



Town of Moraga

Personnel Rules, Regulations and Procedures

Effective July 10, 2013
(Revised: March 11, 2015)

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Revision Control

Date	Section	Revision Description
July 10, 2013		Adopted by Resolution 59-2013.
March 11, 2015	Various sections affecting paid sick leave for Temporary Employees	Application of AB 1522 – Paid Sick Leave Law for Temporary Employees, effective July 1, 2015

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1. PERSONNEL SYSTEM

1.1 Personnel System – Established

As approved by Town of Moraga Council Resolution 59-2013, these Personnel Rules and Regulations (“Rules”) establish the personnel system in accordance with California Government Code Section 45000.

1.1.1 Pursuant to Resolution 59-2013, the Town Manager is authorized to amend these Rules periodically as needed, after complying with the Town’s obligations under Government Code Section 3500-3511, the Meyers-Milias Brown Act and Council-adopted resolutions.

1.2 Acceptance of Employment

In accepting employment with the Town of Moraga (“Town”), each employee agrees to be governed by and to comply with all Town ordinances, these Rules, Town Council and Town Manager established policies, the rules, regulations and directives of the Town department in which the employee is employed, the Employer-Employee Organization Relations Resolution, any applicable memorandum of understanding, and such other official rules, policies and procedures of the Town applicable to the employee.

1.3 Equal Opportunity Employer

The Town is committed to equal employment opportunities. It is the policy of the Town to ensure that the application of these Rules and the recruitment, employment, training, advancement, layoff, compensation, termination, and all other personnel actions for all positions, classifications, and individual employees are made on the basis of qualifications and performance without regard to race, color, religious creed, sex, pregnancy, gender, gender identity, gender expression, national origin, sexual orientation, age, physical disability, mental disability, medical condition, genetic information, marital status, ancestry, or any other basis prohibited by federal or state law.

1.4 Application of Personnel Rules

These Rules shall apply to all employees in the Town service, except for the following:

- A. Elected officials;
- B. Members of appointed boards, commissions, and committees;
- C. The Town Manager and department directors;
- D. Persons engaged under contract to render professional, scientific, technical or expert services for a specified period of time;

- E. Volunteer personnel who receive no regular compensation from the Town, including volunteer (reserve) police officers;
- F. Limited Service (temporary employees);
- G. Where a particular Rule expressly states it does not apply to certain employees and/or positions, or applies only to certain employees and/or positions.

1.5 Personnel Officer

The Town Manager or designee shall perform the duties of the Personnel Officer for the Town of Moraga and shall have the responsibility of administering the personnel system and rules. The Personnel Officer shall interpret, apply, and administer these rules.

1.6 Conflict of Personnel Rules

In the event that one or more provisions of these Rules contradicts provisions included in any memorandum of understanding adopted by the Town Council and currently in effect between the Town and a formally recognized employee organization, the terms of the memorandum of understanding shall prevail. If there is a conflict between these Rules and a Town Council resolution establishing the compensation package and other terms and conditions of employment, the resolution shall prevail. If there is a conflict between these Rules and the Municipal Code, the Municipal Code shall prevail. If there is a conflict between these Rules and a Council/Manager policy, these Rules shall prevail. If there is a conflict between these Rules, a memorandum of understanding or Council/Manager policy and a state or federal law, including but not limited to the Public Safety Officers Procedural Bill of Rights, then that state or federal law shall prevail.

The provisions of this Rule 1.6 apply to all of these Rules, notwithstanding that for emphasis or clarity, some, but not all, affected Rules repeat specific conflict provisions.

1.7 Rights of Management

The adoption of these Rules shall not be deemed a waiver or surrender of any management prerogative.

1.8 Distribution of the Rules

A copy of these Rules will be distributed to all current and new employees. Employees are expected to read the Rules upon receipt and conduct themselves according to these Rules.

1.9 Violation of the Rules

Each employee is responsible for knowing and complying with these Rules and any Rules amendments. Violation of these Rules shall be grounds for disciplinary action, up to and including, termination.

2. DEFINITION OF TERMS

The following terms, whenever used in these Rules unless otherwise specified, shall be defined as follows:

2.1 Applicant

A person who has filed an application for employment with the Town.

2.2 At Will Employment

Employment with no specified term that may be terminated at the will of either the employee or the Town on notice to the other. At will employees have no property interest in their employment, may be terminated with or without cause, and have no appeal rights.

2.3 Authorized Position

A position that is budgeted and approved through Town Council action.

2.4 Benefits

Benefits mean compensation in addition to the base hourly rate of pay including but not limited to leave accruals, medical, dental, and retirement plans.

2.5 Classified Service

A position in the Town Service, excluding a probationary or provisional appointment, to which an employee has a property interest. The Classified Service is composed of all regular full-time and part-time positions in the Town service, except the positions listed in Rule 1.4. Employees in the Classified Service are covered by these Rules.

2.6 Employee

A person who performs services for the Town in the Classified, Limited, or Unclassified Service.

2.7 Exempt Employee

An employee who meets the qualifications for exemption from overtime requirements of the Fair Labor Standards Act (FLSA).

2.8 Immediate Family

The immediate family of an employee includes the employee's spouse, domestic partner, child, parent, siblings, mother/father-in-law, brother/sister-in-law, grandparent, domestic partner's child, parent, and siblings, or anyone who has acted in the capacity of an "immediately family member."

2.9 Limited Service

A position in the Town Service that is not an on-going assignment and which has a specific term or seasonal purpose. An employee is appointed to the Limited Service on a temporary basis. Limited Service may include, but is not limited to, hourly, temporary, limited service part-time, intermittent, student, intern, emergency, seasonal, provisional appointments and some contract service. Persons in Limited Service positions serve “at-will,” have no property interest in their employment with the Town, are subject to termination with or without cause, and have no appeal rights.

2.10 Non-sworn Employee

A person who is appointed to a position that is not of the public safety sworn ranks. A person who is not a sworn police officer.

2.11 Personnel File

A personnel file is the Town’s saved documentation of the history and status of the entire employment relationship with an individual employee. The Administrative Services Department maintains a permanent personnel file for each Town employee.

2.12 Probationary Period

A fixed period of time during which an employee is required to demonstrate, by actual performance of duties, his or her fitness for the position to which he or she has been appointed or promoted. During the probationary period the employee may be separated from Town employment with or without cause or right of appeal. During the promotional probationary period the employee may be demoted with or without cause or right of appeal.

2.13 Provisional Appointment

An appointment of a person to a vacant position on a short-term basis when there is an immediate need to fulfill certain duties and responsibilities prior to the completion of a formal recruitment. Provisional employees are temporary, “at-will” and part of the Limited Service. A provisional appointment is limited in duration to the period of time it takes to make a regular and/or probationary appointment.

2.14 Regular Full-time Employee

A person appointed to an authorized and budgeted position who is scheduled to work a minimum of 40 hours per week or other comparable full-time work schedule and who has successfully completed the probationary period.

2.15 Regular Part-time Employee

A person appointed to an authorized and budgeted position who is scheduled to work at least 40 but less than 80 hours in a two-week period, or at least 1,000

hours but less than 2,080 hours per year in a job-share or continued part-time work schedule and who has successfully completed the probationary period.

Regular part-time employees are entitled to a pro-rated amount of accrued vacation, sick and holiday leave, based on the number of hours regularly assigned.

2.16 Seniority

Seniority is the time accrued in regular full-time and regular part-time service. Length of service for regular part-time employment is calculated on a pro-rated basis. Employment in a probationary status is included in the calculation if the employee has completed the probationary period. Employment in a Limited Service position does not count in calculating seniority.

Seniority in class is defined as the employee's time accrued in a classification within the Town service.

2.17 Sworn Employee

A person who is appointed to a position in the public safety sworn ranks. A person who is a sworn police officer.

2.18 Temporary Employee

An employee who is appointed to the Limited Service for a period no longer than 1,000 hours per fiscal year. A temporary employee receives an hourly rate of pay only, with no benefits. Temporary employees working 30 days or more within one year are eligible for paid sick leave.

2.19 Unclassified Service

A position in the Town Service that is not part of the Classified Service and in which there is no property interest. The Unclassified Service includes all employment positions listed in Rule 1.4. Employees serving in the Unclassified Service do so in an "at-will" status. Employees in the Unclassified Service are not covered by these Rules, except as specifically noted.

2.20 "9/80" Work Schedule

A compressed workweek comprised of a work schedule which allows employees to work 80 straight time hours per pay period over a nine day period. For employees on a 9/80 work schedule, the workweek for purposes of weekly overtime shall commence and end at the midpoint of their regular work schedule on the employee's eight (8) hour workday.

3. RECRUITMENT AND EXAMINATION

3.1 Recruitment

For any vacancy that occurs and that the Town determines to fill, it is the policy of the Town to hire the most qualified and superior persons, while assuring compliance with appropriate governmental laws and regulations, including these Rules. The Town Manager, the Administrative Services Director and the affected Department Director will work cooperatively and closely together on any recruitment.

3.2 Job Announcements

For any vacant position the Town determines to fill, the Administrative Services Department shall prepare an official job announcement that contains a statement that the Town is an equal opportunity employer and information relevant to the position, including whether the examination is open to the general public, an internal recruitment only, and whether the recruitment will close on a date certain, remain open until filled, or remain continuously open. The continuously open recruitments will be closed at the agreement between the Administrative Services Director and the affected department director. Job announcements shall be posted on appropriate physical bulletin boards at the Town offices and on the Town's website.

If an open recruitment will be undertaken, the announcement shall be posted in a conspicuous place in the Town offices and otherwise publicized by advertisement and/or mailing of announcements or by such other methods as the Personnel Officer deems necessary to insure that all reasonable segments of the labor market available to the Town are contacted.

3.3 Internal and External Recruitments

The Town may restrict applications for vacant positions to only current Town employees or open recruitment both internally and externally to all applicants. All Town employees will be notified of all vacant positions by posting and/or electronic means. The Town reserves the right to conduct an open or internal recruitment to fill a vacancy, or to fill the vacancy by promotion or transfer of an employee.

3.4 Applications

All parties interested in employment with the Town of Moraga shall file an application with the Administrative Services Department on an official application form.

3.5 Legal Work Status Requirement

Employment is open to qualified individuals who may legally work in the United States. All employees shall successfully complete a federal I-9 Employment Eligibility Verification form.

3.6 Examinations

3.6.1 Types of Examination

Examinations for employment in the Classified Service shall be competitive and shall include any technique, which in the opinion of the Personnel Officer, fairly measures the job-related qualifications of applicants. Examinations may include written, oral, manual tests, physical agility tests, post-offer medical examinations as permitted by law, and background investigations.

3.6.2 Administration of Examinations

The Personnel Officer, shall construct, develop, and administer all examinations for Town employment except that the Town may contract with any qualified agency, organization, or individual to develop and administer examinations provided that the procedures utilized meet the specifications of Rule 1.3.

3.7 Fitness for Duty Examination and Background Investigation

The Town requires that all applicants and employees be physically and psychologically able to perform the essential duties of their jobs with or without reasonable accommodation, and the Town may require that employees undergo periodic fitness for duty evaluations at Town expense to establish this fact.

A job offer may be conditional on the results of a post-offer medical exam that may or may not include a drug test, if all entering employees in the same job classification are required to take a medical examination.

A job offer may be conditional on the results of a post-offer background investigation, if all entering employees in the same job classification are required to have a background investigation.

3.8 Notification to Applicants

Each applicant shall be given written notice of the results with regard to the applicant's continued participation in the process. Notification will be sent to the applicant's address listed on the job application.

An applicant may receive, if requested, general feedback on the applicant's performance in the process from the Personnel Officer, Administrative Services Director or Department Director, but the actual selection material such as oral panel interview questions may not be reviewed for test security reasons.

4. CLASSIFICATIONS

4.1 Classification Plan

All regular positions of the Classified Service shall be classified within a position classification plan, which is maintained and operated by the Personnel Officer.

The purpose of the classification plan is to group all positions in the Town service into standard classes, compensated on a uniform basis. Each classification shall include those positions similar in duties and responsibilities. Any variations in pay must be based on significant differences in responsibilities and required knowledge, skills, and abilities. The plan provides a continuous inventory of all positions in the Town service.

4.2 Preparation of the Plan

The Personnel Officer shall be responsible for the preparation and maintenance of class specifications or job descriptions for all positions. The job descriptions shall include, but not be limited to, a list of typical duties and a statement of the minimum qualifications required for appointment.

4.3 Creation of New Positions

No person shall be appointed or employed to fill any position in the Town service until the position is included in the classification plan.

4.4 Reclassification of Positions

When the duties of a position or the hours required to complete the duties of a position have substantially and consistently changed, the Department Director may request the reclassification of the position to a more appropriate classification. The request shall be made in writing to the Personnel Officer, and shall include the reasons for the reclassification request. Based on the merits of the request, the Personnel Officer may reclassify the position. The Personnel Officer may also initiate a position's reclassification.

4.5 Types of Positions

4.5.1 Classified Service

The Classified Service is comprised of all regular full-time and part-time positions in the Town service, except the Town Manager, all department directors, Limited Service employees, volunteers, and contractors. Employees in the Classified Service are covered by these Rules, except as specifically excluded.

4.5.2 Unclassified Service

The Unclassified Service is comprised of positions in the Town Service that are not part of the Classified Service and in which there is no property interest. The Unclassified Service includes the positions of Town Manager, all department directors, volunteers, Limited Service employees, and contractors. Employees serving in the Unclassified Service do so in an “at-will” status. These positions are not covered by these Rules, except as specifically provided.

4.5.3 Limited Service

Limited Service positions include, but are not limited to, hourly, temporary, limited service part-time, intermittent, student, intern, emergency, seasonal, and some contract provisions. Limited Service positions are not part of the Classified Service. Persons in Limited Service positions serve “at-will.”

4.6 Use of Working Titles

Every position has an official classification title that is used for all personnel and administrative purposes within the Town systems. A Department Director, however, may authorize the use of a working title for the purposes of providing clearer, more effective customer service.

5. SELECTION AND APPOINTMENT

5.1 Appointment

Personnel Officer approval is required for all appointments. The Personnel Officer shall issue and sign a letter of hire to new or newly-appointed employees confirming appointment and outlining hiring conditions and compensation.

5.2 Types of Appointments

5.2.1 Probationary Employee

A probationary employee is a person who, through the examination process, is appointed to a position in the Classified Service but who has not completed the probationary period. A probationary employee occupies an authorized position. A probationary employee has no property interest in the position until the employee has successfully completed the probationary period. A probationary employee may be dismissed from Town employment with or without cause and has no right to appeal.

5.2.2 Regular Employee

A regular employee is a person who is appointed to a position in the Classified Service and who has successfully completed the probationary period. A regular employee occupies an authorized position.

Regular employees may be appointed full-time or part-time.

5.2.2.1 Regular Full-time Employee

A regular full-time employee is a person appointed to the Classified Service who is scheduled to work a minimum of 40 hours per week or other comparable full-time work schedule and who has successfully completed the probationary period.

5.2.2.2 Regular Part-time Employee

A regular part-time employee is a person appointed to the Classified Service who is scheduled to work at least 40 but less than 80 hours in a two-week period, or at least 1,000 hours but less than 2,080 hours per year in a job-share or continued part-time work schedule and who has successfully completed the probationary period.

5.2.3 Temporary Employee

A temporary employee is a person who is appointed to a Limited Service position defined as temporary, limited service part-time, intermittent, student, intern, emergency, seasonal, and some contract provisions. A temporary employee shall work for the Town for a period no longer than 1,000 hours per fiscal year.

A temporary employee receives an hourly rate of pay and is not eligible for benefits described in Rules 9 and 10, unless otherwise stated. With the passage of AB 1522 – Healthy Workplaces/Healthy Families Act of 2014, temporary employees who work 30 or more days within 12 months from the beginning of employment are entitled to paid sick leave, effective July 1, 2015.

Temporary employees are not part of the Classified Service. Temporary employees serve “at-will.”

5.2.4 Provisional Employee

A provisional employee is a person who is appointed to a position in the Classified Service on a provisional basis until a probationary or regular appointment is made. Provisional employees serve “at-will.”

All vacancies in the Classified Service shall be filled from applicants or by a promotion of a current Town employee. In the absence of an appropriate applicant, a provisional appointment may be made. A provisional appointment may also be made during the period of suspension of an employee, or pending final action on proceedings to review suspension, demotion or discharge of an employee. Provisional appointments may also be made under other circumstances deemed for the good of the Town service by the Personnel Officer.

A provisional employee must meet the minimum qualifications for the position to which the individual is being provisionally appointed. A provisional employee may participate in any examination process and attempt to be selected to the position consistent with these Rules. If the provisionally appointed person is ultimately selected for appointment to the position, the time served as a provisional appointee shall be counted as time toward the fulfillment of the required probationary period. If the provisionally appointed person is not ultimately appointed to the regular position and was already a Town employee at the time of the provisional appointment, the individual’s former employment status will remain unchanged if approved by the Town Manager and only if the former position is still authorized and vacant.

5.3 Promotion

The appointment of any employee to a position, other than special assignment, in a classification which has a higher maximum rate of pay than the employee’s present position constitutes a promotion. In all cases, a promotion will be at the recommendation of the Department Director and upon approval of the Town Manager, with confirmation that the position to which the employee is to be promoted is an authorized position.

The promoted employee’s new anniversary date for purposes of salary step advances within the pay range of the higher classification shall be the effective date of the promotion. Unless extended or otherwise stated, an employee who

has been promoted to a position in the Classified Service must successfully complete a six (6) month probationary period in the new position in order to attain regular employment status in the new position as set forth in these Rules, unless otherwise stated in applicable memorandum of understanding or provided by law.

5.4 Transfer

A transfer is the appointment of an employee from one position to another in the same classification within a department and/or from one department to another. A transfer is also the appointment of an employee from one classification to another which is similar in duties and responsibilities and has the same maximum salary range to that of the classification held prior to the transfer within a department and/or from one department to another. A transfer shall be approved by the Town Manager.

Regular employees who are transferred from one position to another position shall not be required to serve a probationary period. Probationary employees who are transferred from one position to another shall continue to serve their probationary period in the new position.

5.5 Demotion

A demotion is the appointment of an employee to a classification having a lower maximum rate of pay to that of the classification held prior to the demotion. An employee may be demoted at the employee's request, as a result of a reduction-in-force, for disciplinary reasons, or for other reasons. Before a non-disciplinary demotion is considered effective, the action requires approval of the Town Manager. Disciplinary demotions shall be imposed pursuant to these Rules and/or applicable memorandum of understanding. For a disciplinary demotion, a new anniversary date shall be established as of the effective date of the demotion. For a non-disciplinary demotion, the employee's previous anniversary data shall be retained. If the demotion involves an employee with regular status in the Classified Service at the time of demotion, then the demoted employee shall assume regular status in the classification to which the employee is demoted.

5.6 Reinstatement

A reinstatement is the return of a regular employee to a vacant position in the Classified Service, without examination, who either resigned in good standing not more than twenty-four (24) months previously, was demoted for non-disciplinary reasons not more than twelve (12) months previously, or was laid off due to a reduction-in-force not more than twelve (12) months previously.

An employee who is reinstated to the same classification the employee previously held shall not serve a probationary period. An employee who is reinstated to a different classification shall serve a probationary period as set forth in these Rules as an initial appointment.

A reinstated employee shall have the following benefits restored:

- A. Accrued but unused sick leave.
- B. Seniority at the time of layoff for vacation accrual and department purposes as defined within department operating procedures (e.g., work schedule preferences, vacation scheduling preferences).

6. EVALUATION OF PERFORMANCE

6.1 Probationary Period

The probationary period is an extension of the examination process. It is the time when the newly appointed employee and the Town get to know each other and better determine the employee's ability to satisfactorily perform the essential job duties and to work with Town customers and other employees. All appointments to the Classified Service have a probationary period. Satisfactory completion of the probationary period is required to continue employment with the Town. At any point during the probationary period, the Town may terminate a probationary employee's employment.

6.1.1 Initial Appointments

Any person appointed to a position in the Classified Service shall complete a probationary period of twelve (12) months of continuous service, or eighteen (18) months of continuous service if appointed as a Police Officer, unless otherwise specified in an applicable memorandum of understanding.

Any initial probationary period may be extended one (1) or more times with the approval of the Town Manager, for a total probationary period extension not to exceed an additional six (6) months, at the Department Director's discretion, unless otherwise provided in an applicable memorandum of understanding.

Any initial probationary period for the position of Police Officer may be extended one (1) or more times with the approval of the Town Manager, for a total probationary period extension not to exceed an additional twelve (12) months, at the Department Director's discretion, unless otherwise provided in an applicable memorandum of understanding.

6.1.2 Promotions

The probationary period for all promoted non-sworn employees in the Classified Service shall be six (6) months of continuous service in the employee's new position.

The probationary period for all promoted sworn employees in the Classified Service shall be twelve (12) months of continuous service in the employee's new position.

Any promotional probationary period may be extended one (1) or more times with the approval of the Town Manager, for a total probationary period extension not to exceed an additional six (6) months, at the Department Director's discretion.

6.1.3 Transfers

Regular employees who are transferred from one position to another position which is similar in duties and responsibilities and the same maximum salary

range to that of the classification held prior to the transfer within a department and/or from one department to another will not serve a probationary period in the new position.

Probationary employees who are transferred from one position to another in the Classified Service shall continue to serve their probationary period in the new position.

6.1.4 Calculation

A probationary period shall date from the time of appointment to the authorized position in the Classified Service. Leaves of absence for a period exceeding thirty (30) days, consecutive or not, shall automatically extend the probationary period by the number of days the employee is on leave.

6.1.5 Rejection of Probationer

During either the initial or promotional probationary period, an employee may be released from employment, or disciplined, by the Department Director or Town Manager with or without cause, at any time, without any right of appeal.

6.2 Probationary Employee Performance Evaluation

Performance evaluations for initial probationary employees are usually conducted at a minimum after five (5) and eleven (11) months of service. Additionally, initial probationary sworn employees are usually evaluated again, at minimum, after seventeen (17) months of service.

Performance evaluations for promoted probationary employees are usually conducted at a minimum after five (5) months of service in the promoted position. Additionally, promoted probationary sworn employees are usually evaluated again, at minimum, after eleven (11) months of service in the promoted position.

The Town's failure to conduct performance evaluations for any initial or promoted probationary employee shall not confer regular status on the employee.

6.3 Regular Employee Performance Evaluation

The Town believes in the importance of providing employees with regular feedback on performance, including an annual performance evaluation. The annual performance evaluation is an opportunity to give and receive feedback, as well as to establish personal development and goals for the upcoming year.

The purpose of systematic discussions and reports of employee performance is to give guidance to ensure that established measures of job performance have been attained. Employee performance is measured against the standard performance requirements of the job. The objective of these performance evaluations is to improve productivity and excellence in Town services by establishing a regular and continuous dialogue between the employee and the supervisor.

A performance evaluation for each regular employee shall be made annually by the immediate supervisor or Department Director, as close as practical to the anniversary date of appointment to a position. Additional employee performance evaluations may be completed at any time deemed necessary by the Department Director or Personnel Officer.

6.3.1 Procedures and Forms

The Town Manager shall at his/her sole discretion establish and provide forms and procedures to be used for employee evaluations and shall assist in the training of supervisory personnel so that the program of performance evaluation will be carried out in a sound and effective manner.

6.3.2 Authority to Conduct Performance Evaluations

Department Directors shall have the authority to conduct performance evaluations. However, this task may be delegated to subordinate supervisors who are familiar with the work of the employee to be evaluated. The Department Director shall review and approve, disapprove, or modify all performance evaluations prepared by subordinate personnel.

6.3.3 Review with Employee

The Town believes that a good performance evaluation system can bring together the employee and the employee's supervisor in a constructive discussion of the employee's work performance and issues related to work performance. Therefore, each performance evaluation shall be thoroughly discussed with the employee to point out areas of successful performance and areas that need improvement. The employee shall also be encouraged to comment regarding the employee's work performance, either orally or in a written statement attached to the report.

An employee may provide a written statement to be attached to the performance review; the written statement must be submitted within 30 days of the date the review is received by the employee.

Following the evaluation conference, the evaluation document should be signed by the employee to acknowledge that the employee is aware of its contents and has discussed the evaluation with the evaluator. The employee's signature does not necessarily mean concurrence with the evaluation but only that the employee has reviewed and discussed the contents of the report. If the employee declines to sign the evaluation document, the evaluator will note on the evaluation that the evaluator discussed the evaluation with the employee, and the employee declined to sign it.

6.3.4 Appeal of Performance Evaluations

Employees may appeal their performance evaluations to the Town Manager. The Town Manager's decision regarding the appeal shall be final and is not further appealable.

6.3.5 Distribution of Reports

The completed performance evaluation shall be signed by the Town Manager and filed in the employee's personnel file. The Town Manager shall provide each employee with a copy of the evaluation form.

6.4 Non-Regular Employee Performance Evaluation

Evaluations may be made for employees in the Limited Service by the employee's supervisor for the purpose of advising the employee of the efficiency and competency of their services. If an evaluation is made, it shall not be deemed to change an employee's at will status, to grant the employee a property interest in the position, or any other rights or benefits of a regular employee.

7. HOURS OF WORK, ATTENDANCE AND OVERTIME

7.1 Hours of Public Counters

The Town's public counters shall be open from 9:00 a.m. to 12:00 p.m. and 1:00 p.m. to 5:00 p.m. each day, except for alternate Fridays, every Saturday and Sunday, and holidays listed under Rule 9.1.1, unless otherwise established and authorized by the Town Manager.

7.2 Official Workweek for Computing Overtime and Compensatory Time

For purposes of computing overtime and compensatory time, employees shall be paid for assigned hours worked in excess of the normal workday.

The regular workweek shall be forty (40) hours, comprised of eight (8) hour workdays, for non-exempt Town employees. The workweek shall begin at 12:01 a.m. on Sunday and end at 12:00 a.m. midnight on Saturday.

For employees on a 9/80 work schedule, the workweek is compressed such that an employee works 80 straight time hours over a nine (9) days within one pay period. The normal workday is eight (8) or nine (9) hours depending on the scheduling and/or the workweek. The workweek for purposes of weekly overtime shall commence and end at the midpoint of their regular work schedule on the employee's eight (8) hour workday.

The memorandum of understanding covering sworn non-exempt employees shall prevail over this Rule 7.2.

7.3 Exempt Employees

Exempt employees (e.g., management, mid-management, professional and confidential) are paid on a salaried basis and shall be paid in conformance with the provisions of the Fair Labor Standards Act (FLSA) in order to maintain their exempt status.

7.4 Standard Work Periods for Non-Exempt Full-Time Employees

Non-exempt full-time employees are normally scheduled to work eight (8) hours per day for a total of forty (40) hours during each workweek. Unless otherwise provided in an applicable memorandum of understanding, the customary workday or work period for non-exempt Town employees shall be as follows:

- A. Non-exempt office personnel: 8:00 a.m. to 5:00 p.m. with one (1) hour unpaid lunch period.
- B. Non-exempt Public Works field personnel: 7:00 a.m. to 3:30 p.m. with one-half (1/2) hour unpaid lunch period.

- C. Non-exempt Police personnel: Shift work, including nights and weekends, as assigned by the Chief of Police.

Employees on a 9/80 compressed work schedule shall work 80 straight time hours per pay period over a nine day period. The customary workday or work period for non-exempt Town employees on a 9/80 work schedule shall be as follows:

- A. Monday – Thursday: 8:00 a.m. to 6:00 p.m. (9 hours per day) with one (1) hour unpaid lunch period.
- B. Friday: 8:00 a.m. to 5:00 p.m. (8 hours per day) every alternate Friday, as designated, with one (1) hour unpaid lunch period. The 9/80 work schedule enables the employee to be off every other Friday.

7.5 Parks and Public Works Employees

Whenever the Town determines that the regular work schedule of the Parks and Recreation or Public Works employees be temporarily changed to require work on weekends, other than overtime work, the following criteria shall be used:

- A. The Department Director will prepare as early in the calendar year as possible an annual schedule showing the probable weekends that need to be worked by Parks and Recreation or Public Works employees.
- B. Employees will be able to voluntarily sign up for the available weekend work, as long as the available weekends are shared reasonably among all available employees and approved by the appropriate Department Director.
- C. Employees will be able to schedule their replacement days off consecutively, with Department Director approval, as long as all days off in the original schedule are taken off during the same pay period.
- D. For weekend days not posted on the annual schedule, the Town will provide as much advance notice of the schedule change as possible.
- E. For weekend work referred to in this section, any necessary overtime will be limited to time and one-half (1½) straight time compensation.

7.6 Designation Of Alternative Standard Work Periods

The Town Manager is authorized to designate other work periods and working hours for employees when, in the Town Manager's opinion, the best interests of the Town may be served by adjustment of the standard work periods and hours. The adjustment of standard work periods and hours may be on a short-term basis or long-term basis. In either case, the Town Manager reserves the right to re-adjust the work periods and hours as he/she judges to be in the best interest of the Town. The Town Manager will provide reasonable advance notice to the impacted employee(s).

7.7 Attendance

Employees shall be in attendance at their work station or assigned duties at the time and place prescribed by the department to which they are assigned. Excellence in public service depends on all Town employees being at their work site and ready to start work at the beginning of their work shift and work a full duty shift.

Except in extraordinary circumstances, an employee who is unable to report for work at the beginning of the employee's shift shall notify the employee's supervisor at least thirty (30) minutes before the beginning of the employee's shift. Failure to provide this notification may result in the absence being considered leave without pay.

An employee who is absent without notification or authorization may be subject to disciplinary action, up to and including termination. An employee who is absent without notification or authorization for more than five (5) consecutive days or shifts is considered to have resigned from Town employment and may be terminated pursuant to Rule 12.3.1.

7.8 Lunch or Meal Periods

All non-exempt employees shall take a lunch period. Department Directors for non-exempt non-sworn employees shall establish a regular schedule for lunch periods scheduled as close to the middle of the shift as possible, and consistent with any applicable memorandum of understanding. Meal periods are unpaid.

Lunch and meal periods for non-exempt sworn employees are covered in the applicable memorandum of understanding.

7.9 Rest Breaks

Non-exempt employees shall be allowed one (1) fifteen (15) minute rest break for each four (4) hour period worked. Breaks are generally scheduled in the middle of each four (4) hour work period. However, the Department Director shall arrange break times that best meet the needs of the department and the Town, consistent with any applicable memorandum of understanding. Rest breaks are paid status.

7.10 On Call / Call Out Designation

As designated by the Department Director based on the needs of the Town, a regular employee may be given a departmental On Call/Call Out assignment, requiring the employee to respond to emergency call outs or other services on an emergency or urgent basis during assigned non-business hours, consistent with law and any applicable memorandum of understanding.

Assigned on call/call out duty time is reported on an employee's time sheet.

7.11 Overtime

The Fair Labor Standards Act shall govern the eligibility for overtime pay.

For non-exempt employees, it is the policy of the Town that overtime work is to be kept to the minimum consistent with protection of life, property, and the efficient operation of the departments and activities of the Town. However, the Town may require overtime work of non-exempt employees as determined by the Town to meet its needs.

All work requiring any non-exempt employee to work overtime must be approved, in writing, by the Department Director or designee in advance of the work being performed, with the exception of emergency situations.

Overtime worked is reported on an employee's time sheet. Authorized overtime worked is compensated in 15-minute increments at the rate of time and one-half (1 1/2) the straight time rate, or compensatory time off with pay at the rate of time and a half (1 1/2) the straight time rate in lieu of overtime pay. Compensatory time off in lieu of monetary overtime will be accrued whenever permitted, consistent with the law or memorandum of understanding. The decision whether the employee receives cash or compensatory time off for overtime worked shall be at the request of the employee with the approval of the Department Director. However, in the event of a dispute, the Department Director's decision shall be final.

Accrued compensatory time may be used when requested by the employee and approved by the supervisor provided 24 hours advance notice is given by the employee.

Whenever possible, the Town will provide a minimum of 24 hours advance notice of available overtime to be worked. Overtime shall be distributed among qualified employees on a voluntary, rotational, and equitable basis among employees performing this kind of work during regular working hours.

Non-exempt employees may not "volunteer" to perform duties without pay that fall under the Town classification specifications, including but not limited to duties that they typically perform as part of their normal job.

7.12 Time Sheet Procedure

Time sheets must be submitted to the Administrative Services Department (Payroll) on the Monday morning immediately following the end of each pay period for the payment of wages and the tracking of accrued and used time off, benefits, and other compensation. Each employee shall prepare a time sheet for approval by the employee's supervisor. The Administrative Services Department determines time sheet due dates and methods of reporting time worked.

8. COMPENSATION

8.1 Compensation Plan

A Compensation Plan is established by resolution of the Town Council. The plan sets the salary ranges and steps for each classification in the Classification Plan. The purpose of the Compensation Plan is to ensure that all classifications substantially similar in duties, responsibilities, authority, and character of work, under like working conditions, are compensated equitably.

8.2 Structure of the Plan

All compensation rates prescribed in the Compensation Plan shall be based on a full-time position, unless otherwise designated, and shall be deemed to include pay in every form, except for necessary expenses authorized and incurred incident to employment, or except as provided by special differential or other pay policies. The Compensation Plan does not include paid benefits. The compensation rates are also referred to as the base pay rates.

The salary range consists of five steps, with A being the first step and E being the last step. The salary range establishes monthly salary rates. The conversion of a monthly salary rate to an hourly rate equivalent shall be made by dividing each monthly rate by 173.3333 hours, which is considered to be the average number of work hours per month.

8.3 Administration and Review of Compensation Plan

The Personnel Officer shall administer the Compensation Plan. The Personnel Officer shall from time to time prepare and submit to the Town Council a proposed compensation plan containing an appropriate salary range for each class. In case the salary range for a class is changed by the Town Council, all employees whose positions are allocated to a class shall be adjusted to the corresponding step in the new salary range.

8.4 Application of Salary Ranges and Steps

8.4.1 Appointment

A new employee shall be appointed at the first step of the salary range. However, under circumstances related to difficulty in recruiting competent employees at the first step of the salary range, or an applicant's exceptional qualifications or salary history, the Town Manager may authorize appointment at a higher step within the range.

8.4.2 Promotion

When an employee is promoted, the employee shall normally receive the first step in the salary range of the new position. However, if that step results in a salary increase of less than five (5) percent, the employee shall receive the next

step in the range so that the salary increase is equal to at least five (5) percent, provided the new salary is not above the highest step of the classification to which the employee is promoted. The Town Manager may authorize a promotional appointment to a position at any higher salary step in the pay range.

In the event that a pay range change becomes effective on the date an employee is promoted to a higher classification, the employee shall first receive any corresponding step adjustment to which entitled in the lower classification, and then the next higher step promotional adjustment.

In some cases an employee receives pay at a rate other than their normal pay due to a provisional appointment as defined in Rule 5.2.4 or out-of-classification pay as defined by Rule 8.9. In the event of a promotion, the employee shall be placed on the salary range at the step nearest their normal base pay rate.

8.4.3 Transfer

An employee transferring from one position to another in the same classification, or to another classification to which the same pay range is applicable, shall remain in the same salary step.

8.4.4 Demotion

An employee demoted from one classification to another classification having a lower maximum rate of pay shall be assigned to a salary step in the lower paying classification. For a disciplinary demotion, the new salary step placement in the lower paying classification shall be at least one (1) step less than the dollar amount received in the pay range for the classification from which demoted. For a non-disciplinary demotion, the new salary step placement in the lower paying classification shall be at the step nearest the dollar amount received in the pay range for the classification from which demoted.

8.4.5 Reinstatement

Upon the rehire of a former employee into the same classification as the employee occupied prior to separation, the rehired employee shall receive the same salary step in the pay range for the classification as the employee received prior to separation. If a former employee is rehired into a related lower classification, the Town shall give consideration for prior service in determining the salary step for employment in the lower classification. If rehired into a higher classification than previously occupied, the Rules regarding pay upon promotion shall apply.

8.5 **Advancement Within Salary Range**

A regular employee is eligible for consideration to receive a merit increase on an annual basis, typically on the anniversary date of the employee's regular appointment, unless otherwise provided in an applicable memorandum of understanding. Merit increases will be considered as part of the performance

evaluation system on an annual basis until the attainment of the highest step in the salary range of the employee's classification.

All merit increases shall be based on overall performance that, at minimum, "meets expectations" as shown from written performance evaluations completed by the employee's immediate supervisor and approved by the Department Director. Increases of more than one (1) step for exceptional performance may be provided upon recommendation by the Department Director and approval of the Town Manager, based on a written performance evaluation.

8.6 Special Salary Adjustments

The Town Manager may at the Manager's discretion, upon recommendation of the Department Director and upon receipt of verification that funds are available in the affected department's budget, adjust the salary step of an incumbent in a particular position to any step within the salary range of the classification.

8.7 Effective Date of Salary Adjustments

All salary adjustments shall become effective on the effective date of the action, unless otherwise approved by the Town Manager, or specified in these Rules or applicable memorandum of understanding.

8.8 Applicable Salary Rates Following Pay Range Increases and Decreases

8.8.1 Same Relative Step

Where a pay range for a given class is revised upward due to Town Council authorized increase, the incumbents in positions in classifications affected shall have their existing salary adjusted to the same relative step in the new pay range, (e.g., Step B to Step B, Step C to Step C) and their anniversary date shall not be changed.

8.8.2 Retention of Salary and "Y" Rates

When a pay range is adjusted downward, incumbents may, on approval of the Town Manager, retain their same dollar amount of salary within the lower pay range, or if their present rate exceeds the maximum of the lower range, may continue to receive the same dollar amount, which shall be designated a "Y" rate. A "Y" rate ends, and the employee is eligible for available pay increase, when the new salary range exceeds the "Y" rated pay through adjustment of the compensation plan due to increases approved by the Town Council. A "Y" rate shall be canceled on vacancy of the position.

8.8.3 Pay Range Change on Anniversary Date

In the event that a pay range change becomes effective on an employee's anniversary date, the employee shall first receive any within-range adjustment which the employee is granted and then receive the corresponding step adjustment.

8.9 Out of Classification Pay

An employee who is assigned to perform duties and fulfill a higher level responsibility of another employee who is at a higher classification shall receive, after a five (5) day waiting period, a five (5) percent temporary adjustment to pay beginning on the sixth day of performing the duties of the higher classification. No employee shall be assigned the duties of a classification other than the employee's regularly assigned classification for more than ninety (90) days in any twelve (12) month period.

9. HOLIDAYS, VACATION AND LEAVES OF ABSENCE

9.0 Application

Rule 9 applies to all employees in the Classified and Unclassified Service. For purposes of applying Rule 9, a day shall be defined as eight (8) hours.

9.1 Holidays

9.1.1 Holidays Observed

The Town observes the following eleven (11) holidays, and all regular and probationary employees shall have the specified days off with pay in accordance with this Rule, except as otherwise provided in applicable memoranda of understanding:

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

9.1.2 Holidays Falling On Weekend

A holiday that falls on a Saturday is observed on the preceding Friday. A holiday that falls on a Sunday is observed on the following Monday. If the preceding Friday or succeeding Monday is also a holiday, then the holiday is observed on the next preceding or succeeding work day.

9.1.3 Holidays Falling On Regular Day Off

If a holiday falls on an employee's first normal day off, the employee shall take the preceding day as the holiday. If the holiday occurs on the employee's second

consecutive normal day off, the employee shall take the following day as the holiday. This Rule may be modified only by prior written consent of the Department Director.

9.1.4 Personal Holidays

In addition to the holidays listed in Rule 9.1.1 above, regular and probationary employees are entitled to two (2) personal holidays per fiscal year. Regular and probationary part-time employees receive personal holidays on a pro-rated basis. A personal holiday is a paid leave of absence to be scheduled with the consent of both the supervisor and the employee. Personal holidays do not accrue from year to year.

9.1.5 Holiday Pay – Regular and Probationary Full-Time Employees

Regular and probationary full-time employees are entitled to receive time off with pay at their regular rate of pay for the holiday, unless scheduled to work at the discretion of the Town.

9.1.6 Holiday Pay – Regular and Probationary Part-Time Employees

Regular and probationary part-time employees are entitled to receive time off with pay on a pro-rated basis for the holiday, unless scheduled to work at the discretion of the Town.

9.1.7 Holiday Pay – Employees Required to Work on a Holiday

Non-exempt, non-sworn employees who are eligible for holiday pay in accordance with these Rules and who are scheduled to work on the holiday shall receive the following compensation, unless otherwise provided in an applicable memorandum of understanding: eight (8) hours of pay at the straight time rate of pay (holiday pay) plus an amount equal to one (1) and one half (1/2) times the rate of pay for all hours worked during the holiday.

Regular and probationary part-time employees who are eligible for holiday pay shall receive compensation, unless otherwise provided in an applicable memorandum of understanding: the pro-rated hours of pay at the straight time rate of pay (holiday pay) plus an amount equal to one (1) and one half (1/2) times the rate of pay for all hours worked during the holiday.

9.1.8 Holidays for 9/80 Work Schedule

For employees on a 9/80 work schedule, if a holiday falls on a normal workday, regular and probationary employees are granted eight (8) hours of holiday pay. Regular and probationary part-time employees receive holiday pay on a pro-rated basis. Employees may apply vacation or other discretionary hours in order to receive the normal hours for the workday.

In situations where a holiday falls on a Friday that Town Offices are closed in implementing the 9/80 work schedule, the employee's work schedule shall be

temporarily adjusted for the pay period such that employees are scheduled to work eight (8) hours per day for a total of forty (40) hours during each workweek throughout the pay period, except for the holiday.

9.2 Vacation

9.2.1 Vacation Accrual Rate

All regular and probationary employees are entitled to vacation time off work with pay based on years of service. An employee shall accrue vacation leave from the date of the employee's initial appointment by the Town.

A regular or probationary full-time employee shall earn 120 hours of vacation during the employee's first full year of service with an additional eight (8) hours of vacation for each completed year of service thereafter. A maximum of 240 hours per year may be earned annually.

A regular or probationary part-time employee shall earn vacation on a pro-rated basis based on the same formula as regular full-time employees.

The Town Manager has the authority to negotiate larger vacation accruals for newly hired employees based on years of local agency experience, difficulty in recruiting and retaining employees, and consideration of internal equity and fairness.

9.2.2 Vacation Maximum Accrual

Regular and probationary employees may accrue earned vacation up to a maximum of 360 hours, unless otherwise specified in an applicable memorandum of understanding.

9.2.3 Use of Vacation Leave

Use of vacation time shall be approved in advance by the Department Director, who will consider work demands of the department and other scheduled leaves of absence. Vacation leave may be taken in increments of at least one (1) hour.

9.2.4 Holidays During Vacation Leave

If a holiday falls within a scheduled vacation period, the employee shall be entitled to the holiday leave in lieu of vacation leave.

9.3 Sick Leave

Sick leave is provided to help minimize economic hardships that may result from an unexpected personal or immediate family member illness or injury. Sick leave is not a right, but rather a privilege of paid time away from work when the absence is necessary due to illness or injury. Abuse of sick leave privileges negatively impacts the workload of fellow employees and the ability of the Town to provide service excellence.

9.3.1 Eligibility for Sick Leave Accrual

Regular and probationary full-time employees shall earn sick leave at the rate of eight (8) hours per month with no maximum accrual. Regular and probationary part-time employees shall earn sick leave on a pro-rated basis.

Employees in the Limited Service are covered by and shall receive the benefits provided by Workers' Compensation Insurance, but shall not be eligible for any sick leave benefits in this Rule.

The exception is temporary employees who work for the Town for 30 or more days within a 12 month period from the beginning of employment shall receive a paid sick leave allotment of 3 days (24 hours) annually upon hire. Three days (24 hours) shall be the maximum annual benefit except in situations where a day in an employee's regular work schedule is longer than an 8-hour day. In such cases, a "day" shall be the equivalent of the hours in the employee's regularly scheduled work day.

In addition, temporary employees who are rehired within one year from their last day worked will have any unused sick leave balance, from their prior employment with the Town, restored.

9.3.2 Use of Sick Leave

Regular and probationary full-time employees may request to use accrued sick leave only in cases of actual personal sickness or disability; medical, vision or dental treatment; or to attend to the illness or disability of an immediate family member.

Temporary employees may use available sick leave beginning on the 30th day of initial employment. However, at its sole discretion, the Town may allow use of paid sick leave to an employee in advance of the 30th day of employment. Temporary employees may request to use accrued sick leave only in cases of actual personal sickness or disability; medical, vision or dental treatment; or to attend to the illness or disability of an immediate family member. Temporary employees may only use up to 3 days (24 hours) of paid sick leave annually from the last hire date.

The Town may require an employee to provide a doctor's verification of illness or injury when the employee is absent for a period of three (3) or more consecutive days.

Abuse of sick leave means the misrepresentation of the actual reason for taking sick leave, using sick leave for unauthorized purposes, or failure to report or record sick leave, and may include chronic, persistent, or patterned use of sick leave. Abuse of sick leave privileges may result in disciplinary action, up to and including termination.

9.3.3 Notification

The employee requesting sick leave shall notify the employee's Department Director or supervisor as soon as practical and in no case later than thirty (30) minutes before the time set for reporting to work, including whether the employee needs sick leave due to the employee's illness/disability or a family member's illness/disability. Failure to reasonably do so, or otherwise comply with this Rule, may be grounds for denial of the leave with pay.

9.3.4 Reporting

Upon return to work, an employee shall report all sick leave usage on the employee's time sheet and verify that the employee's use of sick leave conforms to this Rule.

The Fair Labor Standards Act allows deductions in accrued sick leave for both non-exempt and exempt employees.

Non-exempt employees are to report sick leave use of less than a day in 15-minute increments as long as the employee has not exhausted accrued sick leave.

An exempt employee is required to work a minimum of four (4) hours per day. Exempt employees who work less than four (4) hours are required to record leave time for time missed. If the exempt employee has worked at least four (4) hours in a day, there will be no deduction from the employee's sick leave accrual. The exempt employee shall notify the employee's supervisor immediately when utilizing sick time.

9.3.5 Release to Return to Work

The Town may, when consistent with state and/or federal law, require employees utilizing sick leave to submit to a fitness for duty examination conducted by a Town designated physician at the Town's expense before returning to work.

9.3.6 Discretion to Relieve Employees from Duty

The Department Director shall have the discretion to place an employee on involuntary sick leave when, in the judgment of the supervisor, the presence of the employee at work would endanger the health and welfare of other employees or where the illness or injury of the employee interferes with the performance of the employee's duties. Before placing the employee on involuntary sick leave, the Department Director shall notify the employee of the potential action and provide the employee with an opportunity to respond in person or in writing, and the Department Director shall consider the employee's response before deciding whether to relieve the employee from duty and place the employee on involuntary sick leave.

9.3.7 Sick Leave Use During Vacation

An employee who has taken vacation leave and becomes injured or sick during the vacation leave may change the appropriate portion of the employee's vacation leave to sick leave providing that the employee submits a statement from a healthcare provider verifying the days the employee was sick.

9.3.8 Sick Leave Donation

Regular and probationary full-time employees may donate accrued sick leave for use by another regular or probationary employee suffering from a catastrophic illness or injury who has exhausted all paid leave accrual balances, including sick, vacation, and compensatory time accruals.

A catastrophic illness or injury is a medically certified illness, injury impairment, or physical or mental condition that prevents the eligible employee from returning to work for a period of thirty (30) or more consecutive calendar days.

An employee also may be eligible to access this benefit due to a Family and Medical Leave Act (FMLA) and/or California Family Rights Act (CFRA) qualified leave after the employee has exhausted all of the employee's own paid leave accrual balances.

The Town Manager shall approve all requests from an employee who wishes to receive donations of sick leave or the employee's supervisor.

Once approved, the Administrative Services Department shall solicit donations of sick leave from eligible employees. Employees wishing to donate time to another employee shall complete and submit the required form to the Administrative Services Office. Employees may donate sick leave in increments of eight (8) hours or more up to forty (40) hours provided the donating employee retains a minimum of 160 hours of sick leave accrual. The appropriate payroll action and adjustment to donor and recipient's sick leave balances (in hourly increments) will be made.

The amount of donated time an employee is allowed to receive and use is limited to 480 hours (3 months) per fiscal year. Unused donated time will be returned to the donor(s) on a pro-rated basis.

Sick leave donation is strictly voluntary and any coercive comments or conduct designed to elicit donations is forbidden. Sick leave donation records are confidential.

9.3.9 Sick Leave Cash-Out

An employee leaving the Town service shall not be paid for accumulated sick leave, except as provided in an applicable memorandum of understanding.

9.4 Administrative Leave

Recognizing that exempt employees typically work more than 40 hours per week, exempt employees may take up to eighty (80) hours per fiscal year of administrative leave, subject to the approval of their supervisor, or in accordance with an applicable memorandum of understanding.

Administrative leave will not be accrued from year to year. Administrative leave is not payable upon separation from Town service.

9.5 Industrial Injury / Illness Leave

9.5.1 Non-Sworn Employees

All employees in the Classified, Unclassified and Limited Service, other than those covered by Labor Code Section 4850, who are absent from work by reason of an injury or illness covered by Workers' Compensation, shall continue in paid status under the following provisions:

- 9.5.1.1 An employee who is injured while on the job shall be paid the employee's regular salary and benefits for the day of the injury. The employee may use accumulated sick or vacation leave to cover the five (5) day waiting period until Workers' Compensation benefits take effect.
- 9.5.1.2 The difference between the benefit amount granted pursuant to Workers' Compensation and the employee's regular rate of pay may be deducted from the employee's accumulated sick leave until depleted, when authorized by the employee, as well as for accumulated vacation, personal holidays, and compensatory time, if any.
- 9.5.1.3 An employee will continue in paid status and receive the employee's regular rate of pay until accumulated sick leave, authorized compensatory time, personal holidays, and vacation days have been depleted to the nearest hour.
- 9.5.1.4 During the time the employee is in paid status while absent from work by reason of injury or illness covered by Workers' Compensation, the employee shall continue to accrue sick leave and vacation benefits as though the employee were not on leave of absence, but shall not receive credit for holidays, including personal holidays.
- 9.5.1.5 Disability retirement may be requested by the Town consistent with state and/or federal law.

9.5.2 Sworn Police Employees (Covered by Labor Code Section 4850)

Sworn employees covered by Labor Code Section 4850 will be allowed up to 365 days of absence for an industrial injury or illness without loss of salary in lieu of disability payments, consistent with state law.

9.5.2.1 A regular or probationary employee covered by Labor Code Section 4850 who is absent from work by reason of an industrial injury or illness, while in paid status, will continue to accrue sick leave and vacation benefits, but shall not receive credit for holidays, including personal holidays. The employee shall receive consideration for normal salary increases as though the employee was not on leave of absence.

9.5.2.2 Whenever the injury or illness continues beyond the 365 day period, the difference between the amount granted pursuant to Workers' Compensation and the employee's regular rate of pay may be deducted from the employee's accumulated sick leave until depleted, when authorized by the employee, as well as for vacation days, personal holidays and compensatory time, if any. An employee will continue in paid status and receive the employee's regular rate of pay until accumulated sick leave, authorized compensatory time, personal holidays, and vacation days have been depleted to the nearest hour.

9.5.2.3 Disability retirement may be requested by the Town consistent with state and/or federal law.

9.6 **Family and Medical Leave Act ("FMLA") and California Family Rights Act ("CFRA") Leave of Absence**

The Town provides unpaid FMLA/CFRA leaves of absence consistent with state and/or federal law. Eligible employees are entitled under the FMLA/CFRA to take up to twelve (12) work weeks in a 12-month period of unpaid leave for specific family and medical reasons. The Town measures the 12-month period in which the 12 weeks of FMLA/CFRA leave entitlement occurs as the fiscal year.

9.6.1 Eligibility

To be eligible for unpaid FMLA/CFRA leave, an employee must have been employed by the Town for at least twelve (12) months prior to the date on which the FMLA/CFRA leave is to commence, and have at least 1,250 hours of service with the Town during the preceding 12-month period.

9.6.2 Pay Status and Relationship of FMLA/CFRA Leaves to Other Leaves of Absence

Although FMLA/CFRA leave is unpaid, employees are required to use concurrently with an FMLA/CFRA leave any accrued sick leave, vacation, compensatory time off and any other accrued leave to which the employee is entitled for the same qualifying reason.

9.6.3 Reinstatement

Employees returning from FMLA/CFRA leave will be reinstated to their former or comparable position at the former rate of pay. If the employee does not return to work or fails to contact the employee's Department Director on or before the expected date of return, the employee will be absent without authorized leave and may be terminated.

9.6.4 Notification

If possible, an eligible employee requesting FMLA/CFRA leave must give 30 days advance notice to his/her supervisor of the need to take unpaid FMLA/CFRA leave when the need for leave is foreseeable. When the need for leave is not foreseeable, the notice must be given as soon as the employee learns of the need for the leave. Failure to comply with this Notice Rule may result in the deferral of requested leave until the notice requirements are met.

9.6.5 Health Care Provider Certification

Employees who request leave for their own serious health condition or to care for an immediate family member with a serious health condition must provide written certification from the health care provider of the individual requiring care on a form provided by the Town.

9.6.6 Intermittent Leave

Under certain circumstances, FMLA/CFRA leave may be taken intermittently or on a reduced work schedule. Intermittent leave is leave taken in separate blocks of time due to a single illness or injury, rather than for one continuous period of time, and may include leave of periods from an hour or more to several weeks. Leave taken for reason of the birth, adoption, or foster care placement of a child of the employee does not have to be taken in one continuous period of time. Any leave(s) taken shall be concluded within one year of the birth or placement of the child with the employee in connection with the adoption or foster care of the child by the employee. The basic minimum duration of the leave shall be two weeks. However, the Town shall at minimum grant a request for leave of less than two weeks' duration on any two occasions.

Where FMLA/CFRA leave is taken for a serious health condition of a member of the employee's immediate family or of the employee, leave may be taken intermittently or on a reduced work schedule when medically necessary, as

determined by the health care provider of the person with the serious health condition.

9.6.7 Qualifying Reason For Leave Entitlement

An eligible employee is entitled to a total of 12 workweeks of unpaid leave during any 12 month period for any one, or more, of the following reasons:

- The birth of a child and to care for the newborn child;
- The placement with the employee of a child for adoption or foster care by the employee;
- To care for a member of the employee's immediate family, including domestic partner (CFRA only) who has a serious health condition; and
- Because of an employee's own serious health condition that makes the employee unable to perform the functions of the employee's position, except for disability on account of pregnancy, childbirth, or related medical conditions, which is covered by pregnancy disability leave (CFRA).
- Because of any qualifying exigency arising out of the fact that the employee's spouse, domestic partner, son, daughter, or parent is a covered military member on active duty (or has been notified of an impending call or order to active duty) in support of a contingency operation.

9.6.7.1. Family Care And Medical Leave To Care For A Covered Servicemember With A Service Injury Or Illness

Subject to the provisions of these Rules and state and federal law, including the FMLA and CFRA, an eligible employee is eligible to take FMLA leave to care for a covered servicemember with a serious injury or illness if the employee is the spouse, domestic partner, son, daughter, parent, or next of kin of the servicemember.

- A eligible employee's entitlement is limited to a total of 26 workweeks of leave during a "single 12-month period" to care for a covered servicemember with a serious injury or illness. The Town shall determine the "single 12-month period" in which the 26-weeks-of-leave-entitlement described in this paragraph occurs using the 12-month period measured by the fiscal year.
- During the "single 12-month period" described above, an eligible employee's FMLA leave entitlement is limited to a combined total of 26 workweeks of FMLA leave for any qualifying reason.

9.6.8 Benefits While on FMLA/CFRA Leave

While on FMLA/CFRA leave, an employee shall continue to receive medical and dental benefits on the same basis as if the employee had not taken FMLA/CFRA leave.

9.6.9 Fitness For Duty

As a condition of returning from leave taken because of the employee's own serious health condition, the employee is required to provide the Town with certification from the employee's health care provider that the employee is able to resume work and perform the employee's job duties.

9.7 Pregnancy Disability Leave (“PDL”)

The Town provides pregnancy disability leave consistent with state law.

Unlike FMLA, CFRA does not include pregnancy or related medical conditions within the definition of serious health condition. A pregnant employee is entitled to take up to four (4) months of unpaid pregnancy disability leave if she is disabled by pregnancy. An employee is “disabled by pregnancy” if, in the opinion of her healthcare provider, she is unable because of pregnancy to work at all or is unable to perform any one or more of the essential functions of her job or to perform these functions without undue risk to herself, the successful completion of her pregnancy, or to other persons.

Because CFRA does not consider pregnancy a serious health condition, and does not allow leave for pregnancy related disability, an employee may take up to four (4) months of pregnancy disability leave, of which 12 workweeks may count as FMLA leave, and then up to an additional 12 workweeks of CFRA leave following a child's birth.

9.8 Bereavement Leave

A regular or probationary full-time employee is entitled to paid bereavement leave up to a maximum of three (3) days for each incident relating to matters dealing with the death of any member of the employee's immediate family within the State of California. In cases where the death is outside the State of California, the employee shall be granted a maximum of five (5) days of bereavement leave. The Town Manager may approve use of accrued sick, vacation, or compensatory time off if additional time off is needed and requested.

A regular or probationary part-time employee is entitled to a pro-rated amount of bereavement leave.

9.9 Military Leave

Military leave shall be granted in accordance with the provisions of federal and state law. Compensation, benefits and reinstatement rights are governed by provisions of federal and state law.

All employees entitled to military leave shall give the Personnel Officer an opportunity, within the limits of the law, to determine when such leave shall be taken. Whenever possible, the employee involved shall notify his/her Department Director of the leave request at least ten (10) working days in advance of the beginning of the leave. Extensions of unpaid leave beyond the leave required by law are within the discretion of and to be determined by the Town Manager.

9.10 Jury Duty

A regular or probationary employee who has been summoned, or subsequently selected, to serve on a jury shall receive the employee's regular rate of pay and benefits during the absence from work, but the employee shall submit to the Town any payment, except travel or subsistence pay, received for jury duty from the Court.

To receive full salary and benefits, the regular employee shall notify the Department Director at least three (3) days prior to jury duty.

This provision applies for a maximum of 45 calendar days in any one (1) year.

9.11 Subpoenaed Witness Duty

A regular or probationary employee who is subpoenaed or otherwise required to appear in Court on a matter regarding an event, transaction, or other Town business that transpired in the normal course of duties as a Town employee, shall do so without loss of salary or benefits, but the employee shall submit to the Town any payment, except travel or subsistence pay, received for witness duty from the Court.

9.11.1 Witness Duty – Not Employment-Related

Unless otherwise approved by the Town Manager, a regular or probationary employee who is subpoenaed or otherwise required to appear in Court on a matter unrelated to duties as a Town employee shall be permitted time off without pay, or if the employee chooses, to use accrued vacation. The period of unpaid leave shall not exceed five (5) days.

9.12 School or Day Care Attendance Leave

An employee who is the parent or guardian of a child in kindergarten or grades one (1) through twelve (12), or attending a licensed child day care facility, may take up to forty (40) hours off per calendar year, not exceeding eight (8) hours in any calendar month, for the purpose of participating in activities of the child's school or licensed child day care facility.

An employee may use accrued paid leaves, other than sick leave, when taking time off; otherwise, school/day care attendance leave shall be unpaid. Employees must provide reasonable advance notice to their supervisor of their planned absence to participate in school activities.

Documentation from the school or licensed child day care facility verifying that the employee participated in the activity on a specific date and at a specific time shall be provided by the employee to the employee's supervisor upon returning to work, as requested by the Town. An employee who fails to provide the required documentation may be subject to discipline.

9.13 Voting Leave

If an employee does not have sufficient time outside of working hours to vote in a statewide election, the employee may, without loss of pay, take off up to two (2) hours of working time to vote. Time off for voting must be at the beginning or end of the employee's regular working shift, whichever allows the most free time for voting and the least time off from working, unless otherwise mutually agreed between the employee and the employee's supervisor. If the employee knows or has reason to believe that time off work will be needed to be able to vote on election day, the employee must notify the employee's supervisor at least two (2) working days in advance to arrange a voting time.

9.14 Child's Suspension Leave

An employee who is the parent or guardian of a child who has been suspended from school shall be granted time off work if requested to appear at the school in connection with that child's suspension. Before taking the time off, the employee must give reasonable notice to the Town that the employee's presence has been requested by the school.

An employee is permitted to use accrued paid leaves, other than sick leave, when taking time off for child suspension leave; otherwise, the leave shall be unpaid.

Documentation from the school verifying that the employee appeared at the school in response to the school's request shall be provided by the employee to the employee's supervisor upon returning to work. An employee who fails to provide this documentation may be subject to discipline.

9.15 Lactation Leave

The Town shall provide a reasonable amount of break time to accommodate an employee desiring to express breast milk for the employee's infant child. If possible, the break time should coincide with the employee's paid break time.

The Town shall make reasonable efforts to provide the employee with the use of a room or other location, other than a toilet stall, in close proximity to the employee's work area so that the employee may express milk in private. The Town is not required to provide a lactation break if providing the break would seriously disrupt Town operations.

9.16 Leave for Victims of Domestic Violence or Sexual Assault

The Town shall not discipline, discriminate, or retaliate against an employee who is the victim of domestic violence or the victim of sexual assault and who takes time off to ensure the employee's health, safety, or welfare, or that of the employee's child, including but not limited to (1) obtain a temporary restraining order, a restraining order, or other court assistance; or (2) seek medical attention for injuries caused by domestic violence or sexual assault; or (3) obtain services from a domestic violence shelter, program, or rape crisis center; or (4) obtain psychological counseling related to an experience of domestic violence or sexual assault.

An employee is permitted to use paid accrued leaves, other than sick leave, when taking time off for these purposes; otherwise, such time off shall be unpaid.

Except in cases of emergency, employees must provide notice to their supervisor prior to utilizing leave under this policy. If the employee is absent without prior notice, the employee shall provide a certification to the Town that the absence was due to reasons outlined above.

To the extent allowed by law, the Town will maintain the confidentiality of an employee requesting leave for victims of domestic violence or sexual assault.

9.17 Leave of Absence Without Pay

At the Town Manager's discretion and written approval, the Town may grant requests for unpaid leaves of absence for regular employees who have at least one (1) year of continuous Town service where the Town Manager determines that the employee's absence would not be contrary to the best interests of the Town.

Authorized unpaid leaves of absences are approved for a specified period of time with a specific date of return expected of the employee, and shall not normally exceed a total of twelve (12) months duration.

The Town shall not grant an unpaid leave of absence to an employee so the employee may accept employment with another employer. However, the employee may be assigned to another public agency for a time upon approval of the Town Manager.

An employee has no greater rights to reinstatement, benefits, and other conditions of employment than if the employee did not take a leave of absence without pay. Consequently, an employee is subject to Rule 12.7 (Layoff) during a leave of absence without pay.

9.18 Effect of Authorized Leave of Absence Without Pay

An authorized unpaid leave of absence shall not be construed as a break in service for the purpose of calculating employment seniority. Unless specified

otherwise, rights accrued at the time the leave is approved shall be retained by the employee. However, for all non-military unpaid leaves of absence, unless required by law, vacation credits, sick leave credits, holidays, health benefits, cash in-lieu of health benefits, and retirement benefits, increases in salary, and other similar benefits shall not accrue to a person who is on authorized unpaid leave of absence unless authorized by the Town Manager. In the event the Town Manager authorizes continuation of some or all of the benefits listed, the authorization shall not set a precedent for other unpaid leave requests or extensions by the same employee or other employees. Each request is considered individually. Time spent on an unpaid leave shall not count toward service within the pay range and the employee's salary anniversary date shall be set forward a period of time equal to the employee's total absence as adjusted to the beginning of the closest pay period.

9.19 Other Leaves Required by Law

The Town provides other paid and unpaid leaves of absence as required by state and/or federal law, or applicable memorandum of understanding.

10. BENEFITS

10.0 Application

Rule 10 applies to all employees in the Classified and Unclassified Service.

10.1 Medical Plan

The Town offers regular and probationary full-time employees medical insurance coverage while employed in the Town service. The Town contributes toward the premium costs of these benefits. Refer to applicable memoranda of understanding for specifics.

Regular and probationary part-time employees receive the Town contribution toward medical benefits on a pro-rated basis.

Medical benefits are not provided for employees that are separated from Town service, whether through resignation, retirement, termination or other means of separation.

10.2 Dental Plan

The Town offers regular and probationary full-time employees dental insurance coverage while employed in the Town service. The Town contributes toward the premium costs of these benefits. Refer to applicable memoranda of understanding for specifics.

Regular and probationary part-time employees receive the Town contribution toward dental benefits on a pro-rated basis.

10.3 Life Insurance

The Town provides regular and probationary full-time employees with a term life insurance policy in the amount of \$100,000. The Town provides regular and probationary part-time employees with a term life insurance policy of \$50,000.

10.4 Short and Long-Term Disability

The Town provides for short and long-term disability insurance for all regular and probationary full-time and part-time employees.

10.5 Employee Assistance Program

The Town pays for the cost of an Employee Assistance Program (EAP).

10.6 Uniform Allowance

The Town shall specify reasonable standards for uniforms for Public Works, Parks and Recreation, and Police department employees, who shall be required to meet the standards on a daily basis. The Town Manager, in consultation with

represented employee organization retains authority to define the terms of and select the uniform service.

Employees required to wear uniforms shall receive a uniform allowance in accordance with the applicable memorandum of understanding.

10.7 Safety Shoes

The Town shall provide steel-toed safety shoes for each employee who is required by the Town to wear the safety shoes while performing assigned duties.

10.8 Mileage Allowance

Employees may request mileage reimbursement for all miles driven in personal vehicles while on approved Town business. The Town pays a mileage allowance equal to the level set by the Internal Revenue Service.

10.9 Education / Tuition Reimbursement

In accordance with an applicable memorandum of understanding, the Town will reimburse employees for tuition only leading to Bachelor's and Master's Degrees in fields related to an employee's scope of employment as determined by the Town. The Town will reimburse for tuition from any college in the California State University system. An employee must complete all undergraduate courses with a grade of "C" or higher and all graduate courses with a grade of "B" or higher to qualify for tuition reimbursement. In the event the employee chooses a different college system, reimbursement will equal the actual tuition expense up to the amount charged by the California State University system.

10.10 Deferred Compensation Plan

The Town provides a 457 deferred compensation retirement plan, where an employee may make voluntary contributions on a pre-tax basis up to the maximum amount allowable by law.

11. DISCIPLINARY ACTION

11.1 Application

This Rule applies to all regular employees, unless otherwise provided in these Rules or applicable memorandum of understanding. Employees appointed to positions in the Unclassified or Limited Services and designated as 'at-will' may be disciplined and/or dismissed with or without cause without any appeal rights and are not covered by the disciplinary process and procedure outlined in these Rules.

11.2 Policy

The expected standard of conduct for all employees in the service of the Town shall be in the public interest as opposed to individual interests. In order to render the best possible service to the general public and to reflect best on the Town, high standards of conduct are essential. The tenure of every employee shall be conditioned on continuous acceptable conduct and high performance of duties.

11.3 Grounds for Discipline

The principal objective of most disciplinary action shall be to improve the performance and efficiency of a Town employee. Any action by an employee that reflects discredit on the Town, or is a direct hindrance to the effective performance of Town government functions, constitutes improper employee conduct and shall be considered cause for disciplinary action up to and including termination.

Improper conduct is any action by an employee in the capacity of a Town employee, or any conduct not connected with official duties tending to discredit the Town organization or which limit any employee's ability to perform their duties officially, or any improper use of the Town position as an employee for personal advantage. Improper conduct and cause for discipline includes, but is not limited to, the following:

- A. Fraud in securing employment, including falsifying or omitting information on the employment application.
- B. Conviction of a felony, conviction of a misdemeanor that adversely impacts the employee's ability to perform the duties and responsibilities of the employee's assigned job, or conviction of driving while under the influence of alcohol or drugs.
- C. Being under the influence of alcohol or other intoxicants or controlled substances without authorization while on duty, or using or possessing alcohol or other intoxicants or controlled substances without authorization while on duty. "Controlled substance" means any narcotic drug, hallucinogenic drug, amphetamine, barbiturate, marijuana, or any other

controlled substance defined in state or federal law, including the substances listed in Health and Safety Code Sections 11053-11058.

- D. Insubordination.
- E. Willful disobedience or failure to obey any proper directive by a supervisor, manager, or superior officer.
- F. Dishonesty.
- G. Theft.
- H. Discourteous or offensive language or conduct toward the public or towards fellow Town employees or officers.
- I. Immoral conduct on the job.
- J. Inefficiency or incompetence in the performance of required duties.
- K. Inattention to or neglect of required duties.
- L. Unauthorized absence from duty or duty station.
- M. Improper or unauthorized use of Town property or monies; or misuse or damage to, or negligence in the care and handling of, Town property.
- N. Abuse or misuse of sick leave, including the misrepresentation of the actual reason for taking sick leave, using sick leave for unauthorized purposes, or failure to report or record sick leave, and may include chronic, persistent, or patterned use of sick leave.
- O. Excessive or repeated tardiness.
- P. Absence from duty without leave, or failure to return to work after a leave of absence has expired or has been disapproved or canceled by the Town.
- Q. Interfering with another employee's job performance.
- R. Acceptance of a gift, or other form of remuneration in addition to regular compensation by an employee for the performance of his or her duties, from any source, in violation of these Rules.
- S. Solicitation in any official capacity or as an employee of the Town, of the public for money, goods, or services not specifically authorized by the Town Manager.
- T. Disclosure of confidential information.

- U. Endangering self or others, or failing to follow appropriate safety practices or failure to use provided safety gear or equipment, in the performance of the employee's job duties.
- V. Less than satisfactory job performance.
- W. Violation of or failure to comply with all Town ordinances; these Rules; Town Council and Town Manager established policies; the Rules, regulations and directives of the Town department in which the employee is employed; the Employer-Employee Organization Relations Resolution; any applicable memorandum of understanding; and such other official rules, policies and procedures of the Town applicable to the employee.
- X. Failure to cooperate in any official inquiry or investigation into an alleged violation of law, Town policies, procedures, or regulations, including these Rules.
- Y. Working overtime without supervisory authorization.
- Z. Bringing a gun or any other dangerous weapon onto Town property, unless the item is specifically required as part of the employee's job duties.
- AA. Failure to provide documentation required to support a leave of absence as described in these Rules.
- BB. Failure to possess or keep in effect any license, certificate, or other similar requirement specified in the law or the employee's class specification or otherwise necessary for the employee to perform the duties of the position.
- CC. Any other on-duty or off-duty conduct which an employee knows or reasonably should know is unbecoming of a Town employee or which is contrary to good order, efficiency or morale, or which tends to reflect unfavorably upon the Town or its employees.

11.4 Disciplinary Action

The Town subscribes to the principles of progressive discipline and as the Town deems appropriate shall make reasonable efforts to provide progressive sequences of disciplinary actions.

11.4.1 Progressive Discipline

11.4.1.1 Verbal Counseling/Warning

Verbal counseling, warning, or reprimand may result in a post-conference summary memorandum that describes when the meeting occurred, who was present, and what was discussed. A copy shall be placed in the employee's personnel file.

11.4.1.2 Written Reprimand

A copy shall be placed in the employee's personnel file. The employee has the right to write a response and that response shall be attached to the reprimand and retained in the personnel file.

11.4.1.3 Suspension without Pay

Suspension usually shall not be used unless the employee has received a written reprimand about similar actions.

11.4.1.4 Demotion, Pay Reduction, or Dismissal

Pay reduction, demotion, or dismissal will be used when an employee's conduct does not meet Town standards, usually, after other progressive discipline procedures have been utilized. The Town, however, may impose a pay reduction, demotion, or dismissal without first suspending the employee for similar conduct.

11.4.2 Discipline without Progression.

Nothing in this Rule shall prohibit the Town from disciplining a regular employee for cause, up to and including termination in instances where the Town determines that remediation and/or progressive discipline is inappropriate.

11.4.3 Minor Disciplinary Actions

11.4.3.1 Oral Warning or Reprimand

An oral warning or reprimand may be documented in a post-conference summary memorandum that is placed in the employee's personnel file. An oral writing or reprimand is not subject to appeal.

11.4.3.2 Written Reprimand

A written reprimand is placed in an employee's personnel file. The employee receiving the written reprimand shall be given a copy of the written reprimand and an opportunity to review and sign it before it is placed in the personnel file. The employee may prepare a written response to the reprimand, within five (5) business days after receiving the written reprimand, which will be attached to the reprimand and placed in the employee's personnel file. A written reprimand is final and not appealable.

11.4.3.3 Short Suspension

A short suspension is the temporary removal of an employee from the service of the Town without pay for one (1) or two (2) shifts or less, and documented in an employee's personnel file. Where the discipline is a

short suspension, the charges upon which the discipline is based, including any materials on which the action is based, may be served at the time the discipline is imposed. The employee shall have the right to respond either orally or in writing, or both, to the authority imposing the suspension within five (5) business days after receiving notice of the short suspension. A written response received within five (5) business days after the employee receives the suspension notification will be attached to the suspension notification and placed in the employee's personnel file. A short suspension is not appealable.

11.4.4 Major Disciplinary Actions

Major disciplinary actions are documented in an employee's personnel file.

11.4.4.1 Long Suspension

A long suspension is the temporary removal of an employee from the service of the Town without pay for more than two (2) shifts, and less than 60 shifts.

11.4.4.2 Pay Reduction

A pay step reduction for performance that falls short of the normal established standards or where performance is clearly inadequate in one or more of the critical job duties for the position.

11.4.4.3 Demotion

The removal of an employee from a position to a position in a lower classification with a maximum salary grade that is lower than the position in which the employee is currently appointed.

11.4.4.4 Termination

The permanent removal of an employee from the Town employment.

11.5 Disciplinary Procedure for Major Disciplinary Actions

11.5.1 Written Notice of Intent to Discipline

Written notice of intent to discipline shall be prepared and signed by the Department Director and served on the employee by personally giving the employee a copy or sending a copy to the employee's address of record by Certified Mail not less than ten (10) calendar days prior to the date of the proposed disciplinary action.

The Notice of Intent to Discipline shall contain the following:

11.5.1.1 A statement of the proposed Disciplinary Action;

11.5.1.2 The effective date of the proposed Disciplinary Action;

- 11.5.1.3 A statement of the causes for the proposed discipline;
- 11.5.1.4 A statement of the act(s) or omission(s) upon which the causes are based;
- 11.5.1.5 A copy of any known written materials, reports, and other documentation upon which the proposal disciplinary action is based;
- 11.5.1.6 A statement informing the employee of the employee's right to respond orally, or in writing, or both to the proposed discipline and the time for responding; which shall be no later than 10 calendar days from the date of the Notice; and
- 11.5.1.7 A statement of the employee's right to appeal the decision as provided in these Rules.

11.5.2 Right to Respond

Any regular employee shall have the right to respond, either orally or in writing, or both, to the authority issuing the Notice of Intent to Discipline and have the response considered prior to the discipline being imposed. The purpose of the meeting is to permit the employee to respond to the charges and to offer information regarding the proposed discipline. Unless otherwise specified in writing by the authority proposing discipline, the employee's response must be made within ten (10) calendar days after receipt of the written Notice of Intent to Discipline Action. Failure to respond within the period constitutes a waiver of the right to respond. However, failure to respond shall not affect the employee's right to appeal the Disciplinary Action as provided in Rule 11.5.3. After reviewing and considering the employee's response, if any, the authority proposing the discipline shall formally notify the employee in writing of the decision to dismiss, modify or impose the proposed discipline. The specified discipline, if any, may be imposed after a Notice of Discipline has been served on the employee. A Notice of Discipline shall contain the information listed in Rule 11.5.1 above.

11.5.3 Right of Appeal

11.5.3.1 Appeal from Major Discipline

Any regular employee shall have the right of appeal from any major disciplinary action under this Rule.

11.5.3.1.1 Time to Appeal

An appeal must be in writing and must be filed with the Town Manager within ten (10) working days of the date of service of the Notice of Discipline. Failure to file an appeal within this period constitutes a waiver of the right of appeal. Filing a notice of appeal shall not stay the imposition of discipline.

11.5.3.1.2 Scheduling of Hearing

If an employee submits an appeal in writing, an evidentiary hearing before a neutral hearing officer arranged for by the Administrative Services Director shall be scheduled within thirty (30) calendar days after receipt of the written appeal, if possible. The hearing will commence as expeditiously as it can be arranged, and shall be scheduled on a Town business day.

11.5.3.1.3 Conduct of Hearing

The hearing shall be informal in nature. The hearing officer shall determine the procedures under which the hearing will be conducted. Such procedures shall comply with the provisions of these Rules. Both the Town and the employee may call witnesses and present evidence. The employee may be represented by a person of the employee's choosing and at the employee's expense. The hearing shall be closed to the public.

The hearing shall be informal and need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule that might make the admission of the evidence improper over objection in civil actions. Hearsay evidence may be admitted for any purpose but shall not be sufficient in itself to support a finding unless it would be admissible in civil actions. The rules of privileges and of official or judicial notice shall be effective to the same extent as in civil actions. Irrelevant and repetitious evidence shall be excluded. Oral evidence shall be taken only under oath or affirmation.

11.5.3.1.4 Exclusion of Witnesses

A hearing officer may in the hearing officer's discretion exclude witnesses not under examination, except the employee and the party attempting to substantiate the charges against the employee, and their respective representatives. When hearing testimony that may bring disrepute to persons other than the accused employee, all persons not having a direct interest in the hearing may be excluded.

11.5.3.1.5 Burden of Proof

The Town bears the burden of proof of substantiating the charges.

11.5.3.1.6 Hearing Officer's Advisory Authority

The hearing officer's opinion shall assess whether sufficient cause exists for disciplinary action in accordance with accepted arbitral standards of "just cause."

11.5.3.1.7 Advisory Decision

The hearing officer's proposed decision will be in writing and will set forth the hearing officer's factual findings, reasoning, conclusions, and recommendation whether what level of discipline, if any, should be imposed. A copy of the proposed decision will be submitted to the Town Manager and the employee.

11.5.3.1.8 Advisory Findings

The findings of the hearing officer shall be rendered within thirty (30) calendar days of the hearing, or within a reasonable time after the hearing, and shall be advisory only to the Town Manager. In the event the discipline was imposed by the Town Manager, the hearing officer's findings shall be final and binding. Except as specifically provided in this Rule, nothing in these Rules shall be construed as to bind the Town, Town Manager or Town Council to any findings of the hearing officer.

11.5.3.2 Decision

11.5.3.2.1 Town Manager

The Town Manager shall render a written decision within thirty (30) calendar days after receiving the advisory findings of the hearing officer. The decision of the Town Manager shall be in writing and shall contain findings of fact and the disciplinary action approved, if any. A copy of the Town Manager's decision shall be delivered to the employee and his/her designated representative personally or by mail within thirty (30) days after receiving the advisory findings of the hearing officer. The decision of the Town Manager shall be final.

11.5.3.2.2 Decision

After the Town Manager receives the hearing officer's proposed decision, the Town Manager may:

- A. Adopt the proposed decision in its entirety;
- B. Reduce the discipline set forth in the proposed decision and adopt the balance of the proposed decision;
- C. Reject a proposed reduction in discipline, approve the discipline sought by the Town or any lesser penalty, and adopt the balance of the proposed decision; or
- D. Reject the proposed decision in its entirety.

If the Town Manager rejects the proposed decision in its entirety, each party shall be notified and the Town Manager may decide the case on the record including the transcript, with or without taking additional evidence, or may refer the case to the same or another hearing officer to take additional evidence. If the case is assigned to a hearing officer, the hearing officer shall prepare a proposed decision, as provided above, upon the additional evidence and the transcript and other papers which are part of the record of the prior hearing. A copy of this proposed decision shall be furnished to the employee within ten (10) days after the proposed decision is filed by the Town Manager.

11.5.3.3 Failure of Employee to Appear at the Hearing

The employee shall personally attend the hearing unless medically unable to do so. Unexcused failure of an employee to appear at a hearing shall be deemed a withdrawal of his/her appeal and a waiver of the right to appeal.

11.5.4 Administrative Leave

An employee may, where the Town determines circumstances warrant, be placed on paid administrative leave pending an investigation of alleged misconduct and/or pending a final discipline determination.

11.5.5 Public Safety Officers Procedural Bill of Rights

Nothing in these Rules supersedes the Town's obligations under the Public Safety Officers Procedural Bill of Rights Act, Government Code Sections 3300-3312.

12. SEPARATION FROM TOWN SERVICE

12.1 Resignation

Resignation is the voluntary separation of an employee from employment with the Town. In order to resign in good standing, an employee shall provide a written statement indicating the last day of employment. The resignation should be submitted to at least two (2) weeks prior to the employee's last day on the job. Once the resignation is submitted, it may only be withdrawn with the approval of the Town Manager.

12.2 Retirement

Retirement from the Town service shall be subject to the terms and conditions of the Town's contract with the California Public Employees' Retirement System (CalPERS), and consistent with state and federal law.

An employee planning to retire from the Town shall provide a written notice to the Department Director, to be forwarded to the Administrative Services Department for processing. A retirement notice should be provided, whenever possible, at least sixty (60) calendar days prior to the effective date of retirement. A retirement notice is final when given to the Department Director and may only be rescinded with approval of the Town Manager.

12.3 Termination

12.3.1 Absence Without Approved Leave/Job Abandonment

An employee who is absent without notification to or authorization from the Town for more than five (5) consecutive work days or shifts is considered to have abandoned or constructively resigned from Town employment. The employee will be given written notice of the facts supporting job abandonment/constructive resignation and an opportunity to respond at an informal hearing before the Town Manager, or other neutral decision maker designated by the Town Manager, prior to any termination taking effect. Any subsequent termination after consideration of the employee's response shall be final and without right of appeal or hearing.

12.3.2 Disciplinary

An employee may be terminated based on Disciplinary Action pursuant to these Rules.

12.4 Release of Probationary Employees

Probationary employees may be terminated as recommended by the Department Director, and approved by the Town Manager, for any reason, or no reason, at any time and without any right of appeal.

12.5 Release of Limited Service Employees

Employees in the Limited Service may be terminated by the Department Director or Town Manager for any reason, or no reason, at any time and without any right of appeal.

12.6 Separation – Non Disciplinary

Regular employees may be terminated by the Personnel Officer for reasons other than cause for disciplinary action, including but not limited to, physical and/or mental inability to perform the essential functions of the employee's job, with or without reasonable accommodation. Regular employees terminated pursuant to this section shall be given a written statement of the reason for such termination, the right to respond either orally or in writing to the individual imposing the termination prior to the termination taking effect, and may appeal such action in the manner provided in Rule 11.5.

12.7 Layoff and Employment

12.7.1 Layoff

An employee may be laid off by the Personnel Officer, consistent with state and federal law, for the following reasons:

- 12.7.1.1 A shortage of work;
- 12.7.1.2 Lack of funds;
- 12.7.1.3 Material change in duties or organization;
- 12.7.1.4 In the interest of the economy; or
- 12.7.1.5 To reduce the staff of any Town function.

Whenever a reduction in the work force becomes necessary, layoffs shall be made on the basis of demonstrated skill, reliability, and ability. When demonstrated skill, reliability, and ability are substantially equal as determined by the Department Director or Town Manager, seniority shall prevail. Layoffs shall be made by classification. Employees shall normally be given at least thirty (30) days notice of a proposed reduction in force, except where shorter notice is necessary to protect the public and carry out the Town's mission.

The decision to lay off an employee(s) is not subject to any right of appeal.

12.7.2 Re-Employment Lists

The names of all regular employees who have been laid off shall be placed on a re-employment list for eighteen (18) months.

Whenever a vacancy occurs in a class of positions from which employees were displaced, the qualifying employees on the re-employment list shall be notified of

the vacancy prior to announcing the recruitment, and shall be offered the opportunity to apply for the position.

In such an event, the supervisory personnel shall consider the name(s) on the re-employment list concurrently with considering other applicants. The supervisory personnel shall recommend the name of any person on the re-employment list to be appointed. The Town retains the right not to appoint former employees.

12.7.3 Layoff of At-Will Employees

By definition, employment at-will may be terminated by either the employee or the Town at any time with or without cause. Nothing in these Rules shall require the Town Manager to allow a displaced at-will employee to displace an employee in a lower class or require the Town Manager to place the displaced at-will employee on a reinstatement list.

12.8 Return of Town Property

Upon notice of the departure of an employee, the Administrative Services Department will attempt to provide the impacted Department Director with an Exit Checklist form. Notwithstanding the Exit Checklist form, the employee shall return all Town-issued property to the appropriate department. Town property required to be returned may include, but is not limited to: keys, key fobs, identification cards, credit cards, gas cards, tools, cell phones, and equipment.

12.9 Job References

All reference inquiries regarding current and former Town employees shall be referred to and approved by the Administrative Services Department. Unless the Administrative Services Department receives a written waiver signed by the Town employee or former Town employee, only the employee's dates of employment, positions held, and last salary rate will be disclosed to the person or entity making the inquiry.

13. EMPLOYMENT POLICIES AND PROCEDURES

13.0 Application

Rule 13 applies to all Town employees in the Classified and Limited Service, the Town Manager, and department directors and probationary employees.

In addition, Rules 13.4, 13.5, 13.6, and 13.7 also apply to elected officials; members of appointed boards; commissions and committees; persons employed under contract to render professional, scientific, technical, or expert services for specified period of time; and volunteer personnel, including volunteer (reserve) police officers.

13.1 Open Door Policy

Employees are encouraged to share their concerns, seek information, provide input, and resolve problems or issues through their immediate supervisor, and as appropriate, consult with any member of Town management toward those ends. Constructive suggestions that improve methods, procedures and working conditions, reduce costs or errors, and benefit the Town and its employees are welcomed. Managers and supervisors are expected to listen to employee's concerns, to encourage their input, and to seek resolution of their problems or issues.

13.2 Anti-Nepotism Policy

The Town has no prohibition against hiring close relatives of current employees. Close relatives are defined as parents, spouse, domestic partners, children (by birth, marriage or adoption) and siblings of those already employed by the Town. In any case, employees shall not be hired or supervised, directly or indirectly, by a close relative or directly or indirectly supervise a close relative.

13.3 Employee Conflict of Interest

The Town has an excellent reputation for conducting its activities with integrity, fairness, and in accordance with the highest ethical standards. Employees enjoy the benefits of that reputation and are obligated to uphold it in every business activity. Employees are responsible for disclosing and reporting all potential conflicts of interest or unethical situations to their Department Director.

A Town employee shall not engage in any business transaction or shall not have a financial interest, direct or indirect, which is incompatible with the proper discharge of the employee's official duties or would tend to impair the employee's independence of judgment or action in the performance of the employee's official duties.

This policy is in addition to the Town's Conflict of Interest Code, which is pursuant to Government Code Sections 87300 et seq (the Political Reform Act).

13.3.1 Gifts and Gratuities

Town employees may not accept any gift, favor and/or gratuity, except as noted below, as a result of the Town position they hold or in anticipation of their performance of duties.

Gifts, favors and gratuities are any bestowal of money, any item of value, service, loan, thing or promise, discount or rebate for which something of equal or greater value is not exchanged. Payments for travel, entertainment and food are examples of gifts, favors, or gratuities.

Under this Rule, prohibited gifts, favors and gratuities do not include (1) any discount or rebate made in the regular course of business and offered to the general public without regard to the individual's connection with the Town, (2) inheritances, (3) plaques or trophies, and (4) meals offered to an employee as a result of their Town position at which Town business is discussed.

Employees may accept edible gifts of nominal value (less than \$40) that are shared with a wide range of colleagues at the Town.

Employees may accept items of nominal value (less than \$40) that can be displayed in public areas of the Town's buildings (such as flowers).

Employees may accept handmade items by and from children under age 16.

Upon being offered or receiving a gift prohibited by this policy, an employee must notify the gift giver of this policy and graciously decline or return the gift. If the gift is anonymous, the recipient must deliver the gift to the Town Manager who will convey the gift to a charitable organization.

Nothing in this Rule shall be interpreted as modifying a Town employee's responsibilities under the Town's Conflict of Interest Code.

13.3.2 Outside Employment

An employee shall not engage in any employment, activity, or enterprise which is inconsistent with, incompatible with, in conflict with, or inimical to the employee's duties with the Town. The Town Manager shall determine those activities that lessen the employee's effectiveness as a Town employee. An employee who is temporarily disabled from performing the employee's normal duties with the Town who wishes to continue or pursue outside employment must have specific written authorization from the Town Manager.

No Town equipment, vehicles, tools, supplies, or any other item shall be used by an employee while the employee is engaged in any outside employment or activity.

Full-time employees engaging in substantive outside employment (i.e., more than 10 hours per week) shall notify the Town Manager of the nature of the work and the hours involved.

13.3.3 Political Activity

The political activity of Town employees is governed by state law.

The Town encourages all employees to support local, state, and federal government by voting and participating in political and civic organizations. However, Town employees are prohibited from directly or indirectly soliciting or receiving political funds or contributions from other officers or employees of the Town during normal working hours. Employees shall not allow anyone to enter into Town buildings under the employee's control for the purpose of conducting political assessment, subscription, or solicitations. No employee will use the employee's Town position on behalf of a candidate, officer, or political party. No employee will participate in political activities during work hours, or represent themselves as Town employees to benefit a political candidate or cause.

13.3.4 Use of Town Property

No employee of the Town shall request, use, or permit the use of Town-owned vehicles, clothing, equipment, materials, or other property for unauthorized personal convenience, for profit, for private use, or as part of secondary employment. Use of all Town property is to be restricted to services that are available to the Town generally and for the conduct of official Town business. Using Town vehicles for personal errands or providing transportation to any person other than those on official Town Business is prohibited.

Respect and protection of Town property and employee personal property is the concern of all employees. If an employee finds property missing or damaged, the employee shall report it to his/her supervisor immediately.

When Town equipment or supplies are no longer needed and cannot be discarded, they are disposed of through the Town's surplus property program. Employees shall not take, give away, buy or sell Town equipment or supplies except through this program.

Town vehicles are to be parked at assigned locations when not in use.

13.4 Policy Against Harassment, Discrimination, and Retaliation

13.4.1 Purpose

It is the Town's intent and the purpose of this Policy to provide all employees, applicants, and contractors with an environment that is free from any form of harassment, discrimination, or retaliation as defined in this Policy. This Policy prohibits harassment or discrimination on the basis of any of the following protected classifications: an individual's race, religion, color, sex, gender, gender identity, gender expression, sexual orientation (including heterosexuality, homosexuality, and bisexuality), national origin, ancestry, marital status, pregnancy, age, genetic information, medical condition, and physical or mental disability (whether perceived or actual). It is also the policy of the Town to

provide a procedure for investigating alleged harassment, discrimination, and retaliation in violation of this Policy. The protection from discrimination includes the protection from retaliation on any of the above-identified protected classifications against an employee for his or her having taken action, or for acting as a witness or advocate on behalf of an employee in a legal or other proceeding to obtain a remedy for a breach of this Policy.

13.4.2 Zero Tolerance Policy For Violation

The Town has zero tolerance for any conduct that violates this Policy. Conduct need not rise to the level of a violation of law in order to violate this Policy. Instead, a single act can violate this Policy and provide grounds for discipline or other appropriate sanctions. If an employee is in doubt as to whether or not any particular conduct may violate this Policy, the employee should not engage in the conduct, and seek guidance from a supervisor or the Administrative Services Director.

13.4.3 Definitions

- (1) Protected Classifications: This Policy prohibits harassment or discrimination because of an individual's protected classification(s). "Protected Classification" includes race, religion, color, sex, gender, gender expression, gender identity, sexual orientation (including heterosexuality, homosexuality, and bisexuality), national origin, ancestry, marital status, pregnancy, age, genetic information, medical condition, and physical or mental disability (whether perceived or actual).
- (2) Policy Coverage: This Policy prohibits Town officials, officers, employees, and contractors from harassing or discriminating against applicants, officials, employees, and contractors because: (1) of an individual's protected classification, (2) of the perception that an individual has a protected classification, or (3) the individual associates with a person who has or is perceived to have a protected classification.
- (3) Discrimination: This Policy prohibits treating individuals differently because of the individual's protected classification as defined by this Policy.
- (4) Harassment: Harassment means unsolicited words or conduct which tends to annoy, alarm, or abuse another person. Harassment includes, but is not limited to, the following examples of behavior undertaken because of an individual's protected classification:
 - (a) Verbal harassment, such as epithets (nicknames and slang terms), derogatory or suggestive comments, jokes or slurs, including graphic verbal commentaries about an individual's body, or that identify a person on the basis of his or her protected classification. Verbal harassment includes comments on appearance and stories that tend to disparage those with a protected classification.

- (b) Visual forms of harassment, such as derogatory posters, notices, bulletins, cartoons, drawings, sexually suggestive objects, or e-mails on the basis of a protected classification.
- (c) Physical harassment, such as assault, touching, impeding, or blocking movement, grabbing, patting, propositioning, leering, making express or implied job-related threats in return for submission to physical acts, mimicking, taunting, or any physical interference with normal work or movement.
- (d) Sexual harassment, such as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature of any of the above-described conduct when:
 - (1) Submission to such conduct is either an expressed or implied term or condition of an individual's employment, or
 - (2) Submission to or rejection of such conduct is used as the basis for employment decisions affecting such individual, or
 - (3) Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating a hostile, intimidating, or offensive work environment.

13.4.4 Retaliation

Retaliation against a person (and a person's associates) who reports or provides information about harassment or discrimination is strictly prohibited. Any act of reprisal violates this Policy and will result in appropriate disciplinary action. Examples of actions that might be retaliation against a complainant, witness, or other participant in the complaint process include: (1) singling a person out for harsher treatment; (2) lowering a performance evaluation; (3) failing to hire, failing to promote, withholding pay increases, assigning more onerous work, abolishing a position, demotion, or discharge; (4) spreading rumors about a complaint or a complainant; (5) shunning and avoiding an individual who reports harassment or discrimination; or (6) real or implied threats of intimidation to prevent an individual from reporting harassment or discrimination. Even well-intentioned attempts to insulate or protect a complainant by changing the complainant's work environment or schedule or duties or by transferring the complainant to another office may be retaliatory. Before a supervisor takes such action, the supervisor should contact the Administrative Services Director. Any act of retaliation will be treated as a separate and distinct incident, regardless of the outcome of the harassment complaint.

The Town will investigate any retaliation report and will take whatever corrective action is deemed necessary, including disciplining any individual who is found to have violated these prohibitions against harassment and/or retaliation.

13.4.5 Reporting Harassment, Discrimination, or Retaliation

An applicant, employee, officer, official, or contractor who feels he or she has been harassed, discriminated against, or retaliated against in violation of this Policy should report the conduct immediately as outlined below so that the complaint can be resolved quickly and fairly.

All employees involved in the complaint process may be represented by a person of their choosing and at their own expense.

- (1) Object to the Conduct: Sometimes an individual is unaware that his or her conduct is offensive. In these situations, the offensive behavior may be eliminated by simply informing the offender that the conduct or language in question is unwelcome and offensive and request that it be discontinued immediately.

A person who believes he or she is being harassed is encouraged, but is not required to, use this process. When the conduct in question continues after the offending person has been informed it is offensive, or if a person does not feel comfortable talking to the offending person directly, the employee should make a report in accordance with paragraph (2) or go directly to the formal reporting process.

- (2) Oral Report: If a person who believes that this Policy has been violated does not want to confront the offending person, the individual should report the conduct to a supervisor, department head, or any Town management employee. The individual may also seek the advice, assistance, or consultation of a supervisor, department head, or any Town management employee. Any supervisory or management employee who receives such a report must in turn direct it to the Town Manager, immediately document the complaint in writing, and refer the complaint to the Town Manager. Failure to file this written report within two (2) working days of receiving a harassment complaint will result in disciplinary action up to and including termination. In addition, the person to whom the complaint has been referred will fully inform the employee of (1) his or her rights to complaint and redress the harassment; (2) the employee's own obligations to secure his/her rights; and (3) any assistance available under the Town's procedures. The Town Manager will determine what level of investigation and response is necessary.

- (3) Written Process: An individual who believes this Policy has been violated and does not feel comfortable using the process outlined above may provide a written complaint to a supervisor, department head, or any management employee who in turn must direct the complaint to the Administrative Services Department. Individuals are encouraged to use the Confidential Complaint Form for this purpose.

Reports of prohibited behavior should include all details of the incident(s), names of individuals involved and the names of any witnesses to the extent possible. All information and communication regarding the harassment complaint will be kept confidential to the extent possible.

- (4) Option to Report to Outside Administrative Agencies: Applicants, employees, officers, officials, and contractors have the option to report harassment, discrimination, or retaliation to the U.S. Equal Employment Opportunity Commission (EEOC) or the California Department of Fair Employment and Housing (DFEH). These governmental agencies offer legal remedies and a complaint process. The nearest offices are listed in the government section of the phone book, as well as on posters located on Town bulletin boards.
- (5) An employee may also file a complaint with the Employment Risk Management Authority (ERMA) through the Employee Reporting Line at 1-877-651-3924 or on line at www.employeeprotectionline.com. Contacts are monitored 24 hours a day by an independent third party.

13.4.6 Investigation Procedures

The Town Manager shall review the complaint and coordinate the investigation with department representatives, if appropriate. After the investigation is concluded, the Town Manager will communicate the confidential findings to the complainant, alleged harasser, and other concerned parties. If it is determined that harassment in violation of this policy has occurred, effective remedial action will be taken in accordance with the circumstances.

All employees and supervisors have a duty to cooperate in the Town's investigation of alleged harassment and/or alleged retaliation. Failure to cooperate or deliberately providing false information during an investigation shall be grounds for disciplinary action, up to and including termination.

13.4.7 Corrective Action and Discipline

Any employee found to have engaged in prohibited harassment will be subject to disciplinary action, up to and including termination, among other sanctions deemed proper. Department Directors terminated for violating this Policy will not be eligible for severance pay.

13.5 Workplace Violence Policy

13.5.1 Policy Statement and Definition

The Town is committed to providing a safe, violence-free workplace. The Town strictly prohibits employees, consultants, customers, visitors, and anyone else on Town premises or engaging in a Town-related activity from behaving in a violent or threatening manner. Moreover, the Town seeks to prevent workplace violence

before it begins and reserves the right to deal with behavior that suggests a propensity towards violence even prior to any violent behavior occurring.

Prohibited workplace violence includes, but is not limited to, the following:

- 13.5.1.1 The actual or implied threat of harm to an individual, group of individuals, or relatives of those individuals. These threats may be made in person, over the telephone, through the mail, or by electronic communication.
- 13.5.1.2 The possession, on Town property, including but not limited to, Town offices, work locations, Town-owned vehicles, and parking lots or while conducting Town business, of a weapon of any kind, unless specifically authorized by the Police Chief, or the brandishing of any object which could reasonably be construed as a weapon.
- 13.5.1.3 Loud, disruptive or angry or threatening behavior or language that is clearly not part of the typical work environment.
- 13.5.1.4 Blatant or intentional disregard for the safety or well-being of others.
- 13.5.1.5 Willful destruction of Town or personal property.
- 13.5.1.6 Commission of a violent felony or misdemeanor on Town property.
- 13.5.1.7 Any other act that a reasonable person would perceive as a threat of violence.

13.5.2 Reporting Procedures

If any employee observes or becomes aware of any of the above-listed actions or behavior by an employee, customer, consultant, visitor, or anyone else, the employee should immediately contact the Police Department. In the event of an emergency, call 911. The Police Department will notify the Town Manager and the Administrative Services Director upon the receipt of any report of workplace violence.

Further, employees should notify the Police Department and the Administrative Services Director if any restraining order is in effect, or if a potentially violent non-work related situation exists that could result in violence in the workplace.

13.5.3 Investigation Procedures

All reports of workplace violence will be taken seriously and will be investigated promptly and thoroughly. In appropriate circumstances, the Town will inform the reporting individual of the findings of the investigation. To the extent possible the

Town will maintain the confidentiality of the reporting employee and the investigation, but may need to disclose findings in appropriate circumstances to protect individual safety. The Town will not tolerate retaliation against any employee who reports workplace violence.

13.5.4 Corrective Action and Discipline

If the Town determines that workplace violence has occurred, the Town will take appropriate corrective action and will discipline offending employees, up to and including termination.

If the violent behavior is from a non-employee, the Town will take appropriate corrective action in an attempt to ensure that such behavior is not repeated in the Town workplace.

13.6 Alcohol and Drug-Free Workplace Policy

The Town is committed to protecting the health and safety of its employees and the public. The Town is also committed to promoting efficiency in the workplace and to providing the highest quality services for the public.

In keeping with these commitments and in recognition of the harmful effects of the abuse of alcohol and drugs, the Town requires that all employees report for work fit to perform their jobs and not under the influence of alcohol, illegal drugs, or unauthorized controlled substances. The Town prohibits the use, possession, manufacture, or distribution of alcohol, illegal drugs or unauthorized controlled substances by employees while at work or in a manner that will affect their work performance.

13.6.1 Town Responsibilities

- 13.6.1.1 The Town shall publish and distribute the Alcohol and Drug-Free Workplace Policy notifying employees that unlawful manufacture, distribution, dispensation, possession or use of alcohol, illegal drugs or unauthorized controlled substances is prohibited.
- 13.6.1.2 The Town shall publish and distribute the Alcohol and Drug-Free Workplace Policy notifying employees that if they are found to be using or under the influence of alcohol, illegal drugs, or unauthorized controlled substances in the workplace, they will be subject to disciplinary action up to and including termination.
- 13.6.1.3 The Town shall publish and distribute the Alcohol and Drug-Free Workplace Policy notifying every employee who works on a state contractor grant that they must abide by the Drug-Free Workplace Policy as a condition of employment on the contract or grant.

13.6.1.4 The Town shall establish an Alcohol and Drug-Free Awareness Program to inform current and new employees of the following:

13.6.1.4.1 The dangers of alcohol and drug abuse in the workplace.

13.6.1.4.2 The Town's policy of maintaining an alcohol and drug-free workplace.

13.6.1.4.3 Any available counseling through the employee assistance program.

13.6.1.4.4 Penalties that may be imposed upon employees for alcohol or drug abuse violations.

13.6.2 Employee Responsibilities

13.6.2.1 An employee must not report to work or be subject to duty while his or her ability to perform job duties is impaired due to alcohol or drug use.

13.6.2.2 An employee must not possess (except in the performance of his/her job duties) or use alcohol or impairing drugs (illegal drugs and/or prescription drugs without a prescription) during working hours or while subject to duty, on breaks or during meal periods.

13.6.2.3 An employee directly or through a third party, must not sell or provide drugs (illegal drugs and/or prescription drugs without a prescription) or alcohol to any person, including any employee, while either employee or both employees are on duty or subject to being called to duty.

13.6.2.4 An employee must notify his or her supervisor, before beginning work, when taking any medications or drugs, prescription or non-prescription, which may interfere with the safe and effective performance of the employee's duties or operation of Town equipment.

13.7 **Smoke-Free Workplace**

Town of Moraga Ordinance 105 prohibits smoking in any Town buildings. Smoking is not allowed in any of the facilities owned or used by the Town, including Town vehicles. Violation of this smoking policy will result in discipline up to and including termination.

13.8 Professional Appearance

Work attire is a reflection of the pride employees have in the Town. To make a favorable impression on members of the public and outside representatives, all employees must present a businesslike appearance. Employees will adhere to the following guidelines:

- A. Clothing and accessories worn to work must not constitute a safety hazard.
- B. All employees should practice common sense rules of neatness and good taste. Provocative clothing is prohibited.

Certain positions require an employee to wear a Town uniform. Town uniforms identify an individual as a Town employee, and should always be neat and clean. Uniforms worn by the employee are to be worn during work hours and may be worn to and from work, but they are not a substitute for personal attire when off-duty.

Supervisors may require employees who are dressed inappropriately to return home and change (without pay).

13.9 Valid Driver's License

As a condition of employment, all employees who may be assigned work entailing the operation of a Town vehicle, or a personal vehicle on Town business, as designated in the job classification description, will be required to submit to a California Department of Motor Vehicles driving records check. Such checks shall be processed by the Administrative Services Department. A suspended or revoked license status may be cause to deny or terminate employment.

Periodic checks of an employee's driver's license status shall be made by the Administrative Services Department. Any employee who does not hold a valid driver's license will not be allowed to operate a Town vehicle, or a personal vehicle on Town business. Any employee performing work which requires the operation of a Town vehicle, or a personal vehicle on Town business, must notify the employee's immediate supervisor if the employee's license is expired, suspended or revoked and/or who is unable to obtain an occupational permit from the Department of Motor Vehicles. Any employee who operates a Town vehicle, or a personal vehicle on Town business, without a valid driver's license or fails to report a license revocation or suspension to the supervisor shall be subject to disciplinary action, up to and including termination.

13.10 Solicitations

Employees must not solicit other employees for any purpose during working hours. For purposes of this Rule, break or meal times are not considered working hours. Employees are not permitted to distribute literature of any kind unrelated

to Town work at any time in work areas. People who do not work for the Town or are not approved vendors are prohibited from distributing literature of any kind or soliciting employees for any purpose at any time on Town property.

13.11 Media Policy and Public Records Requests

The Town desires to protect and enhance the image of the Town and ensure that accurate, appropriate information is released to the media and the public. Inquiries from the media and the public should be given a high priority and be responded to as quickly and as efficiently as possible by those employees who are designated to respond to these inquiries. Every effort should be made to meet media deadlines and ensure that all information released is accurate.

13.11.1 Public Records Requests

Generally, the business conducted by the Town is public and is subject to the State Public Records Act. Exceptions include works in progress that have not been publicly distributed, matters involving pending litigation, issues that are subject to ongoing negotiation, and confidential personnel-related matters.

All responses to public requests for information must be approved by the Town Manager or Department Director before released. The Town Manager and Town Clerk must be informed of the request, and in some instances, the Town Attorney must approve the response before it is released. The Town Clerk maintains a master log of all public requests for information and Town responses.

13.11.2 Media Policy

The Town Manager, at the Manager's discretion, may designate Department Directors and/or Town employees with authority to speak to the media. Any employee who speaks to a reporter or editor without being granted the authority to speak on behalf of the Town may be subject to disciplinary action.

13.12 Technology and Electronic Media Policy

The use of all Town technology resources is permitted for the conduct of official Town business only. These resources are intended to enhance the Town's communications and operational capabilities, promote the Town, be responsive to public inquiries, and for research or administration in support of the Town's overall mission.

The Town's technology resources and electronic media ("technology resources") include, but are not limited to telephones, cellular phones, pagers, and voicemail; internal computer systems such as desktop and laptop computers, file servers, Intranet, e-mail, photocopiers, and fax; external computer systems including research databases, internet, e-mail, and facsimile; Town-owned software; and televisions.

Technology resources should be used only in furthering the Town's business and never in violation of applicable laws. To this end, employees shall not use any Town technology resource for personal business or for the conduct of business other than the Town's business. Notwithstanding the above, employees may use the Town's technology resources to:

- A. Prepare and store incidental personal data such as personal calendars, personal address lists, and similar incidental personal data in a reasonable manner provided such use does not conflict with any purpose or need of the Town;
- B. Send and receive necessary and incidental personal communications through e-mail;
- C. Incidental use the telephone system for brief and necessary local personal calls.

However, the Town assumes no liability for loss, damage, destruction, alteration, disclosure, or misuse of any personal data or communications transmitted over or stored on the Town's technology resources. The Town further accepts no responsibility or liability for the loss, non-delivery, or disclosure of any personal e-mail communication.

The Town provides the technology resources to further its own mission. Employees who use the Town's technology resources to create or maintain incidental personal information or messages have no right of privacy with the respect to that information or message or with respect to any information transmitted or stored on the Town's technology resources. The granting of a password does not confer any right of privacy upon any employee of the Town and, except incidental personal data as stated above, all technology resources, including all information, documents and messages stored, should be related to the business of the Town.

The Town may inspect all files or messages or data in any format on or in its technology resources at any time, for any reason, at its discretion. Employees have no privacy rights in any use of any Town technology resources.

Employees shall exercise care at all times when using the Town's technology resources. Being careful means protecting the interests of the Town when working with or transmitting documents over electronic media resources. Being careful also involves remembering that any activity carried on while using outside networks through e-mail, internet access or other service providers reflects on the Town when it is carried out using the Town's electronic media.

The Town expects employees to adhere to the following when using the Town's technology resources:

- A. Always consider and protect the confidentiality of documents and information transmitted over outside services. Substantial damage can be

done by routing documents to the wrong person or organization exposing documents or messages to interceptions and theft, inadvertently sending information on "dirty" (i.e., used) diskettes or thumb drives, transmitting confidential information during cellular calls, etc.

- B. Be aware of the rights of others to their own copyrighted information. Do not download and pass on copyrighted materials where the copyright owner has expressly forbidden it. Do not "publish" another person's messages to a larger audience without securing their permission first.
- C. Remember, when sending e-mail or contributing to any public forum such as an internet newsgroup while using the Town's technology resources, what you say may be interpreted as the opinion of the Town. Be courteous and professional in all communications.
- D. Always use appropriate Town facsimile cover pages that contain the information necessary to ensure correct delivery to the proper person.
- E. If an employee receives misdirected e-mail or faxes, promptly contact and inform of the mistake and ask that they redirect their communication. Do not forward or fax the message unless you are authorized to do so. If you cannot contact the sender, forward the communication to the Administrative Services Director.
- F. When transferring documents outside the Town, use "clean" or new diskettes or thumb drives. Documents deleted from diskettes or thumb drives may leave residual data that can be "scavenged."
- G. Never forward a chain letter with the use of the Town's electronic media, rather report it to your supervisor immediately.

Prohibited uses of the Town's electronic media and technology resources:

- A. The Town prohibits the display, transmission, or downloading of sexually explicit images, messages, or cartoons, or any transmission or use of voice mail, email or internet communications that contain ethnic slurs, racial epithets, or anything that may be construed as harassment or disparagement of others based on their race, religion, color, creed, national origin, sex, sexual orientation, marital status, age, or the presence of any sensory, mental or physical disability or any other protected category.
- B. Voice mail, email, or internet systems may not be used to solicit or proselytize others for commercial ventures, religious or political causes, outside organizations, or other non-job related solicitations. The Town prohibits usage of Town technology resources for frivolous use such as accessing, downloading or contributing to sports sites, job search sites, entertainment sites, gambling sites, games or humor, drug-oriented sites,

personal pages (blogs, social media, etc.), chat rooms, shopping and purchasing products or services, or politically oriented sites.

- C. The Town prohibits usage of Town technology resources in violation of any state or federal law.

Employees have no privacy rights in using any Town technology resources. The Town may monitor usage of the Town's technology resources, including the time spent using services and the sites visited by Town personnel. The Town also reserves the right to limit access to certain types of electronic media. For example, the Town may limit Internet access to include or exclude certain Internet sites and/or services.

Violation of this policy may result in disciplinary action up to and including termination.

13.12.1 Software Installation and Security

Employees may not install or use unauthorized or unlicensed software on Town equipment. Do not download or install on Town property any software, even if is free, a trial version, or if you own a copy for your home computer. Talk to your supervisor if there is some specific software you believe you need to install. Protect Town property and prevent unauthorized access, improper changes, and loss of data. Secure all equipment when leaving it unattended. Computers should be logged off and turned off when not in use.

For network and/or individual computer security, passwords may be used to access a computer or network account. Occasionally supervisors may need to access electronic files when employees are not available. Therefore, employees are prohibited from password-protecting specific files or documents.

14. MISCELLANEOUS

14.0 Application

Rule 14 applies to all Town employees in the Classified, Unclassified, and Limited Service.

14.1 Safety Program

The Town will make every effort to maintain health and safety standards. No employee shall be required to perform work with unsafe equipment or work in unsafe situations. The Town shall conform to and comply with all health, safety and sanitation guidelines and applicable state and federal laws. All Town employees must follow the requirements of the Town's Illness and Injury Prevention Program.

14.2 Public Employees as Disaster Service Workers

Government Code Section 3100 et seq. declares public employees as disaster service workers and requires employees to report to work (and if not possible, then to the next closest public employer) following the effects of natural, manmade, or war-caused emergencies. The Town shall establish and maintain a method, or methods, of informing employees of their disaster service worker status. Employees who fail, without good cause, to honor their obligations as disaster service workers shall be subject to disciplinary action up to and including termination.

14.3 Confidentiality of Information and Materials

A Town employee is likely, during the course of day-to-day work, to be exposed to a wide range of information and materials related to Town business. Employees are expected to maintain the confidentiality of Town affairs, particularly as they relate to personnel, legal, business development, and other sensitive areas.

Security and confidentiality practices include:

- A. Safeguard the confidentiality of Town material whether or not designated as a "confidential" employee.
- B. Comply with the medical information and record access, privacy and noticing requirements of the Health Insurance Portability and Accountability Act (HIPAA).

14.4 Recreational Facilities Rental

Each Town of Moraga employee is entitled to one-discounted Hacienda de las Flores or Pavilion special event rental per calendar year subject to facility availability. See current fee schedule for details and restrictions.

14.5 Address and Contact Change Notification

Employees shall notify the Administrative Services Department of any change of name, address, contact number(s) and emergency contact within ten (10) calendar days of change.

14.6 Personnel Files

An employee shall have the right to view his/her personnel file upon request. An employee shall do so during normal business hours and be released from duty for this purpose without loss of pay.

14.6.1 Personnel Files – Public Safety Officers

All Town employees covered by the Public Safety Officers Procedural Bill of Rights Act, Government Code sections 3300-3312, have the following rights concerning their personnel files:

- A. An officer has the right to read and sign any document containing a comment adverse to his interests, indicating that the officer is aware of the adverse comment, before the document is entered into the personnel file. If the officer refuses to sign the document after reading it, the officer shall sign or initial a notation on the document indicating that the officer has read and refused to sign the document.

The officer shall have 30 calendar days within which to file a written response to any adverse comment entered into the officer's personnel file, and the officer's written response shall be attached to and accompany the document containing the adverse comment.

- B. An officer has the right, at reasonable times and intervals, during usual Town business hours, without loss of compensation, to inspect personnel files that are used or have been used to determine the officer's qualifications for employment, promotion, additional compensation, or termination or other disciplinary action.

If the officer believes that any portion of the materials in the officer's personnel file is mistakenly or unlawfully placed in the file, the officer may request, in writing, that the mistaken or unlawful portion be corrected or deleted. The officer's request shall include a statement by the officer describing the specific corrections and/or deletions requested and the officer's reasons for the request. The officer's statement shall become a part of the officer's personnel file.

Within 30 calendar days of receiving the officer's request, the Town shall either grant the request or notify the officer of the decision to refuse to grant the request. If the Town refuses to grant the request, in whole or part, the Town shall provide a written statement of the Town's reasons and the written statement shall become part of the officer's personnel file.

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