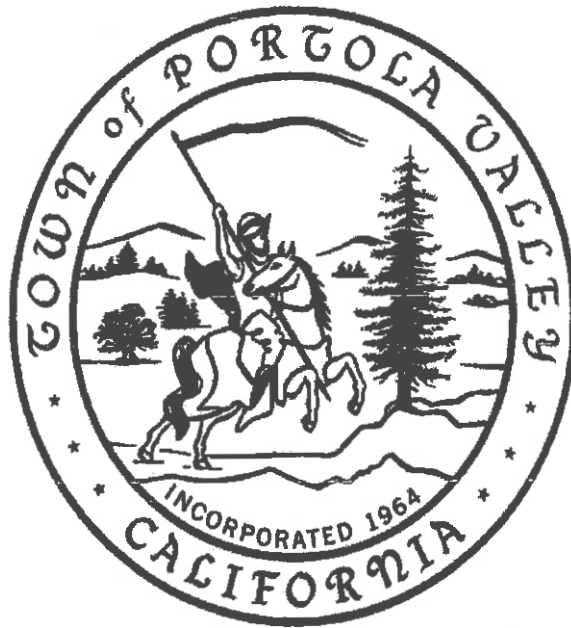


**TOWN OF PORTOLA VALLEY**  
**PERSONNEL POLICIES MANUAL**



Revised: March 22, 2017

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## **SECTION 1**

### **GENERAL PROVISIONS**

#### **1.1 COVERAGE**

This Personnel Policy Manual (“Manual”) establishes the personnel system for the Employees of the Town of Portola Valley. All Town Employees serve at the will of the Town Manager, and nothing in this Manual creates any right, contractual or otherwise, to continued employment.

In addition, the provisions of Section 6.3, Policy Against Harassment, Discrimination and Retaliation, also apply to all elective officers and their duly appointed deputies, members of appointive boards, commissions and committees, persons engaged under contract, and volunteer personnel.

#### **1.2 ADOPTION**

The Town Council of the Town of Portola Valley adopts this Manual pursuant to Resolution No. \_\_\_\_\_, and supersedes and replaces any previous Town policies or regulations related to personnel issues.

#### **1.3 REVIEW AND AMENDMENT**

This Manual will be reviewed at reasonable intervals to ensure compliance with state and federal employment laws. The Town Manager may recommend amendments and revisions to this Manual, which will become effective when adopted by the Town Council. Each Employee will receive a copy of any substantive changes to this Manual within thirty (30) days of its adoption.

#### **1.4 VIOLATION**

Violation of any of the provisions of this Manual constitutes grounds for rejection of applicants or discipline of Employees, including but not limited to suspension, demotion or termination.

## **SECTION 2**

### **DEFINITION OF TERMS**

2.1 “Classification”: All positions that are sufficiently similar in duties, responsibilities, and working conditions to permit grouping under a common classification with a

common title, and to permit equitable application of common standards of selection, transfer, promotion, and salary. Classifications are set forth in the Classification Plan.

- 2.2 “Compensation Plan”: The assignment by Town Council Resolution of salary ranges and/or salary rates.
- 2.3 “Demotion”: The movement of an Employee from one position to another that has a lower maximum rate of pay.
- 2.4 “Employee”: Any person hired to work for the Town for compensation in a position directly supervised by or on behalf of the Town Manager. Employees do not include, however, independent contractors, Council members and members of Town Committees and Commissions, whether or not compensated, or persons supplied by temporary staffing agencies.
- 2.5 “Full-Time Position”: A position having a minimum Workweek of forty (40) hours per week.
- 2.6 “Management Employee”: An Employee who holds a position designated as “management”. Employees in the following job classifications are considered Management Employees: Town Manager, Assistant to the Town Manager; Public Works Director, Planning Director; other positions designated as management positions by the Town Council through job classification specifications without amendment to this Manual.
- 2.7 “Overtime”: Hours worked that are required and authorized in excess of forty (40) hours in a Workweek. For the purpose of determining overtime, “hours worked” is only time actually spent working for the Town and does not include leave time.
- 2.8 “Part-Time Position”: A position having a Workweek of fewer hours than the Workweek established for full-time positions in the class.
- 2.9 “Position”: A particular job assignment that includes certain duties and responsibilities assigned to a single Employee and performed on either a full-time or part-time basis.
- 2.10 “Promotion”: The movement of an Employee from one position to another that has a higher maximum rate of pay.
- 2.11 “Reinstatement”: The re-employment without examination of a former Employee.
- 2.12 “Regular Employee”: A non-Temporary Employee.

- 2.13 “Supervisor” or “Supervisory Employee”: Any individual having the authority to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other Employees, or the responsibility to direct them, or to address their grievances, or effectively to recommend any of these actions. Supervisor or Supervisory Employee includes, but is not limited to, Management Employees.
- 2.14 “Suspension”: The temporary separation from Town service, without pay, for disciplinary purposes, of an Employee.
- 2.15 “Temporary Employee”: An Employee of limited duration.
- 2.16 “Termination”: The separation of an Employee from Town service because of retirement, resignation, layoff, death or at-will termination.
- 2.17 “Town”: The Town of Portola Valley.
- 2.18 “Town Manager”: The Employee appointed by the Town Council to assume full management responsibility for all Town operations, which, for purposes of this Manual, includes direct supervision over all Employees.
- 2.19 “Town Council”: The elected legislative body of the Town.
- 2.20 “Transfer”: A change of an Employee from one position to another position in the same class or in a comparable class with the same maximum rate of pay.
- 2.21 “Calendar Week”: The work period beginning Sunday at midnight and ending the following consecutive Sunday at midnight. The Town Manager may assign a different calendar week when it is deemed to be beneficial to the Town.
- 2.22 “Workweek”: A seven-day (168 consecutive hours) period that is established to calculate overtime for those working on a 9/80 schedule. The workweek begins at 1:00 p.m. on Friday and ends at 12:59 p.m. on the following Friday (1 hour lunch). The workday begins at 1:00 p.m. on any given day and continues until 12:59 p.m. on the following day. The 9/80 schedule is consistent and repeatable every two weeks. This use of a 9/80 work schedule is voluntary

### **SECTION 3**

### **MANAGEMENT RIGHTS**



The Town retains all of its powers and authority to manage municipal services and the work force performing those services, including but not limited to, the following rights to:

1. Determine and modify the organization and administration of Town government and its constituent work units.
2. Determine the nature, standards, levels and mode of delivery of services to be offered to the public.
3. Determine the methods, means, and numbers and kinds of personnel by which services are to be provided.
4. Determine whether goods or services shall be made or provided by the Town, or shall be purchased, or contracted for.
5. Direct Employees on all issues, including but not limited to scheduling and assigning work, work hours, and overtime.
6. Establish and require compliance with Employee performance standards.
7. Discharge, suspend, demote, reduce in pay, reprimand, withhold salary increases and benefits, or otherwise discipline Employees subject to the requirements of applicable law.
8. Implement rules, regulations, and directives consistent with law.
9. Take all necessary actions to protect the public and carry out its mission in emergencies.

## **SECTION 4 CLASSIFICATION**

### **4.1 PREPARATION AND MAINTENANCE OF CLASSIFICATION PLAN**

The Town Manager determines and records the duties and responsibilities of all positions and prepares and maintains the Classification Plan to be approved by the Town Council. The Classification Plan consists of a list of every classification in use by the Town. The Classification Plan contains, as an addendum, job descriptions for each position, including the class title, a description of the position, examples of typical duties and responsibilities, a description of abilities and other qualifications for the position and salary ranges and/or salary rates.

#### 4.2 ADOPTION OF PLAN

Town Council approval of the Classification Plan is required before the Classification Plan or any part of it becomes effective. The Classification Plan will be amended or revised in the same manner.

#### 4.3 NEW POSITIONS

When a new position is created by Town Council action, before it may be filled, and except as otherwise provided by the Municipal Code or this Manual, no person will be appointed or employed to fill it until the Classification Plan has been amended.

#### 4.4 RECLASSIFICATION

Reclassification is the reassignment of a position from one class to a different class in accordance with a re-evaluation of the minimum qualifications, duties and responsibilities of the position. When the duties of a position have materially changed so that reclassification is necessary, the Town Manager will, subject to Town Council approval, allocate the position to a more appropriate class, whether new or already created. Reclassification will not be used as a pretext for demotion or promotion.

### **SECTION 5**

#### **THE SELECTION AND APPOINTMENT PROCESS**

##### 5.1 METHODS FOR FILLING VACANCIES

Position vacancies may be filled by a closed, promotional process, an open, competitive process, or by a process that is both open and promotional. Vacancies may also be filled by re-employment, transfer or demotion.

The Town Manager determines whether and in what manner vacancies for all positions (other than that of the Town Manager) are to be filled. The Town Council determines the manner in which a vacancy in the Town Manager position will be filled.

##### 5.2 PUBLICATION OF VACANCIES

Openings may be publicized by placing an appropriate classified advertisement regarding the position in one or more regional publications of general circulation; by posting announcements on recruitment websites and/or bulletin boards; and by

other recruiting activities that the Town Manager deems necessary or advisable to fill a particular position in a way that meets the Town's goal of obtaining the most qualified Employees.

The announcement may include: title and pay for the position; the nature of the work to be performed; the minimum qualifications; the essential functions of the position; the method of applying; the closing date for the application; and other information the Town Manager deems necessary or advisable.

### 5.3 APPLICATION FORMS

Applicants must submit completed job applications provided by the Town.

### 5.4 DISQUALIFICATION OF APPLICATIONS

The Town Manager may reject an application or, after examination, may disqualify the applicant, if the applicant:

1. Made false, deceptive, or fraudulent statements in declarations or in securing eligibility appointment;
2. Is found to lack any of the requirements, certifications, or qualifications for the position involved;
3. Is physically or psychologically unfit for the performance of the position duties because of reasons, including, but not limited to, impairment caused by current abuse of alcohol or drugs, and cannot be reasonably accommodated;
4. Has been convicted of either a misdemeanor or a felony (including a plea of no contest) that relates to the position duties that the applicant would perform;
5. Used or attempted to use inappropriate political pressure or bribery to secure an advantage in the examination or appointment;
6. Directly or indirectly obtained information regarding examinations;
7. Failed to submit the employment application correctly or within the prescribed time limits;
8. Has had his/her privilege to operate a motor vehicle in the State of California suspended or revoked, if having it is a job requirement; and/or

9. For any reason that in the judgment of the Town Manager would render the applicant unfit for the position.

## 5.5 SELECTION PROCESS

After the time limit for receiving applications for a particular position has expired, the Town Manager will determine the total number of applicants who meet the minimum qualifications for the position, or other job-related screening criteria. The chosen applicants will then be allowed to participate further in the selection process.

The Town Manager will establish the particular selection process for each position. The Town Manager may prepare and administer or contract with any competent agency or individual for the administration of any part of the selection process, as s/he deems most appropriate.

Each applicant who participates in an interview will be notified of the interview results.

The Town Manager retains the right to keep recruitments “open until filled.”

## 5.6 PROMOTIONS

Only Employees who meet the requirements for the classification set forth in the promotional announcements may be admitted to promotional interviews.

Promoted Employees shall receive a rate of pay that is at least equal to or higher than the Employee’s present rate of pay.

## 5.7 TEMPORARY POSITIONS EXEMPT

The Town may hire Employees on a temporary basis, usually for a period of one hundred eighty (180) days, without regard to the requirements of this Section. The Town may extend the period of a temporary position for up to an additional one hundred eighty (180) days, but the Temporary Employee may not work more than one thousand (1,000) hours in a fiscal year.

The above restriction does not apply to staff supplied by temporary staffing agencies, or to Temporary Employees hired in response to an emergency condition, such as a flood, earthquake, or other public calamity that threatens public health, safety or welfare. Such Employees may be employed for the duration of the emergency in order to protect public health, safety and welfare.

## 5.8 APPOINTMENTS

The Town Manager makes final appointments. The Town Manager has the authority to approve or disapprove appointment of Employees in accordance with the Municipal Code and this Manual.

The person accepting appointment reports to the Town Manager on the date designated. Otherwise, the applicant is deemed to have declined the appointment.

## **SECTION 6**

### **EQUAL OPPORTUNITY EMPLOYMENT**

#### 6.1 EQUAL EMPLOYMENT OPPORTUNITY POLICY

The Town does not discriminate against qualified Employees or applicants for employment on the basis of race, color, religion, sex (including pregnancy, childbirth, or related medical conditions), gender, gender identity, gender expression, national origin, ancestry, citizenship, age, marital status, physical disability, mental disability, medical condition, genetic characteristics, sexual orientation, military and veteran status, or any other basis protected by law. The Town will afford equal employment opportunity to all qualified Employees and applicants as to all terms and conditions of employment, including compensation, hiring, training, promotion, transfer, discipline and termination.

#### 6.2 REASONABLE ACCOMMODATION POLICY

##### 6.2.1 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.

##### 6.2.2 PROCEDURE FOR OBTAINING REASONABLE ACCOMMODATION

An Employee or applicant with a disability who needs reasonable accommodation in the application process or in order to perform essential job functions should make such request to the Town Manager. Once the Town Manager receives or is made aware of the request, the Town Manager or his/her designee may require the Employee or applicant to submit additional information in writing, including medical

certification from a health care provider supporting the need for accommodation.

Once it is determined that the Employee or applicant has a qualifying disability, the Town will discuss with the Employee or applicant to determine if and how reasonable accommodation can be made. The purpose of this discussion is to timely communicate in good faith to understand restrictions or limitations on an Employee's ability to perform essential job functions or an applicant's ability to participate in the application process, and to fully consider all potential reasonable accommodations. The refusal or failure of an Employee or applicant to participate or cooperate in this discussion may result in denial of accommodation. Any information relating to the Employee's or applicant's request for accommodation shall be kept confidential to the extent required by law and shall be kept in a file separate from applicant and personnel files.

The Town determines, in its sole discretion, whether reasonable accommodation(s) can be made, and the type of accommodation(s) to provide. The Town will not provide accommodation(s) that would pose an undue hardship upon the Town's finances or operations, that would endanger the health or safety of the Employee or others, or that would eliminate an essential job function. The Town will inform the Employee of its decision as to reasonable accommodation(s) in writing.

### 6.2.3 FITNESS FOR DUTY EXAMINATIONS

The Town Manager may require a fitness for duty examination in any of the following situations: (a) to determine whether the Employee can perform the essential functions of the job with or without accommodation, if the examination is job-related and consistent with business necessity; (b) to examine an applicant who has received an offer of employment, if that offer is conditioned only on the successful completion of the examination; and (c) for other reasons that the Town deems to be job-related and consistent with business necessity. The Town Manager may require that a Town-approved physician conduct the examination. The Town will pay for fitness for duty examinations that it initiates.

## 6.3 POLICY AGAINST HARASSMENT, DISCRIMINATION, AND RETALIATION

### 6.3.1 PURPOSE

The purpose of this policy is to establish a strong commitment to prohibit harassment, discrimination, or retaliation in employment, to define discrimination, harassment, and retaliation, and to set forth a procedure for investigating and resolving such complaints.

### 6.3.2 POLICY

The Town prohibits and will not tolerate any harassment or discrimination on the basis of race, color, religion, sex (including pregnancy, childbirth, or related medical conditions), gender, gender identity, gender expression, national origin, ancestry, citizenship, age, marital status, physical disability, mental disability, medical condition, genetic information, sexual orientation, military and veteran status, or any other basis protected by law (“Protected Status”). This policy prohibits harassment against Employees, applicants, unpaid interns, volunteers and independent contractors by other Employees, officers, elected officials, volunteers, independent contractors, vendors, and anyone with whom the Town engages in business with. Violations of this policy may result in disciplinary action up to and including termination of employment.

The Town Council may discipline commissioners and committee members who are found to have violated this policy.

This policy also protects Employees from retaliation, as described in Section 6.3.6.

All Employees will receive training regarding this policy within the first six (6) months of hire, and, on a recurring basis, no less than every three (3) years thereafter. Employees in a Supervisory position will receive training regarding this Policy on a recurring basis, no less than every two (2) years following the initial post-employment training.

### 6.3.3 SEXUAL HARASSMENT

Sexual harassment includes unwelcome sexual advances, requests for sexual favors, or other visual, verbal, or physical conduct of a sexual nature when: (a) submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment; (b)

submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting that individual; or (c) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Sexual harassment may include a range of behaviors and may involve individuals of the same or different gender. Sexually harassing conduct need not be motivated by sexual desire. Examples of sexual harassment may include, but are not limited to:

1. Physical conduct including unwelcome touching, intentionally blocking normal movement, pinching, patting, or coerced sexual conduct;
2. Verbal conduct including making derogatory comments, sexually explicit jokes, slurs, sexual innuendo and insults, or comments about an individual's body or dress;
3. Visual conduct including leering, or displaying sexually oriented posters, photography, cartoons, drawings, emails, or gestures;
4. Offering employment benefits in exchange for sexual favors; and
5. Making or threatening reprisals after a negative response to sexual advances.

#### 6.3.4 HARASSMENT BASED ON OTHER PROTECTED STATUS

Harassment on the basis of other Protected Status is also prohibited. Such harassment includes physical, verbal, and visual conduct when such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

#### 6.3.5 DISCRIMINATION

Discrimination means treating a person differently or subjecting a person to different treatment due to a person's actual or perceived Protected Status in a way that adversely affects the person's employment. Such treatment may include, but is not limited to, refusing to hire or employ a person; discharging a person from employment; refusing to select for or discharging a person from a training program



leading to employment; or treating a person differently in compensation or with regard to other terms, conditions, or privileges of employment

### 6.3.6 RETALIATION

The Town prohibits Employees and Town officials, officers, volunteers and contractors from taking any Adverse Action against an Employee, officer, volunteer, contractor, or applicant because s/he in good faith engaged in a Protected Activity.

“Protected Activity” may include, but is not limited to, any of the following:

1. Filing a complaint with a federal or state agency
2. Participating in or cooperating with a federal or state enforcement agency that is conducting an investigation of the Town regarding alleged unlawful activity
3. Testifying as a party or witness regarding alleged unlawful activity
4. Associating with another Employee who is engaged in a Protected Activity
5. Making or filing a complaint regarding alleged unlawful activity
6. Calling a governmental agency’s “Whistleblower hotline”

“Adverse Action” may include, but is not limited to, any of the following:

1. Real or implied threats of intimidation to attempt or prevent an individual from reporting alleged wrongdoing or because of Protected Activity
2. Refusing to hire an individual because of Protected Activity
3. Denying promotion to an individual because of Protected Activity
4. Taking any form of disciplinary action because of Protected Activity
5. Altering work schedules or work assignments because of Protected Activity

6. Condoning hostility and criticism of co-workers and third parties because of Protected Activity.

Employees and officers in violation of this policy will be subject to discipline, up to and including termination. Any elected official or contractor in violation of this policy will be subject to appropriate sanctions.

## 6.4 COMPLAINT PROCEDURE

### 6.4.1 FILING

An Employee or applicant who believes s/he has been denied an equal employment opportunity or reasonable accommodation, or has been harassed, discriminated, or retaliated against is strongly encouraged to make a complaint to his/her immediate Supervisor, any other Supervisor, or the Town Manager, as soon as possible. Any Supervisor who receives a harassment, discrimination, or retaliation complaint must immediately notify the Town Manager.

If the complaint concerns the Town Manager, the Employee may make a complaint to the Town Attorney or designee, who shall perform the functions of the Town Manager in consultation with the Mayor with respect to these complaint procedures.

Nothing in this policy is intended to impair an Employee's or applicant's right to pursue other remedies, including filing a complaint with the U.S. Equal Employment Opportunity Commission (EEOC) ([www.eeoc.gov](http://www.eeoc.gov)) or California Department of Fair Employment and Housing ([www.dfeh.ca.gov](http://www.dfeh.ca.gov)).

### 6.4.2 INVESTIGATION

The Town takes a proactive approach with potential policy violations and will investigate potential harassment, discrimination, or retaliation, whether alleged in a complaint or if the Town's officers or Supervisory Employees become aware of such potential violations.

Upon awareness or notification of the complaint, the Town Manager or his/her designee will assign an investigator to gather facts and make factual findings concerning the allegations in the complaint. All Employees are required to cooperate with the investigator.

The Town Manager may take interim action to maintain the integrity of the investigation, maintain normal business operations, and to protect the complainant or witnesses.

The investigator will review the complaint allegations. 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 provide a written report to the Town Manager. Giving consideration to all factual information and the totality of the circumstances, the Town Manager will determine whether the Town's policies have been violated, or whether discrimination, harassment or retaliation occurred, and, will promptly notify the complainant and the accused, in writing, when the investigation has concluded.

#### 6.4.3 REMEDIAL ACTION

After the investigation has concluded, the Town Manager will make the final determination as to whether harassment, discrimination, and/or retaliation has occurred and will take prompt and effective remedial action pursuant to Section 10.1, Disciplinary Actions, of this Manual. The remedial action will be commensurate with the severity of the offense and will not be communicated to the complainant.

#### 6.4.4 PRIVACY

While complete confidentiality is not possible, the investigation will be conducted in a manner that ensures, to the extent feasible, the privacy of the parties involved. The Town Manager, the Town Attorney, and Employees are required to maintain confidentiality of the investigation.

Individuals interviewed during the investigation are prohibited from discussing the substance of the investigatory interview with others, except as otherwise directed by the Town Manager. Any individual who discusses the substance of an investigatory interview may be subject to discipline.

An investigation report will not be disclosed except as the Town Manager deems necessary to support a disciplinary action, to take remedial action, to defend the Town in adversarial proceedings, or to comply with the law or a court order.

## **SECTION 7**

### **ATTENDANCE AND LEAVES OF ABSENCE**

#### **7.1 CALENDAR WEEK AND WORKWEEK**

Calendar Week – 40 hours per week: The normal workweek for Employees in a Full-Time Position is forty (40) hours, worked in units of eight (8) hours per workday.

Workweek – 9/80 Schedule: Employees using the 9/80 alternate work schedule are required to work nine hours (for example from 7:30 a.m. to 5:30 p.m.) for eight work days, and eight hours on a ninth work day. Employees participating in a 9/80 work schedule will have alternate Fridays off. In all departments, it is expected that employees participating will have different Fridays off in order to ensure adequate office coverage.

Effect on Overtime: For employees working a 9/80 schedule, the workweek thus defined herein continues to provide for a normal work schedule of 40 hours in a workweek although the employee would work 44 hours in one calendar week and 36 hours in the second calendar week of the two-week payroll period. Overtime would not be paid unless an employee exceeded 40 hours of work in the workweek (not the calendar week).

#### **7.2 ATTENDANCE REQUIREMENTS**

Employees must be in attendance at their work locations during the hours assigned by the Town Manager. Any unauthorized absence may be cause for disciplinary action, up to and including termination.

The Town provides several types of leave accruals as a benefit for Regular Employees. Employees are responsible for the management and appropriate use of their leave balances.

Except in extraordinary circumstances, an Employee who is unable to report for work at the beginning of his or her established workday or shift must notify his/her immediate Supervisor or the Town Manager with as much notice as possible before commencement of the shift.

## 7.3 DEFINITIONS

7.3.1 "Immediate Family" includes the following persons and no others:

1. A biological, adopted, or foster child, stepchild, grandchild, or legal ward of the Employee or the Employee's registered domestic partner, or a child to whom the Employee or registered domestic partner stands in loco parentis.
2. A biological, adoptive, or foster parent, stepparent, or legal guardian of the Employee or the Employee's spouse or registered domestic partner, or the person who stood in loco parentis when the Employee was a minor child.
3. A spouse or registered domestic partner of the Employee.
4. A sibling of the Employee or of the Employee's spouse or registered domestic partner.
5. Grandparents, grandparents-in-law or step-grandparents of the Employee.

## 7.4 SICK LEAVE

Sick leave is an absence because of illness, injury, exposure to contagious disease, care of a sick member of the Employee's Immediate Family, or doctor and dental appointments when it is not feasible to schedule them on the Employee's own time.

The following provisions govern sick leave:

1. Employees accrue sick leave at the rate of eight (8) hours for each full month of service.
2. Sick leave may only be used for actual sickness or disability of the Employee or a member of the Employee's Immediate Family, and/or to the extent permitted by law. If the Town suspects an Employee of abusing sick leave, the Town reserves the right – in addition to taking disciplinary measures – to request that the Employee provide the Town with a doctor's verification of illness and estimated time for recovery. An Employee may also be required to provide a doctor's verification of illness when the Employee has been absent for more than three consecutive days.

3. Before using sick leave, an Employee must notify his/her Supervisor prior to commencement of his/her shift, unless s/he is unable to do so because of circumstances beyond his or her control. In addition, if the Employee is absent on sick leave for more than one (1) day, the Employee must keep the Supervisor informed as to the date s/he expects to return to work, unless the Employee is unable to do so because of circumstances beyond his or her control.
4. The Town Manager or designee has the discretion to place Employees on sick leave when in his/her judgment the presence of the Employee at work would endanger the health and welfare of other Employees or the Employee's illness or injury interferes with the performance of the Employee's duties.
5. 9/80 Schedule Sick Leave –
  - a. **Partial Day Absences:** Partial day absences that occur as a result of illness will require charging the number of hours (to the nearest ¼ hour) the employee was absent.
  - b. **Absences of One Full Day, But Less Than a Full Week:** Full day absences that occur as a result of illness will require charging the number of hours the employee was normally scheduled to work on the specified day (e.g., an employee is scheduled to work 9 hours and is absent due to illness, must have 9 hours of sick time deducted from his/her leave accruals).

## 7.5 HOLIDAYS

Each Employee of the Town is entitled to the following holidays with pay:

- |  |                             |
|--|-----------------------------|
| 1. New Year's Day  | January 1                   |
| 2. Martin Luther King Jr. Day                                  | Third Monday in January     |
| 3. Presidents' Day   | Third Monday in February    |
| 4. Memorial Day  | Last Monday in May          |
| 5. Independence Day  | July 4                      |
| 6. Labor Day   | First Monday in September   |
| 7. Thanksgiving Day  | Fourth Thursday in November |
| 8. Day after Thanksgiving                                      | Fourth Friday in November   |
| 9. Christmas Day   | December 25                 |
| 10. The business days between Christmas Day and New Year's Day |                             |

If any holiday falls on Sunday, the Monday following is treated as the holiday. If the holiday falls on Saturday, the Friday preceding is treated as the holiday. If a non-Management Employee is required to work on a holiday, the Employee will be compensated for hours worked on the holiday, in addition to the holiday pay. When Christmas falls on Tuesday, the Monday preceding will be an additional holiday. No Employee is entitled to compensation for any holiday unless s/he is employed by the Town or is on paid leave, on the workday preceding and the workday following the holiday.

7.5.1 9/80 Schedule Holiday - A holiday is an 8-hour day. For any week in which there is a scheduled holiday, Town offices are closed. An employee working a 9/80 work schedule will work their normally scheduled work days (except for the holiday off), and will be paid for 80 hours.

(a) **Holidays - Occurring on an Employee's Regularly Scheduled Flex**

**Day:** When a paid holiday falls on an employee's regularly scheduled day off, the employee will be paid eight hours holiday pay AND be given an alternate eight-hour day off during the same workweek as the holiday. If the alternate scheduled workday is greater than eight hours, the employee may:

- elect to use either vacation or compensatory time earned to make up for the time in excess of the 8 hours that the employee was originally scheduled to work; or
- elect to forego compensation for the difference; or
- if the department director approves, an employee may work additional hours during the same workweek as the holiday, in lieu of using accrued leave.

(b) **Holidays - Occurring on an Employee's Regularly Scheduled**

**Workday:** When a paid holiday falls on an employee's regularly scheduled workday, the employee will be paid eight hours (or the prorated amount if less than full time) holiday pay. No additional day will be given. If the regularly scheduled workday is greater than 8 hours, the employee may:

- elect to use either vacation or compensatory time earned to make up for the time in excess of the 8 hours that the employee was scheduled to work; or
- elect to forego compensation for the difference; or

- if the department director approves, an employee may work additional hours during the same workweek as the holiday, in lieu of using accrued leave.

## 7.6 VACATION

The purpose of annual vacation leave is to enable each eligible Employee to return to his/her work mentally and physically refreshed. All Regular Employees are entitled to annual vacation leave with pay. Vacation time is credited on the first payroll date of employment and every pay period thereafter for each Regular Employee.

Vacation leave is earned at a monthly pro-rated amount depending upon years of service and full or part time status as described in section 8.5.2. Employees are eligible to take vacation as soon as they have accrued it, unless otherwise authorized by the Town Manager. Vacation leave is credited as follows:

<u>Years of Service</u>	<u>Days of Vacation Accrued</u> <u>Annually</u>
1 through 5	10
6 through 10	15
11 +	20

All vacation leave must be pre-approved by the Town Manager or designee. Vacation is approved on a first-come, first served basis. Vacation leave may be denied if the Town Manager or designee determines that it would negatively impact normal operation of Town functions. Approval of vacation leave does not indicate that the Employee has available leave hours. The Employee is responsible for ensuring that the leave hours are available prior to requesting approval from the immediate Supervisor. The Town Manager may grant an Employee one exception per year to vacation leave that will result in a leave balance deficit. If a deficit exists, those hours are reduced from the Employee's payout upon separation.

Use of vacation leave earned in a given year may be deferred to the following year. However, at no time may an Employee accrue more vacation days than double the Employee's current annual accrual rate. When the Employee reaches the allowed maximum accrual, s/he will cease earning vacation until the vacation leave balance falls below the maximum accrual amount.

The Town Manager has the authority to provide credit for past public service to new hires for the sole purpose of determining vacation accrual rates.



### 7.6.1 9/80 Schedule Vacation Leave –

- (a) **Partial Day Absences:** Partial day absences that occur as a result of vacation will require charging the number of hours (to the nearest ¼ hour) the employee was absent.
- (b) **Absences of at Least One Full Day, But Less Than a Full Week:** Full day absences that occur as a result of vacation will require charging the number of hours the employee was normally scheduled to work on the specified day (e.g., an employee is scheduled to work 9 hours and is absent due to a vacation, must have 9 hours of vacation time deducted from his/her leave accruals).

### 7.6.2 SALE OF ACCRUED VACATION HOURS

Employees may elect, once per calendar year, to sell back to the Town accrued, but unused vacation. The election must be made on or before April 30<sup>th</sup> of each calendar year and payout will occur no later than May 31<sup>st</sup> of the same calendar year.

The Employee will be compensated for such vacation hours at the compensation rate in effect for that Employee at the time the hours are sold to the Town.

The minimum number of hours that can be sold to the Town annually for the cash equivalent is ten (10) hours, and the maximum number of hours that can be sold is the total number of hours the Employee is eligible to accrue in a one-year period.

### 7.7 JURY DUTY AND WITNESS LEAVE

Every Employee who is called or required to serve as a juror is entitled to be absent during the period of jury service. Under these circumstances, the Employee will be paid their full salary for up to fifteen (15) workdays of jury service.

An Employee who is subpoenaed to appear in court in an official capacity as a Town Employee is allowed to do so without loss of compensation. An Employee subpoenaed to appear in court in a matter unrelated to his or her official capacity as a Town Employee is permitted to use accrued vacation or compensatory time off for this purpose. The time spent for court appearances unrelated to the Employee's employment, or related to any matter the Employee has brought against the Town, is not compensable work time.

## 7.8 BEREAVEMENT LEAVE

Employees are allowed paid time off in the event of a death in the Immediate Family. Up to five (5) consecutive days of bereavement leave is allowed for the death of each member of the Immediate Family. The Employee may request, and the Town Manager may approve at his or her absolute discretion, that vacation leave be taken as bereavement leave in the event of the death of other individuals or for an extended period of time.

## 7.9 MILITARY LEAVE

In accordance with State and Federal law, the Town Manager will grant military leave for active and reserve members of the United States Armed Forces and National Guard to fulfill obligations, including active duty and training. An Employee requesting military leave shall provide the Town Manager with as much advanced notice as possible. An Employee taking military leave must give the Town Manager an opportunity, within the limits of State and Federal law, to determine when military leave will be taken, and the Town Manager may modify the Employee's work schedule to accommodate the request for leave.

To the extent required by State and Federal law, an Employee will receive compensation for service during the period that s/he is on approved military leave, including up to 30 calendar days of pay per fiscal year for active duty training for Employees who have been employed with the Town for at least one year prior to the first day of military leave. An Employee may elect to use accrued vacation leave, administrative leave, or compensatory time off during his/her otherwise unpaid military leave. An Employee may also elect to continue Town-provided health coverage for up to 24 months, subject to the provisions of Federal law.

## 7.10 WORKERS' COMPENSATION BENEFITS AND INDUSTRIAL ACCIDENT LEAVE

The Town will provide workers' compensation benefits in accordance with State law for any work-related injury or illness. These benefits include medical care, temporary disability, permanent disability, vocational rehabilitation and survivor benefits. In the event that any Regular Employee is absent from work as a result of any injury or illness that comes under the State of California Workers Compensation Law, the absence shall be considered to be Industrial Accident Leave. Employees on Industrial Accident Leave may use accrued sick leave time to supplement any monetary difference between their normal rate of pay and workers' compensation temporary disability benefits. Upon exhaustion of

accrued sick leave time, Employees may elect to supplement with accrued vacation leave. However, such supplementation will not entitle Employees to continue employment if otherwise qualified for separation from Town service due to disability retirement or inability to reasonably accommodate.

#### 7.11 ADMINISTRATIVE LEAVE

Management Employees accrue fifty-six (56) hours of administrative leave, awarded annually in the first pay period in January. Administrative leave has no cash value and cannot be carried over to the succeeding calendar year in which it was accrued. Use of administrative leave is allowed at the discretion of the Town Manager.

#### 7.12 PREGNANCY DISABILITY LEAVE AND ACCOMMODATION

If the Employee's attending physician certifies that the Employee is physically unable to work due to pregnancy, childbirth, or a related medical condition, the Employee is entitled to: a) a leave of absence without pay for up to four (4) months per pregnancy; or b) a temporary transfer to another position if such transfer can be reasonably accommodated. The Employee must give at least thirty (30) days' notice of the need for pregnancy disability leave, transfer, or other reasonable accommodation, as well as an estimated duration for the leave. If such notice is not feasible, notice shall be given as soon as possible.

An Employee will be required to submit a medical certification from her attending physician to support any request for pregnancy disability leave, transfer or reasonable accommodation. If the Employee fails to return the certification in a timely manner, the Town may delay granting the request for pregnancy disability leave, transfer or accommodation so long as doing so would not endanger the Employee's health or her pregnancy.

Requests for an extension of leave must be submitted in writing to the Town Manager 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 Town will also provide a reasonable accommodation to an Employee for a pregnancy-related disability, if the Employee requests an accommodation upon the advice of her attending physician.

Pregnancy disability leave is unpaid. However, the Employee has the option of using accrued sick leave, compensatory time off with the approval of the

Town Manager, and/or vacation leave. The Town will pay insurance premiums, not to exceed four (4) months per pregnancy, to the same extent that the Town paid the premiums when the Employee was at work. The Employee will be responsible to pay for the Employee's portion of her insurance premiums while on unpaid leave. Information regarding such payments will be provided to the Employee.

Generally an Employee has the right to be reinstated to the same position she held prior to taking pregnancy disability leave or being temporarily transferred to an alternate position due to pregnancy disability. However, an Employee has no greater rights than she would have had if continuously employed during the pregnancy disability leave or transfer period. This means that there is no right to reinstatement to the same position if an Employee would not otherwise have been employed in her same position at the time reinstatement is requested for legitimate business reasons unrelated to the pregnancy disability or transfer (e.g., layoff.)

If for the reason described above an Employee returning from pregnancy disability cannot be reinstated to the same position, an Employee generally has the right to be reinstated to an available comparable position (i.e., a position that is virtually identical to the Employee's prior position in terms of pay, benefits, working conditions, and with substantially similar duties, in the same or geographically proximate worksite, and with the same or equivalent work schedule.) An exception to this general right exists if either of the following exist: (a) the Town would not have offered a comparable position to the Employee if she had been continuously at work during the pregnancy disability or transfer period, or (b) there is no comparable position available.

Prior to the Employee being reinstated, the immediate Supervisor shall require a statement from the attending physician that the Employee is physically capable of resuming the regular duties of the Employee's position with or without accommodation.

#### 7.13 LEAVE OF ABSENCE WITHOUT PAY

Upon the request of the Employee, the Town Manager may grant a leave of absence without pay to an Employee. Requests for leave of absence without pay must specifically state the reason for the request, the beginning date of the leave, and the date of return. A leave of absence without pay may be granted for a period not to exceed two months. The Town Manager has absolute discretion to deny the request or grant leave for a shorter period of time when any additional leave would pose a hardship to the Town's operations.

Leave of absence without pay is not construed as a break in service or employment, and rights accrued at the time the leave is granted are retained by the Employee. However, vacation leave, sick leave, all other paid leaves, holidays and fringe benefits, service credits and other similar benefits are not accrued to an Employee granted leave during the period of unpaid absence, except as provided otherwise by law or this policy. Nor is the Town required to maintain contributions toward group insurance or retirement coverage, except as provided otherwise by law or this policy. The employee may, if the employee desires to maintain the group insurance or retirement coverage, pay for all or a portion, as appropriate, of the premiums during their absence. During the period of leave without pay, all service and leave credits are retained at the levels existing as of the effective date of the leave. However, time counted toward an Employee's anniversary date is deferred for the time of the leave without pay.

The Employee is reinstated to his or her former position or to an available comparable one if the former position is eliminated during the period of leave and the Employee would otherwise not have been laid off.

#### 7.14 VOLUNTARY LEAVE TRANSFER

When an employee's paid leave balance has been exhausted during a personal or family medical emergency, the employee may be eligible to receive voluntary leave transfers from fellow Employees of paid leave to be included in his/her sick leave balance. There is no limit on the amount of donated annual leave a leave recipient may receive from the leave donor(s). However, any unused donated leave must be returned to the leave donor(s) when the medical emergency ends.

#### 7.15 VOTING LEAVE

If a non-exempt Employee does not have sufficient time outside of working hours to vote in a statewide election, the Employee may take up to two (2) hours off without loss of pay at the beginning or end of the Employee's regular working shift. An Employee must provide his/her Supervisor with at least two working days' notice of the need for time off to vote.

#### 7.16 TIME OFF TO APPEAR IN SCHOOL

An Employee who is the parent or guardian of a child who has been suspended from school may take unpaid time off from work to appear at the school in

response to a request by the school administrator, if the Employee provides the Town Manager reasonable notice of the school's request.

#### 7.17 LEAVE FOR CRIME VICTIMS

An Employee who has been a victim of a violent or serious felony, or felony provision regarding theft or embezzlement, or the Employee's spouse, registered domestic partner, child or stepchild, sibling or stepsibling, or parent or stepparent who has been a victim of any of those crimes, may take time off to appear in court to comply with a subpoena or other court order as a witness in any judicial proceeding related to that crime.

An affected Employee must give the Town reasonable notice that s/he is required to be absent for a purpose stated above. In cases of unscheduled or emergency court appearances or other emergency circumstances, the affected Employee must, within a reasonable time after the appearance, provide the Town with written proof that the absence was required for any of the above reasons. Leave under this section is unpaid unless the Employee uses vacation or accrued time off.

#### 7.18 TIME OFF FOR VICTIMS OF DOMESTIC VIOLENCE, SEXUAL ASSAULT, OR STALKING

An Employee who has been a victim of domestic violence, sexual assault, or stalking may take time off to engage in the following activities related to the domestic violence, sexual assault, or stalking:

1. Appear in court proceedings;
2. Seek medical attention for or recover from injuries caused by domestic violence, sexual assault or stalking;
3. Obtain services from a domestic violence shelter, program, or rape crisis center as a result of domestic violence, sexual assault or stalking;
4. Obtain psychological counseling related to an experience of domestic violence, sexual assault or stalking; and/or
5. Participate in safety planning and take other actions to increase safety from future domestic violence, sexual assault or stalking, including temporary or permanent relocation.

An affected Employee must give the Town reasonable notice that s/he is required to be absent for a purpose stated above. The affected Employee must also, within a reasonable time, provide the Town with written proof that the absence was required for any of the above reasons. Leave under this section is unpaid unless the Employee uses vacation or other accrued time off.

## **SECTION 8**

### **COMPENSATION AND PAYROLL PRACTICES**

#### **8.1 COMPENSATION PLAN**

During the budget preparation period each year, or whenever directed by the Town Council, the Town Manager or designee will prepare a Compensation Plan covering all classes of positions except the Town Manager position, including a range of pay for each position.

The Town Council may amend the Compensation Plan from time to time by resolution. At the discretion of the Town Manager, the amendments and revisions may be submitted to the Town Council. The Town Manager may approve an hourly rate of compensation for temporary positions, with adjustments for special circumstances, based on the Compensation Plan.

The Town Council's consideration of the proposed Compensation Plan, amendments, or revisions will be included in a Council meeting agenda, and the meeting will be posted in the manner prescribed by State Law. No position will be assigned a salary not in conformance with the salary schedule unless the salary schedule for the class is amended in the same manner as stated above.

#### **8.2 PAYROLL**

##### **8.2.1 PREPARATION OF PAYROLL**

The payroll is prepared under the direction of the Town Manager in accordance with the Compensation Plan. No changes in the names or salaries on the payroll will be made without written approval by the Town Manager.

FLSA Safe Harbor Policy – The Town invokes the safe harbor provisions of the Department of Labor regulation codified at 29 CFR Section 541.603(d) by disseminating and maintaining this policy regarding pay reductions. Should any pay reduction occur in violation of this policy,

the Town will reimburse its FLSA-exempt Employees for any improper pay deductions and make a good faith commitment to comply with the FLSA in the future. A FLSA-exempt Employee who believes that his or her compensation has been reduced in violation of this policy, may submit a written complaint explaining the alleged violation to the Town Manager, who will review the complaint and provide a written response to the Employee.

### 8.2.2 PAYDAY

Payday is twice monthly, on the 15th and last day of the month. In the event that this day falls on a weekend or holiday, payday will be the immediately preceding workday.

## 8.3 OVERTIME AND OTHER COMPENSABLE TIME

### 8.3.1 ELIGIBILITY

All non-Management Employees whose compensation is based on an hourly rate are eligible for overtime compensation pursuant to the Fair Labor Standards Act (“FLSA”). The Town has determined that all Management Employees are exempt from the FLSA overtime compensation requirements.

### 8.3.2 AUTHORIZATION OF OVERTIME

An Employee’s Supervisor may authorize or require overtime at his/her discretion. Overtime may be authorized for situations such as:

1. Operating emergencies;
2. Handling peak workloads or incomplete work when it is not possible or practical to employ additional personnel;
3. Attending meetings connected to Town business outside of regular work hours;
4. Meeting temporary conditions when the Town is unable to secure qualified personnel to fill positions authorized by the Town Council and filled by the Town Manager; and/or
5. On other occasions as deemed necessary in the judgment of the responsible Supervisor.



An Employee is not allowed to work overtime unless his/her Supervisor has pre-authorized the work.

### 8.3.3 OVERTIME PAY AND COMPENSATORY TIME

8.3.3.1 Eligible Employees will be compensated for Overtime earned because of actual work of over forty (40) hours in a Workweek at the rate of one and one-half times (“time and one-half”) the Employee’s regular hourly rate.

8.3.3.2 Non-Management Employees may choose to accrue compensatory time off in lieu of being paid time and one-half for working Overtime. Compensatory time off is accrued at the rate of time and one-half and may be used in lieu of other types of leave, or cashed out, when approved by the Town Manager. Compensatory time off may be taken only at the discretion of the Town Manager. Accrued and unused compensatory time off will be paid to Non-Management Employees each year on June 30. In no event may an Employee accrue more than one hundred thirty (130) hours of compensatory time off.

8.3.3.3 The following scenario illustrates how Overtime may be compensated for a non-exempt, non-Management Employee with a regular hourly rate of Twenty Dollars (\$20.00):

“Time and one-half” Scenario: An Employee works forty-three (43) hours in a Workweek. The Employee may choose to receive either Thirty Dollars (\$30.00) for each overtime hour, or one and one-half (1.5) hours in compensatory time off for each overtime hour. In other words, the Employee may choose to receive Ninety Dollars (\$90.00) or four and one-half (4.5) hours of compensatory time off to be used at a later date.

8.3.3.4 Call-back pay. In an emergency or unusual situation, an Employee may be called back to work after completing his/her workday. Employee shall provide documentation of call-back hours worked, signed by their Supervisor approving the hours. If the Employee is non-exempt and is called back, he or she will be compensated for a minimum of two (2) hours per call back.

## 8.4 MEAL PERIOD/BREAKS

A minimum thirty (30) minute and a maximum of one hour non-compensated meal period is provided to all Employees who work over five (5) hours in a day. Employees are also entitled to one ten (10) minute paid rest break for each four (4) hours worked.

## 8.5 ELIGIBILITY FOR BENEFITS

Benefits are set forth and occasionally revised by the Town Council in keeping with prevailing rates and benefits, current costs of living, the Town's financial condition and policies and other relevant factors.

### 8.5.1 FULL-TIME EMPLOYEES

Regular Employees holding a Full-Time Position are eligible for all benefits currently authorized by the Town Council, except for those benefits specifically limited to management Employees.

### 8.5.2 PART-TIME EMPLOYEES

Regular Employees holding a Part-Time Position accrue vacation, sick leave, other leaves and holiday credits in the proportion that their average Workweek bears to that of full-time Employees. To the extent possible, other benefits afforded full-time positions are also pro-rated. Employees scheduled to work in positions of less than twenty (20) hours per week are not provided medical, CalPERS retirement, or any other benefits not required by state or federal law.

### 8.5.3 TEMPORARY EMPLOYEES

Temporary Employees are not provided any benefits other than those required by State or Federal law.

### 8.5.4 MANAGEMENT EMPLOYEES

Benefits and rights afforded to Management Employees may differ from non-Management Employees pursuant to this Manual. The Town Manager also has discretion to award different benefits to Management Employees for the purpose of recruitment and retention to the maximum benefit authorized by the Compensation Plan.

## **SECTION 9 PERFORMANCE EVALUATIONS**

All Employees receive an annual performance evaluation near the end of the fiscal year. The Town Manager provides a method of evaluating individual Employee performance that relates to quantity and quality of work, ability, reliability, discipline, attendance, and other factors.

The Town Manager is responsible for assuring that the evaluations are adequate to provide information to both the Employee and the Town for the purposes set forth in this section. An Employee must have an evaluation with an overall satisfactory performance rating in order to be eligible for a salary increase or promotion. Deficiencies in performance by an Employee may result in a decrease in salary, suspension, demotion, or termination of employment.

In addition, when changes in work performance occur, and/or as necessary, immediate Supervisors may periodically evaluate the performance of each Employee. Each Employee is informed of his or her strengths and weaknesses as to work performance. Each performance evaluation is discussed with the Employee. The Employee must sign the evaluation, acknowledging that his/her performance evaluation has been reviewed with him/her. The Employee's signature does not necessarily mean s/he endorses the contents of the evaluation.

## **SECTION 10 DISCIPLINE**

In order to conduct business efficiently and effectively, the Town must address performance and misconduct issues. Such issues are addressed by disciplinary actions and based on disciplinary grounds, including but not limited to those discussed below. Disciplinary actions cannot be appealed and are not subject to the complaint procedure set forth in Section 11, Resolution of Work-Related Complaints. Nothing in this section gives Employees any right to progressive discipline, nor alters the fact that all Employees serve at will, and can be terminated at any time without cause.

### **10.1 DISCIPLINARY ACTIONS**

The following types of disciplinary actions are available to the Town Manager to address performance and misconduct issues. The Town Manager will attempt to match the disciplinary action to the severity of the Employee misconduct. However, the Town Manager reserves the right to impose any disciplinary action

up to and including termination of employment at any time, without notice, cause, or progressive discipline.

#### 10.1.1 ORAL COUNSELING

Oral counseling is an oral discussion between an Employee and his/her Supervisor where the Supervisor communicates his/her concerns regarding the Employee's performance or misconduct. Oral Counseling may involve warning the Employee of consequences for not addressing the Supervisor's concerns.

#### 10.1.2 WRITTEN REPRIMAND

Written reprimand is a letter communicating a Supervisor's concerns regarding the Employee's performance or misconduct. A Written Reprimand would likely include a warning of consequences for not addressing the Supervisor's concerns.

#### 10.1.3 SUSPENSION

Suspension is the temporary separation from Town service without pay for disciplinary purposes. Suspension of non-FLSA-exempt Employees may be in any increment in the discretion of the Town Manager. Suspension of FLSA-exempt Employees may only be in one-day increments in the discretion of the Town Manager.

#### 10.1.4 REDUCTION IN PAY

Reduction in pay is a decrease in compensation for non-FLSA-exempt Employees for a fixed period of time for disciplinary purposes.

#### 10.1.5 DEMOTION

Demotion is the movement of an Employee from one position to another that has a lower maximum rate of pay. The Town Manager may demote an Employee whose performance of his/her required duties is below standard, or for other disciplinary purposes. Non-disciplinary demotion may also be made to a vacant position in lieu of layoff. No Employee will be demoted to a position for which s/he does not possess the minimum qualifications.

### 10.1.6 TERMINATION

In relation to disciplinary action, an Employee may be separated from Town service when his/her performance of required duties is below standard, or for other disciplinary reasons. All Employees are employed on at "at-will" basis and the Town Manager may terminate their employment for any reason.

## 10.2 GROUND FOR DISCIPLINE

The Town's standards of conduct are established for the guidance of all Employees. These standards are only a partial list of unacceptable behaviors and conduct, and do not constitute the entire range of grounds for discipline.

1. Fraud in securing employment or making a false statement on an application for employment; or making a false statement or notation on any Town record.
2. Incompetence, i.e., inability to comply with the minimum standards of an Employee's position for a significant period of time.
3. Inefficiency or inexcusable neglect of duty, i.e., failure to perform duties required of an Employee within his/her position.
4. Disobedience and insubordination, i.e., a failure to submit to duly appointed and acting supervision or to conform to duly established orders or directions of persons in a Supervisory position.
5. Dishonesty.
6. Being under the influence of alcohol or drugs while on duty.
7. Excessive absenteeism or inexcusable absence.
8. Abuse of sick leave, i.e., taking sick leave without a doctor's certificate when one is required, or misuse of sick leave.
9. The conviction of either a misdemeanor or any felony. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The Town Manager or his/her designee may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline. A plea or verdict of guilty, or a conviction showing a plea of nolo contendere (no contest) made to

discharge a felony is deemed to be a conviction within the meaning of this section.

10. Discourteous treatment of the public or other Employees.
11. Improper or unauthorized use of Town property.
12. Inattention to duty, tardiness, indolence, carelessness or negligence in the care and handling of Town property.
13. Violation of the ordinances, resolutions, rules and regulations established by the Town.
14. Solicitation or acceptance by an Employee of an individual reward, gift, or other form of remuneration from a private source for the performance of his/her official duties, excluding edible/drinkable gifts offered to the entire Town staff.
15. The refusal to testify under oath or affirmation before any Grand Jury having jurisdiction over any then pending investigation of government bribery or misconduct.
16. Improper political activity, which includes:
  - a. Participation in political activities while in uniform, during working hours, on Town business premises, while conducting official Town business, or using Town resources.
  - b. Solicitation of political funds from other officers or Employees of the Town or from persons on the employment lists of the Town.

Improper political activity does not include the solicitation or receipt of political funds or contributions to promote the passage or defeat of a ballot measure affecting the working conditions of Employees so long as such activity does not occur while the Employee is working for the Town or using Town resources.

## **SECTION 11**

### **RESOLUTION OF WORK-RELATED COMPLAINTS**

The Town desires to implement an internal procedure that provides an opportunity for non-disciplinary, work-related complaints to be addressed fairly, objectively and promptly.

Pursuant to Section 10, Discipline, all disciplinary actions and performance evaluations are final and not subject to the following procedure.

### 11.1 PROCEDURE

11.1.1 When an Employee has a complaint s/he should discuss the complaint with, or submit it in writing to his/her immediate Supervisor.

If the complaint pertains to the immediate Supervisor, the Employee may discuss the complaint with, or submit it in writing to the Town Manager.

If the complaint concerns the Town Manager, the Employee may discuss the complaint, or submit it in writing to the Town Attorney or designee and the Mayor.

11.1.2 The Town Manager, or Town Attorney (when applicable), shall make the final determination of a resolution to the complaint. All determinations will be explained to the Employee and are final.

## **SECTION 12**

### **TRANSFER, RESIGNATION, ABANDONMENT, LAYOFF AND REINSTATEMENT**

#### 12.1 TRANSFER

No person will be transferred to a position for which s/he does not possess the minimum qualifications; but the Town Manager may, on a temporary basis, assign Employees to duties other than those prescribed in their classification or job description, when a need arises from injury or illness, vacation, or other leaves of absence, or when workloads temporarily create a need, and the best interest of the Town would be served. The Town Manager may transfer an Employee from one position to another position in a comparable classification. For transfer purposes, a comparable classification is one with the same maximum rate of pay, and requires substantially the same basic qualifications.

Whenever possible, an Employee being transferred will receive five (5) working days' notice.

#### 12.2 RESIGNATION

Resignation occurs when an Employee tenders to the Town Manager a written notice of his/her intention to resign. The Town Manager tenders his/her resignation

to the Town Council. A resignation becomes final when accepted by the Town Manager, or in the case of the Town Manager's resignation, acceptance by the Town Council. Once a resignation has been accepted, it cannot be withdrawn without the approval of the Town Manager, or in the case of the Town Manager's resignation, approval by the Town Council. The Town requests that Employees give a minimum of two (2) weeks' notice of their intention to resign.

### 12.3 JOB ABANDONMENT

An Employee may be deemed to have resigned if the Employee is absent for three (3) consecutive workdays without prior authorization and without notification during that period of the reason for absence, unless s/he is unable to do so because of circumstances beyond his or her control.

### 12.4 LAYOFF POLICY AND PROCEDURE

#### 12.4.1 STATEMENT OF INTENT

Whenever, in the judgment of the Town Council, it becomes necessary to abolish funding for any position, the Employee holding the position may be laid off or demoted without disciplinary action. An Employee who has any questions regarding the layoff decision or process should make an appointment with the Town Manager for a pre-layoff review and without the right of appeal. If two or more Employees hold the position to be laid off, the Town will lay off the Employee with the least Town seniority. Seniority is determined based upon date of hire in the classification and higher classifications in the Town.

#### 12.4.2 NOTIFICATION

Regular Employees to be laid off or demoted under non-disciplinary circumstance will be given a minimum of thirty (30) calendar days' prior notice. Prior notice is not required for the layoff of Temporary Employees.

### 12.5 REINSTATEMENT

Upon recommendation of the immediate Supervisor and approval of the Town Manager, a Regular Employee who has resigned or has otherwise been separated while in good standing (i.e., not separated for disciplinary reasons) may be considered for reinstatement to his/her former position, if vacant, or to a vacant position in the same or a comparable classification for a period of one (1) year after resignation or separation. At the discretion of the Town Manager, an Employee



returning to work may be required to undergo testing as part of a conditional job offer to determine whether s/he is fit to return to work.

## **SECTION 13**

### **MISCELLANEOUS POLICIES**

#### **13.1 OUTSIDE EMPLOYMENT**

##### **13.1.1 POLICY**

An Employee will not engage in any employment, enterprise, or outside activity that is in conflict with his/her duties, functions, responsibilities, or the department by which s/he is employed, nor shall s/he engage in any outside activity for compensation that will directly or indirectly contribute to the lessening of his/her effectiveness as an Employee. All Employees must notify the Town Manager before engaging in any outside employment or as soon as possible thereafter.

##### **13.1.2 DETERMINATION OF INCONSISTENT ACTIVITIES**

In making a determination about the consistency or inconsistency of outside employment, the Town Manager will consider, among other pertinent factors, whether the employment is prohibited and inconsistent because of any of the following:

1. Involves the use for private gain or advantage of Town time, facilities, equipment, and supplies, or the badge, uniform, prestige, or influence of one's Town office or employment;
2. Involves receipt or acceptance by Employee of any money or other consideration from anyone other than the Town for the performance of an act which the Employee, if not performing such act, would be required or expected to render in the regular course of his/her Town employment or as a part of his/her duties as an Employee;
3. Involves the performance of an act in other than his/her capacity as an Employee which act may later be subject directly or indirectly to the control, inspection, review, audit, or enforcement by any Employee; and/or

4. Involves conditions or factors that would directly or indirectly lessen the efficiency of the Employee in his/her regular Town employment or conditions in which there is a substantial danger of injury or illness to the Employee.

### 13.1.3 APPROVAL REVOCATION

Outside employment is subject to written approval by the Town Manager or his/her designee before the Employee undertakes the outside employment and is subject to revocation at any time by the Town Manager or his/her designee.

## 13.2 CONFLICTS OF INTEREST

Certain Employees are bound by the state laws regarding conflicts of interest, including, but not limited to, Government Code section 87100 *et seq.* and Municipal Code Chapter 2.36 regarding conflicts of interest. All Employees should avoid any conflict or perceived conflict between personal or financial interests and public duties.

## 13.3 RECORDS AND REPORTS

### 13.3.1 PERSONNEL FILES

A personnel file will be maintained for each Employee. Information contained in these files includes class title, salary, changes in employment status, disciplinary actions and other pertinent employment information. Personnel files are the property of the Town, and access to the information they contain is restricted to the Town Manager or his/her designee.

The personnel files will be maintained in a secure place and monitored by the Town Manager or his/her designee, who will determine access to the files. An Employee, or the Employee's representative with written consent of the Employee, is entitled to review his/her personnel file with adequate advance notice to the Town Manager or his/her designee.

### 13.3.2 MEDICAL INFORMATION

All medical information about an Employee or applicant is kept in a separate file from the personnel file, and is treated as confidential, in accordance with applicable state and federal law.

Access to Employee or applicant medical information shall be strictly limited to only those with a legitimate need to have such information for Town business, or if access is required by law, subpoena or court order. In the case of an Employee with a disability, managers and Supervisors may be informed only of necessary restrictions on the work or duties of the Employee and necessary accommodations.

### 13.3.3 RECORDS RETENTION

Records relating to persons who were never in the employ of the Town including correspondence, applications, examinations and reports may be destroyed after three (3) years. Records of Employees may be destroyed after ten (10) years from the date of termination.

## 13.4 USE OF TOWN ELECTRONIC EQUIPMENT AND COMMUNICATIONS SYSTEMS

### 13.4.1 Definitions

1. "Electronic Communications Service" means any service which provides to users thereof the ability to transmit or receive wire or electronic communications.
2. "Employee Equipment" shall mean those electronic devices owned by an Employee, or a third-party, but reimbursed in whole, or in part, by the Town, including but not limited to, the Internet, email, voice-mail, text messages, images, cellular telephones, pagers, personal digital assistants, Smart Phone devices, computer/laptops, tablets, telecommunications devices, video and audio equipment, wireless networks, data systems telecommunications equipment, mobile data terminals, transmission devices, data processing or storage systems, computer systems, servers, networks, input/output and connecting devices, software, and documentation that supports electronic communications services.

3. "Offensive Material" includes, but is not limited to, statements or images that could reasonably offend a person on the basis of his/her age, physical or mental disability, medical condition, genetic characteristics, sex (including childbirth, pregnancy and related medical conditions), gender, gender identity, gender expression, race, color, religious creed, national origin, ancestry, sexual orientation, marital status, military and veteran status, or any other classification protected by federal, state, or local law.
4. "Town Business" means work or services provided by an Employee using Employee Equipment on behalf of the Town as part of the Employee's official work duties. An Employee's personal use of Employee Equipment that is unrelated to the Town is specifically excluded from this definition.
5. "Town Equipment" means electronic devices owned or provided by the Town, including but not limited to, the Internet, email, voice-mail, text messages, images, cellular telephones, pagers, personal digital assistants, Smart Phone devices, computer/laptops, tablets, telecommunications devices, video and audio equipment, wireless networks, data systems telecommunications equipment, mobile data terminals, transmission devices, data processing or storage systems, computer systems, servers, networks, input/output and connecting devices, software, and documentation that supports electronic communications services.

#### 13.4.2 Introduction

The Town encourages the use of Town Equipment and Employee Equipment to increase Employee productivity and improve the Town's ability to provide first-class services for the least possible cost to the taxpayer. This policy governs all Town Equipment and Employee Equipment used for Town Business. Employees and other users may be provided Town Equipment or reimbursed/provided a stipend for Employee Equipment only as authorized by the Town Manager or designee. The purpose of this policy is to regulate Employee's use of Town Equipment and Employee Equipment used for Town Business to maximize its use for Town purposes and minimize or eliminate liability.

An Employee who violates this policy is subject to disciplinary action, up to and including termination.

### 13.4.3 Restrictions

The following include some of the restrictions that apply to Employees while using any Town Equipment or Employee Equipment used for Town Business:

1. Employees shall not violate the Town's discrimination, harassment, retaliation, and conflict of interest policies. Employees shall not transmit or receive Offensive Material. For example, Employees are prohibited from displaying sexually suggestive images, downloading or disseminating sexually explicit material, or transmitting images, messages or cartoons that constitute slurs based upon an individual's race, color, national origin, ancestry, religious creed, mental or physical disability, sex (including childbirth, pregnancy and related medical conditions), gender, gender identity, gender expression, age, mental or physical disability, medical condition, genetic characteristics, marital status, sexual orientation or military and veteran status, unless an Employee is required to review such material in the course and scope of their specific job duties with prior written Supervisory approval.
2. Employees shall not seek personal financial gain or create an actual, potential or apparent conflict of interest.
3. Employees shall not infringe upon the patents, copyrights, licenses of others, or proprietary, confidential or trade secret information.
4. Employees shall not solicit or proselytize others for commercial ventures or transactions, religious or political causes, or participation in any endeavor unrelated to the Employee's normal duties, unless it is for a Town sponsored/authorized event.
5. Employees shall not intentionally deprive authorized personnel access to any Town Equipment.
6. Employees shall not transmit messages or information which is in conflict with applicable law or Town policies, rules or procedures.
7. Employees shall not attempt unauthorized access of or attempt to access unauthorized data on any Town or non-Town system.

8. Employees shall not engage in theft or the unauthorized copying and distribution of electronic files or data.
9. Employees shall not intentionally misrepresent one's identity for improper or illegal acts, nor engage in unlawful activities.
10. Employees shall not engage in recreational use of Town Equipment and Employee Equipment that interferes with the ability of the Employee or other users to conduct Town work. This includes but is not limited to downloading or uploading software, games, music, or shareware to their Town Equipment and time spent on social media websites. Employees are also prohibited from downloading and using instant messenger (IM) on Town Equipment, without prior written Supervisory approval and in accordance with assigned duties.
11. Employees shall not perform acts on Town Equipment that are wasteful of computing resources or that unfairly monopolize resources to the exclusion of others. These acts include, but are not limited to sending mass email messages or chain letters and creating unnecessary network traffic with messages unrelated to Town Business or discussions of Town working conditions.

#### 13.4.4 No Expectation of Privacy

Employees shall have no right or expectation of privacy in email, text, data, or image messages created, transmitted, received, deleted or stored using Town Equipment or Town Business conducted on Employee Equipment, including electronic communications routed by a third party communications service provider.

All communications transmitted via Town Equipment, whether or not related to personal or confidential matters, are subject to monitoring, at the Town's discretion. The Town may monitor communications transmitted via Town Equipment in the ordinary course of business for purposes that include ensuring their reliability and security. The existence of passwords and "message delete" functions do not restrict or eliminate the Town's ability or right to access electronic communications on Town Equipment.

The Town may randomly or routinely monitor or intercept electronic communications sent or received on Town Equipment and retains the

right to do so at any time and without notice to Employees. The Town also retains the right, without notice to Employees, to conduct searches of Town Equipment and related systems to ensure that they are being used in conformance with this policy.

#### 13.4.5 Software and Use of Copyrighted Materials

The integrity of Town Equipment is vital to the Town's operations. Employees may not download or install software onto Town Equipment without the express consent of their Supervisor and/or the Town Manager or designee. When in doubt, Employees must seek permission prior to taking any action that could jeopardize the integrity of Town Equipment.

Software and related documentation licensed to the Town may be protected by copyright, patent, trade secret or other forms of legal protection. Employees shall not duplicate software programs and any Employee who unlawfully duplicates software may be subject to criminal prosecution or civil damages. No Employee shall install, use, copy, alter or distribute these programs except as permitted by law and only to the extent permitted by the contract or license agreement between the Town and the owner.

Employees learning of any misuse of software must immediately notify their Supervisors. Town Equipment shall not be used to send (upload) or receive (download) copyrighted materials, trade secrets, proprietary financial information, or similar materials without prior authorization.

#### 13.4.6 Backup Copies

Employees may not keep any backup copies of work done for the Town when they separate from the Town. Employees must obtain written permission from their Supervisors to download and retain samples of their work. Downloading may occur only in the presence of the Employee's Supervisor. Employees are prohibited from keeping a copy of proprietary information, data or programs upon separation.

### 13.5 USE AND OPERATION OF TOWN-OWNED VEHICLES AND MOTORIZED EQUIPMENT

#### 13.5.1 Purpose

This Section establishes policies related to the use and operation of Town-owned vehicles and equipment, and privately owned vehicles used for Town-related business where the Employee receives either an auto allowance or reimbursement for mileage.

### 13.5.2 Definitions

13.5.2.1 “Authorized Drivers/Equipment Operators”: Those Employees who have been identified, by verification of their driving record through the Department of Motor Vehicles (“DMV”), as having:

13.5.2.2 An acceptable driving record in accordance with guidelines set forth in this policy;

1. Received approval from their Supervisor/manager to operate/drive Town-owned equipment/vehicles or their own personal vehicle for Town-related business; and
2. Met any other requirements set forth by the Town.

13.5.2.3 “Driving Misconduct” includes, but is not limited to, the following:

1. Driving while impaired or under the influence of alcohol or drugs, including prescription drugs that bear the warning that operating machinery or a motor vehicle while using this drug is unsafe;
2. Reckless driving, racing, or participating in a speed contest;
3. Failure to report an accident;
4. Vehicular homicide or manslaughter;
5. Attempting to evade a police officer; and/or
6. Driving with a suspended or revoked license.

13.5.2.4 “Town-owned Vehicles”: includes all vehicles and other motorized equipment owned by the Town used in the conduct of Town-related business.



### 13.5.3 POLICY

To ensure the Town hires qualified candidates into positions that may necessitate driving vehicles and/or operating equipment, the Town requires applicants to provide the following with their employment application:

1. Driver's license number and expiration date; and
2. Proof of insurance.

Any Employee driving/operating a Town-owned vehicle, or privately owned vehicle for Town-related business, is required to possess a valid California Driver's license.

1. Any Employee performing work that requires driving/operating Town-owned vehicles, or a privately owned vehicle for Town-related business, must notify his/her immediate Supervisor within one business day of receiving notice that his/her license is expired, suspended, restricted or revoked. An Employee who fails to report such license status and continues to drive/operate a Town-owned vehicle shall be subject to appropriate disciplinary action up to and including termination.
2. An Employee engaging in Driving Misconduct will be denied authorization to operate a Town-owned vehicle or a privately owned vehicle for official Town business.

Employees shall comply with all local and State driving laws and shall operate all vehicles and equipment used for official Town business in a safe and economical manner. Employees must always use Town-owned vehicles in a safe manner that will produce positive perceptions by the public.

1. Employees must drive at reasonable and safe speeds and must be appropriately parked in conformance with all laws and traffic regulations. Employees are responsible for any violations incurred while driving/operating a Town-owned vehicle or privately owned vehicles used for official Town business.
2. A record of three (3) or more accidents resulting in damage to a Town-owned vehicle; or three (3) or more accidents in a Town-owned vehicle, or in a personal vehicle used for Town-

related business, in a twelve (12)-month period; or Driving Misconduct; and/or misuse of Town-owned vehicles shall be cause for suspending driving/operating privileges.

3. If an Employee must operate a Town-owned vehicle or privately owned vehicle as part of his/her job requirements, suspension of driving/operating privileges may lead to appropriate disciplinary action, up to and including termination of employment, for failure to perform the job or meet the essential job functions.
4. Records of vehicle accidents, moving violations, Driving Misconduct, poor driving habits and/or misuse of Town-owned vehicles will be kept in the Employee's personnel file.

Town-owned vehicles shall be driven/operated for official use only.

No unauthorized drivers/operators will be allowed to drive/operate a Town-owned vehicle. Passengers are only allowed to be in Town-owned vehicles if they are also on official Town business. Family members are not allowed in Town-owned vehicles.

Employees and passengers are required to wear seatbelts at all times when in a Town-owned vehicle.

Smoking is prohibited in Town-owned vehicles.

Employees may be eligible to receive mileage reimbursement when using their personal vehicle for Town-related business. In order to receive reimbursement, the Employee must keep a log of miles traveled on a form supplied by the Administrative Services Manager, and submit the form to the Administrative Services Manager for processing.

#### 13.5.4 Insurance

An Employee driving his/her personal vehicle for Town-related business shall carry liability insurance, with at least the minimum limits required by the State of California, at the Employee's expense, and proof of insurance must be retained in the personal vehicle. Employees are required to provide proof of insurance each January, and may also be required to submit proof of insurance anytime upon request.

The Town will look first to an Employee's personal automobile liability insurance policy and the Employee's insurance shall be considered primary for the payment of any claims resulting from the Employee's operation of his/her personal vehicle when on Town-related business.

Unless otherwise required by law, the Town does not cover damage to an Employee's personally owned vehicle, even if the Employee is operating it for Town-related business.

An Employee injured in an automobile accident while in the course of employment, whether operating a Town-owned vehicle or a privately owned vehicle, may be covered by the Town's Workers' Compensation Program. Therefore, the Employee should report an automobile accident as soon as practical to the Town Manager or his/her designee.

#### 13.5.5 Cellular Phone, Computer, Navigational Devices and Two-Way Radio Use

All Employees must adhere to federal, state, and local rules and regulations regarding the use of cell phones and wireless devices while driving.

Employees must also adhere to the Town's Wireless Device Use Policies and Guidelines which Employees shall sign and acknowledge at the onset of employment.

#### 13.5.6 Collision Investigation Involving Town Employees, Vehicles and/or Equipment

If involved in a collision or incident causing vehicle/equipment damage, property or bodily injury, an Employee driving/operating any Town-owned vehicle or privately owned vehicle which is being used for Town-related business, shall follow these procedures:

1. If possible, request that all parties concerned remain at the scene of the accident until a law enforcement representative has released them.
2. Contact the appropriate law enforcement agency for the investigation:
  - If occurring within San Mateo County, contact the San Mateo County Sheriff's Office.

- If occurring outside San Mateo County, contact the law enforcement agency having jurisdiction by dialing 9-1-1.
3. Refrain from making statements regarding the accident with anyone other than the investigating law enforcement representative, Town officials, and/or representatives of your insurance company, including when your privately owned vehicle is involved. Confine statements to factual observations.
  4. If you are able to do so, complete the information requested in the ABAG Vehicle Accident kit found in the glove box of the Town-owned vehicle. Forward this information to the Town Manager as soon as practical.
  5. If possible, take photos of the accident scene to record vehicle and property damage or other pertinent information.
  6. If you are injured, report your injury to the Town Manager or his/her designee and complete appropriate paperwork for an on-the-job injury.

### 13.6 FRAGRANCE-FREE WORKPLACE

A fragrance-free environment helps create a safe and healthy workplace. Fragrances from personal care products, air fresheners, candles, potpourri, and other similar scented items have been associated with adversely affecting a person's health including headaches, upper respiratory symptoms, shortness of breath, and difficulty with concentration.

The Town recognizes the hazards caused by exposure to scented products and has a policy to provide a fragrance-free environment for all employees and visitors. Employees who fail to abide by this policy may be subject to discipline.

### 13.7 EMPLOYEE DRESS CODE

Employees of the Town are required to dress appropriately and professionally for the jobs they are performing.

Uniforms and safety equipment must be worn where applicable.

Footwear must be appropriate for the work environment and functions being performed.

## 13.8 NEPOTISM POLICY

- 13.8.1 No person will be appointed or promoted to a position in any department in which the person's relative already holds a position, when the employment would result in a Supervisor-subordinate relationship.
- 13.8.2 For purposes of this section, "relative" means spouse, registered domestic partner, child, step-child, parent, parent-in-law, grandparent, grandchild, sibling, half-sibling, sibling-in-law, aunt, uncle, niece, or nephew.
- 13.8.3 If an Employee marries or files a Declaration of Domestic Partnership with another Employee, both Employees will be allowed to retain their respective positions provided that a Supervisory relationship does not exist at the time of marriage/domestic partnership between these two positions. During the period of employment, no Supervisory position will exist between the two Employees. For the purpose of this section, a Supervisory relationship is defined as one in which one person exercises the right to control, direct, reward or discipline another person by virtue of the duties and responsibilities assigned to his/her position.
- 13.8.4 The Town also retains the right to refuse to hire spouses or domestic partners, or to place both spouses or domestic partners in the same department, division, or facility if the hiring or placement would have an adverse impact on supervision, safety, security or morale or involves potential conflicts of interest.
- 13.8.5 When spouses or domestic partners are in a prohibited Supervisory relationship, an attempt will be made to transfer one spouse/domestic partner to a similar classified position in another Town department. Although the wishes of the involved parties as to which spouse/domestic partner is to be transferred will be given consideration, the controlling factor in determining which spouse/domestic partner is to be transferred will be the positive operation and efficiency of the Town. If any transfer results in a reduction in salary or compensation, it will not be considered disciplinary in nature and will not be the subject of any administrative appeal.
- 13.8.6 If continuing employment of spouses or domestic partners cannot be accommodated consistent with the Town's interest in promotion of

safety, security, morale and efficiency, then the Town retains sole discretion to terminate the employment of one spouse/domestic partner. This will not be considered disciplinary in nature and will not be subject to any administrative appeal.

## 13.9 POLICY PROHIBITING THE USE OF DRUGS AND ALCOHOL

### 13.9.1 PURPOSE

The intent of this policy is to eliminate substance abuse and its effects in the workplace.

This policy provides guidelines for the detection and deterrence of alcohol and drug abuse. It also outlines the responsibilities of managers, Supervisors and Employees.

The objectives of this policy are to: (a) eliminate any use of alcohol or drugs which could impair an Employee's ability to safely and effectively perform the functions of their job; (b) encourage Employees who think they may have an alcohol or drug usage problem to voluntarily seek confidential assistance; and (c) emphasize training and rehabilitation. However, even with the emphasis on rehabilitation, it must be understood that for those who demonstrate problems in job performance or for those who are involved with or under the influence of drugs or alcohol on the job, disciplinary action will be taken.

The term "drug" or "drugs" when used in this policy means any controlled substance that is not legally obtainable under State or Federal law, a prescription drug obtained or used without benefit of a valid prescription by a medical provider licensed to prescribe medications, and marijuana even if prescribed by a medical provider licensed to prescribe medications.

### 13.9.2 SCOPE

This policy applies to all Employees when working for or officially representing the Town.

This policy applies to alcohol and drugs which could impair an Employee's ability to effectively and safely perform the functions of his/her job.

### 13.9.3 POLICY

It is the Town's policy that Employees will not use or be under the influence of alcohol or drugs, or possess alcohol or drugs at any work site or Town property, while on duty, breaks or meal periods.

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.

Employees are urged to seek voluntary confidential assistance if they believe they may have an alcohol or drug use problem. Information about the Town's Employee Assistance Program is available at <http://www.calhr.ca.gov/employees/pages/eap.aspx>.

- 13.9.4 The manufacture, distribution, dispensation, possession, or use of alcohol or drugs is prohibited in both Town workplaces and wherever Town business is performed.

13.9.5 EMPLOYEE RESPONSIBILITIES

1. It is the Employee's responsibility to demonstrate satisfactory job performance and follow the Town's drug and alcohol-free workplace policy.
2. Employees will report to work with the ability to perform job duties not impaired due to on or off duty alcohol or drug use.
3. Employees are responsible for the personal implementation of this policy to facilitate safe and effective job performance.
4. Employees will not possess or use alcohol or drugs during working hours or while subject to duty. This includes breaks and meal periods.
5. Prescription and over-the-counter medications are not prohibited when taken in standard dosage and/or according to a valid prescription by a medical provider licensed to prescribe medications. However, an Employee taking prescribed or over-the-counter medications is responsible for consulting the prescribing health care provider and/or pharmacist to ascertain whether the medication may interfere with the ability to safely and effectively

perform the Employee's job. If the use of a medication would compromise the safety of the Employee, fellow Employees, or the public, or interfere with the effective performance of duties, it is the Employee's responsibility to notify his/her Supervisor before beginning work.

6. An Employee may be required to submit to a fitness for duty examination where there is a reasonable and objective belief that an Employee may be impaired by prescription or over-the-counter medications. The examination will be limited to determining whether the Employee can safely and effectively perform the functions of the job with or without accommodation. Such examinations will be conducted in compliance with State and Federal law.
7. An Employee will not directly or indirectly through a third party manufacture, sell, distribute, dispense, or provide drugs to any person, including any Employee, at Town workplaces or where Town business is performed; or manufacture, sell, distribute, dispense or provide alcohol to any Employee while either or both are on duty;
8. An Employee will notify the Town Manager of any criminal conviction for a drug violation that occurred in the workplace within no more than five (5) days after such conviction;
9. An Employee will notify the Supervisor immediately of facts or reasonable suspicions when s/he observes behavior or other evidence that a fellow Employee poses a risk to the health and safety of the Employee or others due to the use of alcohol or drugs.

#### 13.9.6 MANAGEMENT RESPONSIBILITIES AND GUIDELINES

1. Managers and Supervisors should notify the Town Manager or his/her designee when they have reasonable suspicion to believe that an Employee may be under the influence of drugs or alcohol, or have drugs in his/her possession.
2. Employees reasonably believed to be under the influence of alcohol or drugs will be prevented from engaging in further work, and may be sent for drug or alcohol testing if two (2) Supervisory Employees document their observations and the facts that lead them to believe that the Employee is under the influence of alcohol or drugs. The



reasonable suspicion factors are listed below, and must be documented in writing prior to sending any Employee for drug or alcohol testing. A Supervisor can require a medical certification of fitness for duty, before allowing the Employee to return to work.

Reasonable suspicion factors include:

1. Presence or possession of alcohol, alcohol containers, drugs or drug paraphernalia;
2. Appearance, including: flushed, disheveled, bloodshot or glassy eyes, tremors, profuse sweating, dilated or constricted pupils, inappropriate wearing of sunglasses, dry mouth symptoms, runny nose, sores, smell of alcohol, puncture marks;
3. Behavior or speech, including: incoherent, slurred, unconscious, confused, slowed, hostile or confrontational, agitated, sleeping on the job;
4. Awareness, including: confused, mood swings, lethargic, paranoid, lack of coordination, euphoric, disoriented;
5. Motor skills/balance, including: unsteady, swaying, falling, staggering, stumbling, reaching for support, arms raised for balance.
6. Notify the state or federal granting agency which has funded the work or program, if any, of any criminal drug statute convictions for a violation that occurred at a site where work is/was being done with a specific grant or contract;
7. Take appropriate disciplinary action for any criminal drug statute conviction that has a nexus to the Employee's employment, or require that the convicted Employee participate satisfactorily in a drug abuse assistance or rehabilitation program as a condition of returning to duty;
8. Take appropriate disciplinary action for any violation of this policy consistent with existing discipline procedures;
9. Enforce this policy; and
10. Report any suspected violation of this policy to the Town Manager.

### 13.9.7 DISCIPLINARY ACTION

Compliance with this policy is a condition of Town employment. Disciplinary action will be taken against those who violate this policy. Even first-time violations of this policy may be grounds for disciplinary action up to and including termination. In addition, the Town may, but is not required to, refer Employees to counseling and treatment in lieu of disciplinary action.

### 13.10 NON-SMOKING POLICY

Smoking is prohibited in all Town facilities and vehicles.

### 13.11 GIFTS AND GRATUITIES

Employees should not solicit or accept gifts from a private source. However, nominal gifts of minimal value that are consumable and/or shareable, such as snacks and floral gifts, are acceptable if made available to the entire Town staff.

### 13.12 VIOLENCE PREVENTION POLICY

#### 13.12.1 POLICY

The Town 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 may lead to criminal prosecution, and/or disciplinary action, up to and including termination.

#### 13.12.2 PROHIBITED BEHAVIOR

Employees are prohibited from engaging in 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 or using weapons, unless authorized by the Town Manager.

#### 13.12.3 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. Examples of Workplace Violence include, but are not limited to, the following:

1. Threats or acts of physical harm directed toward an individual or his/her family, friends, associates, or property.
2. The destruction of or threat of destruction of Town property or another Employee’s property.
3. Harassing or threatening phone calls.
4. Surveillance.
5. Stalking, including cyber stalking.
6. Possession of offensive or defensive weapons (e.g., illegal knives, clubs, mace, pepper spray, tear gas) unless specifically required or authorized and approved by the Town Manager. Weapons are defined as 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.

#### 13.12.4 INCIDENT REPORTING PROCEDURES

1. Employees must immediately report Workplace Violence to their Supervisor. The Supervisor will report the matter to the Town Manager.
2. The Town Manager or his/her designee 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.
3. 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; and/or
- c. Immediately contacting an appropriate law enforcement agency.

#### 13.12.5 INVESTIGATION

The Town Manager will ensure that reported violations of this policy are investigated as necessary.

#### 13.12.6 MANAGEMENT RESPONSIBILITY

Each Manager and Supervisor has authority to enforce this policy by:

1. Assuring that reports of Workplace Violence are documented accurately and timely;
2. Notifying the Town Manager and/or law enforcement authorities of any incidents;
3. Making all reasonable efforts to maintain a safe and secure workplace; and
4. Maintaining records and follow up actions as to Workplace Violence reports.

#### 13.12.7 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. In addition, Employees found in violation of this policy may be subject to criminal prosecution.

#### 13.13 LACTATION ACCOMMODATION

The Town will provide a reasonable amount of break time to an Employee wishing to express breast milk for her infant child. This break time will, if possible, run concurrently with break time already provided to the Employee. If this break time occurs outside of an Employee's normal break time, it will be unpaid.

The Town will make reasonable efforts to provide the Employee with the use of a room or other location, other than a bathroom, in close proximity to the Employee's work area for the Employee to express breast milk in private. The location may be the place where the Employee normally works, if that area can be made

reasonably private. The Town is not required to provide break time on any given occasion if the break would seriously disrupt Town operations.