications or positions from units in accordance with the provisions of this section. The decision of the Administrative Services Director shall be final.

8. Procedure for Modification of Established Appropriate Units

The Administrative Services Director may consider requests by employee organizations for modifications of established appropriate units only during the period established in section 6 of this section B. Such requests shall be submitted in the form of a recognition petition and, in addition to the requirements set forth in Section 3 of this Section, shall contain a complete statement of all relevant facts and citations in support of the proposed modified unit in terms of the policies and standards set forth in Section 7 hereof. The Administrative Services Director shall process such petitions as other recognition petitions under this section B.

The Administrative Services Director may by his or her own motion proposes that an established unit be modified. The Administrative Services Director shall give written notice of the proposed modification(s) to any affected employee organization and shall hold a meeting concerning the proposed modification(s), at which time all affected employee organizations, shall be heard. Thereafter the Administrative Services Director shall determine the composition of the appropriate unit or units in accordance with section 7 of this section B, and shall give written notice to the affected employee organizations. The Administrative Services Director's decision may be appealed as provided in section 10 of this section. If a unit is modified pursuant to the motion of the Administrative Services Director hereunder, employee organizations may thereafter file recognition petitions seeking to become the exclusively recognized employee organization for such new appropriate unit or units pursuant to section 3 hereof.

9. Procedure for Processing Severance Requests

An employee organization may file a request to become the exclusively recognized employee organization of a unit alleged to be appropriate that consists of a group of employees who are already a part of a larger established unit represented by another recognized employee organization. The timing, form and processing of such request shall be as specified in section 8 for modification requests.

10. Appeals

An employee organization which disputes a unit determination by the Administrative Services Director or disputes a determination by the Administrative Services Director that a recognition petition, challenging petition, unit modification petition or decertification petition, or employees whom dispute a determination by the Administrative Services Director that a decertification or severance request, has not been filed in compliance with the applicable provisions of this Section may, within ten (10) working days of notice of such decision, request the assistance of a mediator from the State Mediation and Conciliation Services. If the Administrative Services Director also agrees to mediation, the parties shall share equally the mediation costs.

In lieu of or following mediation, the employee organization or employees may appeal such determination to the Town Council for final decision within fifteen (15) days of notice of the Administrative Services Director's determination or the termination of mediation proceedings, whichever is later.

Appeals to the Town Council shall be filed in writing with the Town Clerk, and a copy thereof served on the Administrative Services Director. The Town Council shall commence to consider the matter within thirty (30) days of the filing of the appeal. The Town Council may, in its discretion, refer the dispute to a non-binding third party hearing process. Any decision of the Town Council on the use of such procedure, and any decision of the Town Council determining the substance of the dispute shall be final and binding.

C. ADMINISTRATION

1. Submission of Current Information by Recognized Employee Organizations

All changes in the information filed with the Town by an exclusively recognized employee organization with its recognition petition under Section B(1) of this section shall be submitted in writing to Administrative Services Director within fourteen (14) days of such change.

2. Payroll Deductions on Behalf of Employee Organizations

Upon formal acknowledgment by the Town of an exclusively recognized employee organization under this section, only such recognized employee organization may be provided payroll deductions of membership dues and insurance premiums for plans sponsored by such organization upon the written authorization of employees in the unit represented by the exclusively recognized employee organization on forms provided therefore by the Town. The providing of such service to the exclusively recognized employee organization by the Town shall be contingent upon and in accordance with the provisions of Memoranda of Understanding and/or applicable administrative procedures.

3. Employee Organization Activities - Use of Town Resources

Access to Town work locations and the use of Town-paid time, facilities, equipment and other resources by employee organizations and those representing them shall be authorized only to the extent provided for in the Memoranda of Understanding and/or administrative procedures, shall be limited to lawful activities consistent with the provisions of this section that pertain directly to the employer-employee relationship and not such internal employee organization business as soliciting membership, campaigning for office, and organization of meetings and elections, and shall not interfere with the efficiency, safety and security of Town operations.

4. Administrative Rules and Procedures

The Administrative Services Director is hereby authorized to establish such rules and procedures as appropriate to implement and administer the provisions of this section after consultation with affected employee organizations.

D. IMPASSE PROCEDURES

1. Initiation of Impasse Procedures

If the meet-and-confer process has reached impasse as defined in Section 2 of this section, either party may initiate the impasse procedures by filing with the other party a written request for an impasse meeting, together with a statement of its position on all issues. An impasse meeting shall then be scheduled promptly by the Administrative Services Director. The purpose of such meeting shall be:

- (a) To review the position of the parties in a final effort to reach agreement on a Memoranda of Understanding; and
- (b) If the impasse is not resolved, to discuss arrangements for the utilization of the impasse procedures provided herein.

2. Impasse Procedures

Impasse procedures are as follows:

- (a) If the parties agree to submit the dispute to mediation, and agree on the selection of a mediator, the dispute shall be submitted to mediation. All mediation proceedings shall be private. The mediator shall make no public recommendation, nor take any public position at any time concerning the issues.
- (b) Otherwise, the parties can utilize any other impasse procedures provided in accordance with the Meyers-Milias-Brown Act. If the parties fail to agree to submit the dispute to mediation or fail to agree on the selection of a mediator, or fail to resolve the dispute through mediation within fifteen days (15) after the mediator commenced meeting with the parties, the parties may agree to submit the impasse to fact-finding.

After any applicable impasse procedures have been exhausted, the Town Council may hold a public hearing regarding the impasse, and take such action regarding the impasse as it in its discretion deems appropriate as in the public interest, including implementation of the Town's last, best and final offer. Any legislative action by the Town Council on the impasse shall be final and binding.

If the parties do not agree to engage in mediation or fact finding, or doing so did not resolve the impasse the Town Council may take such action regarding the impasse as it deems necessary in its sole discretion to protect the public interest, including making a final determination regarding resolution of the impasses which is final and binding on all parties. If the parties mutually agree that further negotiations are necessary or desirable, they may engage in such negotiations at any time prior to action by the Town Council to resolve the impasse.

3. Costs of Impasse Procedures

The cost for the services of a mediator and other mutually incurred costs of any impasse procedures shall be borne equally by the Town and the exclusively recognized employee organization. The cost for a fact-finding panel member selected by each party, and other separately incurred costs, shall be borne by such party.

E. MISCELLANEOUS PROVISIONS

1. Construction

This section shall be administered and construed as follows:

- (a) Nothing in this section shall be construed to deny any person, employee, organization, the Town, or any authorized officer, body or other representative of the Town, the rights, powers and authority granted by federal, state or local law.
- (b) This section shall be interpreted so as to carry out its purpose as set forth in Section A.
- (c) Nothing in this section shall be construed as making the provisions of California Labor Code section 923 applicable to Town employees or employee organizations, or of giving employees or employee organizations the right to participate in, support, cooperate or encourage, directly or indirectly, any strike, sickout or other total or partial stoppage or slowdown of work. In consideration of and as a condition of initial and continued employment by the Town, employees recognize that any such actions by them are in violation of their conditions of employment except as expressly otherwise provided by legally preemptive state or contrary local law. In the event employees engage in such actions, they shall subject themselves to discipline up to and including termination, and may be replaced, to the extent preemptive law does not prohibit such actions; and employee organizations may thereby incur liability and forfeit contractual rights.

2. Severability

If any provision of this section, or the application of such provisions to any persons or circumstance, shall not be held invalid, the remainder of this section, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.