

PERSONNEL POLICIES & PROCEDURES

Full-Time Employees

PERSONNEL POLICIES AND PROCEDURES
TOWN OF WINDSOR
Revised January 2024

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1. EFFECT AND APPLICABILITY

1.1. No Contract Right: These Personnel Policies and Procedures (hereafter "Rules," "Policies" or "Procedures") outline several aspects of the employment relationship between the Town of Windsor and its employees. These Rules do not create any contract right, or any express or implied contract of employment.

1.2. Town's Discretion to Modify: The Town retains the discretion to modify these Rules from time to time in accordance with law. In order to be effective, any modification must be in writing and approved by the Town Manager.

1.3. Applicability of These Rules: These Rules apply to all categories of full-time Town employees, except as indicated in particular policies. Independent contractors, volunteers, and Town Council members are not Town employees.

1.4. Conflict Between these Rules and a Collective Bargaining Agreement, Employment Agreement, or Resolution: If a provision of these Rules conflicts with any provision of a valid collective bargaining agreement between the Town and a recognized employee organization, the provision of the collective bargaining agreement that is in conflict shall apply to the employees represented by that recognized employee organization. If a provision of these Rules conflicts with any provision of a valid employment agreement between the Town and the Town Manager, the provision of the employment agreement that is in conflict shall apply. If a provision of these Rules conflicts with any provision of a valid Resolution between the Town and its Executive Management and Confidential Employees, the provision in the Resolution that is in conflict shall apply.

1.5. Employee Acceptance and Compliance with Rules: As a condition of employment, all employees are required to read and obtain necessary clarification of these Rules. Each employee is required to sign a statement of receipt acknowledging that: a) he or she has received a copy or has been provided access to the Rules; and b) understands that he or she is responsible to read and become familiar with the contents and periodic modifications of these Rules.

1.6. Timeline Extended If Last Day to Act Fall on A Day When the Town is Closed to the Public: If any provision of these rules states a calendar day timeline, and the last day to act occurs on a day when the Town is closed to the public, then the last day to act will extend to the next day that the Town is open.

2. EMPLOYER / EMPLOYEE RELATIONS

2.1. The Town's labor relations policies are governed by the Meyers-Milias-Brown Act (MMBA), Government Code section 3500, et seq. The Town has in place an employer-employee relations resolution which specifies the Town's local rules, rights, and obligations regarding labor relations.

2.2. Under the Town's employer-employee relations resolution, and the MMBA, the Town recognizes certain labor organizations as the exclusive representative for purposes of labor negotiations. For represented employees, the Town meets and confers with recognized employee labor representatives regarding wages, hours and working conditions, and provides advance notice of certain matters as specified in the Town's Employer-Employee Relations Resolution. Employee pay schedules and various benefits are set forth in memoranda of understanding (known as "MOUs") agreed upon by the Town and the recognized labor representatives.

2.3. Employees having questions concerning matters included in their MOUs may contact their labor representative or the Human Resources Department directly.

3. CATEGORIES OF EMPLOYEES AND NON-EMPLOYEES

3.1. At-Will Employee: Certain positions of employment in the Town are designated "at-will." Employees holding at-will positions serve at the pleasure of the appointing authority. The employment of at-will personnel may be terminated at any time, for any legal reason, and without any requirement of "good cause." At-will employees have no right to the job protections described in these Rules, including, but not limited to, processes and rules for recruitment, layoff, disciplinary due process procedures, discipline or termination appeals, probationary periods, testing, and appointment from eligible lists. The Town is not required to explain the reasons underlying a separation from at-will employment.

3.2. Probationary Employee: A probationary employee is a particular type of at-will employee who is serving a probationary period at either: the outset of initial employment; or at the outset of a promotion to a for-cause position in a higher classification. During the probationary period, a probationary employee may be released from Town employment at any time and without any reason, and without any requirement of "good cause." Probationary employees serve at the pleasure of the appointing authority. Probationary employees have no right to the job protections described in these Rules, including, but not limited to, layoff, disciplinary due process procedures, or discipline or termination appeals. The Town is not required to explain the reasons underlying a release from probationary employment.

A non-probationary employee who is promoted to a higher for-cause protected classification, and who does not pass probation in the new classification, shall have "bump back" rights to their prior position, or, if the former position is no longer available, to a similar classification position within the Town which the employee meets the qualifications. Employees who return to a lower or similar classification will be placed at the same wage range and step prior to their promotion.

3.3. For-Cause or Permanent Employee: A for-cause or permanent employee is a full-time employee who is not at will and who has satisfactorily completed any required probationary period. A for-cause or permanent employee cannot be disciplined except when the Town has good cause to do so. A for-cause or permanent employee has a property right in continued employment and has the right to disciplinary due process procedures and an opportunity for post-discipline appeal.

3.4. Full-Time Employee: A full-time employee is one whose position is budgeted to work 40 hours per work week. Full-time employees receive all of the benefits described in these Rules, unless otherwise provided in these Rules, a Memorandum of Understanding, or an employment agreement which has been approved by the Town Council.

3.5. Part Time/Temporary/Seasonal Employee (PTS): A PTS employee is a type of at-will employee who is not entitled to receive any of the benefits or procedures described in these Rules. Subject to approval by the Town Manager and the Human Resources Director, PTS employees may be used to provide services to the Town on a part-time, temporary, or seasonal basis, not to exceed: 6 months of employment; 125 days; or 1,000 hours of work in a year that runs from July 1-June 30. The Human Resources Director has discretion to use a temporary agency to fill PTS vacancies. The Town is not required to explain the reasons underlying a release from PTS employment.

3.6. Volunteer: A volunteer is not an employee, but instead is an individual who provides services to the Town for civic or philanthropic reasons and receives no compensation or benefits other than nominal fees or reimbursement of expenses. A volunteer is not entitled to receive any of the benefits or job protections stated in these Rules. A volunteer serves at the pleasure of the appointing authority, has no property right in continued volunteer opportunities, and has no right to any disciplinary procedural due process procedures or discipline or termination appeals. The Town is not required to explain the reasons underlying a release from a volunteer task.

3.7. Independent Contractor: An independent contractor is not an employee and serves solely pursuant to contract that has been formed and approved as may be required by Town purchasing requirements. An independent contractor is not entitled to receive any of the benefits or job protections stated in these Rules. An independent contractor works for a specified fee and result, and the Town does not control the means by which the contractor works.

3.8. Elected Officials: The members of the Town Council are not employees and are not entitled to any of the benefits or job protections stated in these Rules.

4. CLASSIFICATION PLAN AND DISASTER SERVICE WORKER DESIGNATION

4.1. Classification Plan Consists of the Positions and Job Duties the Town Manager Deems Necessary: The Human Resources Director shall ascertain and record the duties and responsibilities of all positions of employment in the Town, after consulting with affected department heads. The Human Resources Director shall recommend and maintain a Classification Plan, including job descriptions, for all positions of employment in the Town. The Classification Plan, and any revisions to the Plan, shall become effective upon approval of the Town Manager. Following approval of the Classification Plan, the Human Resources Director shall allocate every position to one of the classifications specified in the Plan. When a new position is created, such position may not be filed until the Classification Plan has been amended to provide for the new position.

4.2. Job Descriptions: Town maintains a set of job descriptions. Each job description includes a class title and a general written description of the duties and responsibilities that the Human Resources Director has deemed necessary. Job descriptions are available online.

4.3. Classification Plan Amendments: The Town may abolish or amend job descriptions and positions from time to time. In addition, the Town may add new job descriptions and positions to the Town's Classification Plan. The Town provides notice, as required by law, to affected recognized employee organizations prior to abolishing, amending, or adding classifications or positions to the Town's plan.

4.4. Request for Job Audit: If employees believe they are performing work outside the scope of their job description, they should report the information, in writing, immediately to the Town's Human Resources Department. The Human Resources Director may initiate a job audit to determine whether a majority of the duties and responsibilities, a majority of the skills, or the minimum qualifications of a position have changed to such an extent that they no longer are consistent with the existing job description. The Human Resources Director will analyze the duties, level of responsibility, skills and knowledge required of the position to render a classification decision. Changes in the nature, variety and complexity of job duties, the supervision received, or supervision exercised, or the responsibility for staff and/or resources, may justify a reclassification. Changes in the volume of work assigned, or an employee's performance, value, longevity, or reliability, are not justification for a reclassification. Upon completion of the job audit, the Human Resources Director shall make a recommendation to the Town Manager regarding whether: a majority of the duties of the job have changed; changed duties should be eliminated or made a part of the existing job description; the incumbent's position should be reclassified to another job; or any other recommendation consistent with the needs of the Town. The Town Manager's decision is final, and not subject to any appeal or grievance process.

4.5. Disaster Service Worker Designation and Duties

4.5.1. Disaster Service Worker Designation

All Town employees are designated as Disaster Service Workers (DSW). In the event of a declaration of emergency, any Town DSW may be assigned to perform activities either within or outside their regular scope of duties for the purpose of promoting the protection of public health and safety, or the preservation of life or property.

Each Town employee performing DSW duties shall be considered to be acting within the scope of DSW duties while assisting the Town or any other governmental entity during a declared emergency or performing any act contributing to the protection of life or property or mitigating the effects of an emergency.

4.5.2. Duty to Provide Disaster Service Response

If you are at work when a Town-wide emergency is declared, report immediately to your department supervisor or a department designated meeting area pursuant to your department's disaster plan. If your department has not designated a meeting area, go to your department or Town Emergency Operations Center (Fire Station).

If you are at home when a Town-wide emergency is declared, first ensure the safety of yourself and your family, then follow your department's emergency plans and/or DSW reporting instructions.

4.5.3. Disaster Service Worker Identification

Whether you are working within the Town of Windsor or with another public agency, you must wear your Town ID/ DSW designation, clothing and/or equipment so that you can be easily identified all times as a DSW.

4.5.4. Disaster Service Work-Related Injuries or Illness

Work related injuries while working as a DSW shall be reported immediately to the employee's supervisor and handled through the Town's Workers' Compensation division.

5. RECRUITMENT, SELECTION, AND APPOINTMENT

5.1. Recruitment: The Town may utilize any legitimate recruitment procedure for attracting qualified applicants. Recruitments may be “in house” or “open,” depending on the Town’s assessment of relevant factors, including but not limited to: the number of qualified in-house candidates, whether the position is an entry level job or a promotional position, or the availability of qualified external candidates. The Town will give reasonable notice to all of its employees concerning the Town's employment opportunities.

5.2. Job Announcement: The Human Resources Department will prepare a job announcement to announce a proposed recruitment. The announcement may be posted on the Town’s website and other locations that the Human Resources Director deems appropriate, depending upon whether the recruitments open to the public or to current employees only. The announcement will include: The title and pay scale for the position; the nature of the work to be performed; the minimum qualifications, including whether the job is a promotional position; whether the position is for cause or at-will; the last date that the Human Resources Department will accept applications; the time, place, and type of examination, if known; if a medical examination and/or drug screen will be required following a conditional offer of employment; and such other information as determined in the discretion of the Human Resources Director.

5.3. Applications for Employment

5.3.1. Application Forms: Each candidate shall complete those application forms designated by the Town. An applicant’s failure to provide complete and accurate information on all application materials shall be grounds for immediate disqualification in the application process, and may result in dismissal from employment. The Human Resources Department will not process any application that is not completed in full (except voluntary portions) or signed – physically or electronically – by the person applying.

5.3.2. References and Waivers: As part of the pre-employment procedure, applicants may be required to supply references, and a waiver, to enable a thorough background check by the Town. Should an applicant be appointed to a position, the supplemental information shall become a part of the individual’s personnel file.

5.4. Rejection of Applications: The Town may reject or disqualify applications for any legitimate reason, including, but not limited to: the application was received after the application deadline; the application is incomplete (except for optional portions); or the application indicates that the applicant does not meet the minimum qualifications for the position. Whenever an application is rejected, the notice of rejection will be sent to the applicant.

5.5. Testing / Accommodation / List of Eligibles

5.5.1. Testing: The Town may utilize any legitimate method(s) to determine the qualifications of applicants, including without limitation, written tests, physical agility tests, oral examinations, interviews before external panels, assessment centers or oral interviews. Failure in one part of the examination process may be grounds for disqualifying the applicant from moving on to another part of the examination process. Applicants who meet the minimum

qualifications and pass all examinations may be subject to a background and/or reference check.

5.5.2. Request for Accommodation: An applicant with a disability may request accommodation in an examination process. Following receipt of a request for accommodation, the Human Resources Department may require additional information, such as reasonable documentation of the existence of a disability.

5.5.3. List of Eligibles: Human Resources will determine whether a recruitment will result in an eligibility list. The determination will be made prior to the posting of the recruitment. After completion of an open or promotional recruitment, the Human Resources Department may list successful applicants on a "list of eligibles". The list of eligibles will be maintained for the duration of nine months following the final round of interviews, or may be maintained for a shorter period of time if the Human Resources Director determines that circumstances warrant a new list, such as: the number of available candidates on the list, or changing job requirements.

5.6. Appointments

5.6.1. Town's Options for Filling Vacancies: The Town Manager will make all appointments, except for those classifications that report to the governing body. The Human Resources Department has discretion to decide in what manner a vacancy shall be filled. Vacancies may be filled by recruitment, reinstatement, promotion, transfer, demotion, or any qualified applicant from a list of eligibles for that classification.

5.6.2. Conditional Offers of Employment: Appointment to certain positions may be made contingent upon the applicant/employee completing a criminal conviction check, passing a drug/alcohol test, and/or a job-related medical and/or psychological examination to measure fitness for duty. The medical or psychological exam will be the last condition of a conditional offer.

5.6.3. Criminal Conviction Check: If the Human Resources Department has made a conditional offer, it may then request information about criminal convictions, except for: misdemeanor marijuana-related convictions that are over two years old, or convictions that have been judicially sealed, eradicated, or expunged. Unless required by law, the Town will not deny employment solely because of a criminal conviction. The Town may, however, consider the nature, date, and circumstances of the crime as well as whether the crime is relevant to the duties of the position.

5.7. Probationary Appointments

5.7.1. At-Will Status: The probationary period is part of the testing process and is used to determine whether work performance or work-related behavior meets the required standards of the position. During their probationary period, employees may be released from Town employment at any time, without cause. The Town is not required to explain the reasons underlying the release from probationary employment.

5.7.2. Length of Probationary Period: Unless a different period is specified in the application, appointment documents or job specification, upon beginning a job

in a new classification of employment, all employees must serve a probationary period of at least six months. Absences from work may extend the probationary period by the number of days of the absence.

5.7.3. Extension of Probationary Period: Provided notice has been given to the employee prior to the scheduled end of a probationary period, the Town may extend a probationary period up to 90 days if the Town has any question regarding whether the employee meets the standards of the position. Such 90-day period shall be in addition to those extensions resulting from an employee's absence as described above.

6. PERFORMANCE EVALUATION PROGRAM

6.1. Non-Probationary Employee Performance Evaluations: The Town requires non-probationary employees to undergo a performance evaluation at least once a year. The employee's supervisor will prepare and sign the written performance evaluation. The Department Head will review and approve all written performance evaluations. The Human Resources Department may prescribe appropriate forms for completing performance evaluations.

6.2. Probationary Employee Performance Evaluations: The probationary employee's supervisor will prepare and sign performance evaluations at approximately two and four months from the date of hire. A final evaluation will be given prior to either the successful completion of the probationary period or the separation of employment. The purpose of the probationary performance evaluation is to chart the employee's progress toward meeting the standards of the job.

6.3. Performance Evaluation Meeting: The supervisor will meet with the employee to discuss the written evaluation. The employee will sign the evaluation to acknowledge its contents and that the performance evaluation meeting occurred. The employee's signature is not necessarily an endorsement of the contents of the evaluation.

6.4. No Appeal Right: An employee has no right to appeal the content of a performance evaluation. Employees may submit written comments about a performance evaluation within 10 days after receiving the evaluation. Any written statement shall be attached to the performance evaluation, and maintained in the employee's personnel file.

7. PERSONNEL FILES

7.1. Confidential Town Files: The Town shall maintain an official personnel file for each of its employees. Files are kept for not less than three years after separation of employment. Personnel files contain only such personnel records: 1) as the Town deems necessary and relevant; or 2) that are required by law. Personnel files are the property of the Town, and access to the information they contain is restricted to protect employee privacy interests.

7.2. Notification of Changes: Each employee is responsible to promptly notify the Human Resources Department of any changes in contact or benefits information, including: mailing address; telephone number; persons to contact in emergency; and number and name of dependents.

7.3. Access to Applicant or Employee Medical Information: All medical information about an employee or applicant is kept in separate, confidential medical files. Access to employee or applicant medical information is strictly limited to only those with a legitimate need to know for Town operational reasons, or if access is required by law, subpoena, or court order. In the case of an employee with a disability, managers and supervisors may be informed regarding necessary restrictions on the work or duties of the employee and necessary accommodations.

7.4. Inspection of Personnel File:

7.4.1. Inspection: Current employees may inspect their own personnel file, at reasonable times and intervals. Former employees may inspect their Town personnel file one time a year. Current or former employee inspection rights, however, cease during the pendency of the proceedings of a court of original jurisdiction in a lawsuit against the Town relating to a personnel matter. Current or former employees and/or their representatives must request to inspect in writing to the Human Resources Department. For current employees, the inspection must occur in the presence of a Human Resources Department member. For former employees, the inspection must occur in the presence of a Human Resources Department member and: 1) at a location where the Town stores the records; or 2) another mutually agreed upon location; or 3) as permitted by law for some terminated former employees.

7.4.2. Copies: Current or former employees are entitled to receive a copy of their personnel file within 30 days after the Human Resources Department receives a written request. The Town may charge a fee for the actual cost of copying.

7.4.3. Representative's Inspection: If current or former employees wish to have another person or representative inspect their personnel files, they must provide the person or representative a written and dated authorization, on a Town request form. The Human Resources Department will give written notice of the date, time, and place of the inspection.

7.4.4. No Tampering with File During Inspection: No person inspecting a personnel file is permitted to add, remove, tamper with, or deface any document or item.

7.5. Limitations on Access or Copying: Prior to copying personnel records or allowing inspection, the Human Resources Department may redact the names of non-supervisory employees. Under no circumstances will the Town provide access or copying of the following categories of documents: records relating to the investigation of a possible criminal offense; letters of reference; ratings, reports, or records that were obtained prior to employment, prepared by identifiable examination committee members, or obtained in connection with a promotional examination.

8. WORK SCHEDULES / ATTENDANCE / MEAL PERIODS / REST PERIODS

8.1. Work Schedules: The Town shall establish and may modify regular working hours for its employees. Unless otherwise specified in an applicable MOU or Town resolution or by a department head, the full-time work schedule is four ten-hour days beginning at 7 a.m. on Monday through Thursday. The Town may require employees to work overtime and to perform standby responsibilities. Employees shall be responsible for reporting to work on time, and observing their established work schedule.

8.2. Meal Periods: Unless otherwise established for a department or for particular employees, employees who work at least an 8-hour workday receive a 30 to 60 minute, uncompensated meal period. During the meal period, the employee shall be completely relieved of duties. Employees are responsible for taking their meal period at the time, if any, that their supervisor designates. Meal periods may not be used to shorten the workday.

8.3. Rest Periods: Employees may take a 15-minute paid rest period for each half of their shift, as scheduled by the employee's supervisor. The rest period may be interrupted or cancelled if necessary to complete work and, in that case, the rest period shall become work time. When a rest period is interrupted or cancelled, employees are entitled to take their remaining rest period at another agreed upon time. The rest periods may not be combined or used to shorten the workday – e.g., by taking a break at the beginning or end of the workday.

8.4. Lactation Break: An overtime-eligible employee who wishes to express breast milk for the employee's infant child during scheduled work hours will receive additional unpaid time beyond the 15-minute compensated rest period. Those desiring to take a lactation break must notify a supervisor prior to taking such a break. Breaks may be reasonably delayed if they would seriously disrupt operations. Once a lactation break has been approved, the break should not be interrupted except for emergency or exigent circumstances.

8.4.1. Private Location: The Town will accommodate employees by providing an appropriate location to express milk in private. The Town will provide a location other than a bathroom that is in close proximity to the employee's work area. The location will be shielded from view when in use, and will contain a place to sit and a surface to place a breast pump and personal items, and will have access to electricity or alternate devices such as extension cords. Employees occupying such private areas shall either secure the door or otherwise make it clear to others through signage that the area is occupied and should not be disturbed. All other employees should avoid interrupting an employee during a lactation break, except to announce an emergency or other urgent circumstance. Lactation breaks for employees assigned to the field may be taken at the nearest appropriate private area.

8.4.2. Storage of Expressed Milk and Access to Sink: The Town shall provide a breastfeeding employee access to a sink with running water and a refrigerator. Any employee storing expressed milk in any authorized refrigerated area within the Town shall clearly label it as such. No expressed milk shall be stored at the Town beyond the employee's work day/ shift.

8.4.3. Lactation Accommodation: An employee may make a request for lactation accommodation, either orally or in writing, to the Human Resources Department. Following receipt of a request for lactation accommodation, the Town will provide a written response which will state whether the Town can

provide a requested break time or a requested location to express breast milk. An employee who does not believe that the Town is providing an appropriate lactation accommodation should immediately inform the Human Resources Director. An employee who does not believe that the Town is providing an appropriate lactation accommodation as required by state law also has the right to file a complaint with the California Division of Labor Standards Enforcement/ Labor Commissioner.

8.5. Advance Request for Permission to Deviate from Regular Work Hours: Employees are required to seek advance permission from the supervisor for any foreseeable absence or deviation from regular working, break, or mealtimes.

8.6. Notification of Unforeseen Late Arrival or Absence: Employees who are unexpectedly unable to report for work as scheduled must notify their supervisor no later than the regular work time and report the expected time of arrival and/or duration of absence.

8.7. Unauthorized Absence is Prohibited: Arriving late to work or leaving early in connection with scheduled work times, breaks, or meal periods is prohibited for overtime- eligible employees. An overtime-eligible employee who fails to timely notify the supervisor of absences, or who is not present and ready to work during all scheduled work times, will be deemed to have an unauthorized tardy or absence and will not receive compensation for the period of absence.

8.8. Excessive Tardiness/Absenteeism: Excessive tardiness occurs when an overtime-eligible employee, without authorization, is late to work or late to return from breaks more than three times during any 30-day period. Excessive absenteeism occurs when the number of unapproved absences, for reasons that are not permitted by state or federal law, exceeds three days in any three-month period. Excessive tardiness or absenteeism may be grounds for discipline, up to and including termination.

9. WORK WEEK, OVERTIME, AND COMPENSATORY TIME OFF

9.1. Work Week: The work week for full-time employees is 40 hours per week in a seven-day period. The work week begins at 12:00 a.m. every Sunday and is a regularly recurring seven-day period ending at 11:59 p.m. every Saturday, except as designated in an applicable MOU or payroll records.

9.2. Overtime: Overtime is all time over 40 hours that an overtime-eligible employee is in paid status within that employee's designated work week. Overtime-eligible employees who are directed to work overtime must do so.

9.3. No Remote Access for Overtime-Eligible Employees: Unless the Department Director specifies otherwise in writing, overtime-eligible employees may not have remote access to Town equipment, resources, or email.

9.4. Prior Approval Required for Overtime: Overtime-eligible employees are not permitted to work overtime except as their supervisor authorizes or directs, or in case of emergency. Working overtime without advance approval or an emergency is grounds for discipline. In emergencies, the employee may perform the work, but must notify a supervisor as soon as possible, and in no event later than the end of that day. If the supervisor denies a request to work overtime, the employee must obey and cease working. Failure to follow these overtime approval procedures will result in being paid for all time actually worked, and being subjected to disciplinary action, up to and including termination, for violating these overtime pre-approval procedures.

9.5. Accurate Time Reporting: All employees must accurately report all work time to the nearest five minutes.

9.6. No Volunteering of Work Time: All time spent for the benefit of the Town must be reported on time records so that the employee is paid for all work. Overtime-eligible employee may not "volunteer" work time to perform duties that are the same or similar as their job duties. Employees have no authorization to work without compensation. No supervisor has authority to request overtime-eligible employees to work without pay.

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

> **9.7.1. CTO Accrual Rate:** CTO accrues at a rate of 1.5 hours for each hour, or fraction thereof, after 40 hours paid within the employee's work week. Time in paid leave status does not count toward CTO. CTO cannot be accumulated in excess of 80 hours at any given time.
>
> **9.7.2. Employee Request to Use CTO:** The Town will grant an employee's request to use accumulated CTO provided that: 1) the department can accommodate the use of CTO on the day requested without undue disruption to operations; and 2) the employee makes the request in writing to the supervisor no later than five days prior to the date requested.
>
> **9.7.3. Town CTO Cash Out:** The Town reserves the right to cash out accumulated CTO at any time.
>
> **9.7.4. Value of CTO Cash Out:** During employment, CTO is cashed out at the employee's current FLSA regular rate of pay (including applicable salary differentials and special pays). Employees separating from Town service will be

compensated for all accrued, unused CTO at their current FLSA regular rate of pay, or their average FLSA regular rate of pay for the prior three years, whichever is higher.

10. LEAVES

10.1. General Provisions for Leaves:

10.1.1. Public Accountability: Non-exempt employees are expected to be at work at scheduled times. To ensure public accountability and the integrity of public service, all employees are expected to account for their absences from work. Leave time is chargeable in increments of quarter-hour .

10.1.2. Advance Approval for Leave: Leaves shall be subject to approval by the Department Head (or designee), and scheduled in advance whenever possible, with due regard for the Town's service needs.

10.1.3. Documentation to Support Leave: The Town may employ any reasonable measure to ensure employees are properly accounting for leaves or using leaves consistently with the purpose of the leave, including requiring reasonable proof that the basis for the leave is legitimate. Employees may be required to submit a medical certification of sickness supporting a request for sick leave.

10.1.4. Exclusions: The leave benefits described in this section are available only to full-time, or probationary, employees working in 40 hour-per-week positions only.

10.2. Sick Leave:

10.2.1. Purposes for Sick Leave: Sick leave is paid leave from work that can be used for the following purposes:

(a) Health Care: Diagnosis, care, or treatment of an existing health condition of, or preventative care for, an employee or any of the following of the employee's family members: child of any age or dependency status; parent; parent-in-law; spouse; registered domestic partner; grandparent; grandchildren; or sibling; or a designated person who the employee designates at the time the employee requests sick leave, provided that an employee may only designate one person per 12 month period; or

(b) Victim Assistance: For an employee who is a victim of domestic violence, sexual assault, or stalking to: a) obtain or attempt to obtain a temporary restraining order or other court assistance to help ensure the health, safety, or welfare of the employee or the employee's child; b) obtain medical attention or psychological counseling, services from a shelter, program or crisis center; or c) participate in safety planning or actions to increase safety.

10.2.2. Terms of Sick Leave:

(a) Accrual and Carryover: Employees accrue sick leave at the rate of 10 hours per month of paid status / 120 hours annually. Accrued sick leave carries over from year to year. No accrual limit applies.

(b) Sick Leave Use: An employee may use accrued sick leave, in a minimum increment of a quarter of an hour (15 minutes),

(c) Protected Sick Leave: One-half of the employee's accrued and available annual sick leave is protected and may be used for any of the purposes stated in this Policy.

(d) Sick Leave Request: If the need for sick leave is foreseeable, an employee must give the immediate supervisor reasonable advance written or verbal notice. If the need for sick leave is not foreseeable, the employee shall provide written or verbal notice as soon as practicable. If the employee is required to be absent on sick leave for more than one day, the employee must keep the immediate supervisor informed each day as to the date the employee expects to return to work, and the general purpose of the leave. Failure to request sick leave as required by this rule without good reason, may result in the employee being treated as absent without leave.

(e) Certification: Sick leave may only be used in cases of actual sickness, disability, or for the response to domestic violence, sexual assault or stalking as described in this Policy. Employees who use sick leave to address issues related to domestic violence, sexual assault, or stalking, and who cannot provide advance notice or certification of their need for leave, must provide certification of the need for leave within a reasonable period thereafter.

(f) Sick Leave on Separation from Employment: Unused sick leave is not cashed out upon termination, resignation, retirement, or other separation from employment, unless otherwise outlined in the memorandum of understanding.

(g) Sick Leave Reinstatement: If an employee separates and is rehired within one year from separation, accrued and unused sick leave, to a maximum of 6 days or 48 hours, whichever is greater, will be reinstated. An employee who has worked at least 90 days in the initial employment with the Town may immediately use reinstated sick leave. An employee who had not worked 90 days in the initial employment with the Town must work the remaining amount of the 90 day-qualifying period to be able to use accrued sick leave.

10.3. Jury Duty Leave/Subpoenaed or Court-Ordered Victim Witness Leave: An employee who is summoned to serve on a jury, or who is a crime victim who is subpoenaed or ordered to be a witness, must notify their supervisor or department head as soon as possible. Any employee who is released from jury service prior to the end of their scheduled work hours must report to work unless otherwise authorized by the supervisor. Employees must keep their supervisors informed of their court schedule, and shall provide proof of service to the Town upon request.

10.3.1. Overtime-Eligible Employees: All overtime-eligible employees will be paid for actual work hours missed because of time spent in jury service or court. The Town will offset from pay the amount the employee receives from the Court for jury fees.

10.3.2. Overtime-Exempt Employees: All FLSA-exempt employees will continue to receive their normal salary while on jury duty or serving as a witness only for any work week in which they perform any work duties. The Town will offset from pay the amount the employee receives from the Court for jury fees.

10.4. Other Court or Administrative Proceeding Appearances:

10.4.1. Regarding Town Duties: Any employee who is subpoenaed to appear in court in a matter regarding an event or transaction in the course of Town job duties must give the supervisor as much advance notice as possible. The Town will determine whether the matter involves an event or transaction in the course of the employee's Town job duties. If so, this leave to appear in court will be without loss of compensation, and the time spent will be considered work time.

10.4.2. Regarding Employee-Initiated Proceedings: Any employee who is subpoenaed to appear, or appears in court because of civil or administrative proceedings that the employee initiated is not entitled to receive compensation for time spent related to those proceedings. An employee may request to receive time off without pay, or may use any accrued leave other than sick leave for time spent related to those proceedings. The time spent in these proceedings is not considered work time. Notwithstanding the above, an employee who is testifying or appearing as the designated representative in PERB conferences or hearings, or at a personnel or merit commission is entitled to paid release time.

10.4.3. Regarding Crime Victim/Victim Family Member Court Appearance: Any employee who is a victim of a crime that is a serious or violent felony, or a felony involving theft or embezzlement, may take leave from work to attend judicial proceedings related to that crime, if the employee provides the employer a copy of the notice of the scheduled proceeding in advance. If advance notice is not feasible, the employee must provide the employer, within a reasonable time after the leave is taken, documentation from the District Attorney, victim's rights office, or court/ governing agency that shows that the judicial proceeding occurred when the leave was used. An employee who is an immediate family member of such a crime victim, including: a registered domestic partner; the child of the registered domestic partner; spouse; child; stepchild; brother; stepbrother; sister; stepsister; mother; stepmother; father; or stepfather of the victim is also entitled to leave from work to attend judicial proceedings relating to that crime. The leave is unpaid unless the employee elects to use accrued vacation, sick, or other paid leave, or compensatory time off.

10.4.4. Regarding Crime Victim / Family Member Victims' Rights Proceedings Leave: Any employee who is a victim of a crime listed in California Labor Code section 230.5(a)(2)(A), may take leave from work to appear in court to be heard at any proceeding in which the right of the victim is at issue, if the employee provides the employer reasonable advance notice. If advance notice is not feasible, the employee must provide the employer, within a reasonable time after the leave is taken, certification from a police report, a District Attorney, a court, a health care provider, or a victim advocate, that the employee was a victim of any crimes listed in California Labor Code section 230.5(a)(2)(A). An employee who is a spouse, parent, child, sibling, or guardian of such crime victim is also a victim who is entitled to this leave if the above notice or certification

requirements are met. The leave is unpaid unless the employee elects to use accrued vacation or paid leave, or compensatory time off.

10.5. Leave for Victims of Domestic Violence, Sexual Assault, or Stalking to Obtain Restraining Orders or Injunctive Relief: Any employee who is a victim of domestic violence, sexual assault or stalking, may take leave from work to obtain any relief, including, but not limited to: a temporary restraining order; restraining order; or other injunctive relief to help ensure the health, safety, or welfare of the employee or the employee's child, if the employee provides advance notice of the need for leave. If advance notice is not feasible, the employee must provide any of the following certifications within a reasonable time after the leave: a police report indicating that the employee was a victim; a court order protecting the employee from the perpetrator; evidence from the District Attorney or court that the employee has appeared in court; or documentation from a health care provider or counselor that the employee was undergoing treatment for physical or mental injuries or abuse. The leave is unpaid unless the employee elects to use sick leave (limited to three days per year), accrued vacation or paid leave, or compensatory time off.

10.5.1. Leave for Victims of Domestic Violence, Sexual Assault, or Stalking to Obtain Medical Attention or Counseling or Safety Planning: Any employee who is a victim of domestic violence, sexual assault, or stalking, may take leave from work to attend to any of the following: obtaining medical attention or psychological counseling; obtaining services from a shelter, program or crisis center; or participating in safety planning or other actions to increase safety, if the employee provides advance notice of the employee's intention to take time off for these purposes. If advance notice is not feasible, the employee must provide any of the following to the employer within a reasonable time after the leave: a police report indicating that the employee was a victim; a court order protecting the employee from the perpetrator; evidence from the District Attorney or court that the employee has appeared in court; or documentation from a health care provider or counselor that the employee was undergoing treatment for physical or mental injuries or abuse. The leave is unpaid unless the employee elects to use sick leave (limited to three days per year), accrued vacation or personal leave, or compensatory time off.

10.6. Administrative Leave with Pay: The Town in its discretion may place an employee on administrative leave with pay for non-disciplinary reasons at any time when the Human Resources Director determines that the employee's and/or Town's best interests warrant the leave. An employee does not have any right to appeal the decision to be placed on administrative leave with pay. Employees on such leave shall be available by telephone to respond to the Town's instructions during their normal working hours.

10.7. Leave Without Pay: Unless authorized by law or a Town policy, an employee is not entitled to a leave of absence without pay. Unless otherwise required by law, employees in unpaid status do not accrue vacation or sick leave. Unless required by law, employees in unpaid status may be required to pay for all fringe benefits, such as health plan premiums and employee retirement contributions, during the period of their leave without pay. An authorized leave of absence without pay is not a break in service for purposes of calculating seniority.

10.8. Bereavement Leave: The Town shall grant leaves of absence with pay up to three days, and up to two additional unpaid days if a member of the employee's or spouse's immediate family dies. Bereavement leave may be used to attend a funeral or memorial service or to take care of family matters that are related to the death of the immediate family member. "Immediate family" means parent, current spouse or domestic partner, child, stepchild, grandparent, brother, sister, current mother-in-law, or current father-in-law. The Town in its discretion may require some proof that a death in the family has occurred. Bereavement leave is available only within three months after a death in the family. The leave need not be taken on consecutive days. An employee may use accrued sick, vacation, or CTO for the two unpaid days.

10.8.1. Reproductive Loss Leave: An eligible employee can take up to five days of reproductive loss leave following a "reproductive loss event." A "reproductive loss event" is the day, or for a multi-day event, the final day of a: failed adoption; failed surrogacy; miscarriage; stillbirth; or an unsuccessful assisted reproduction, and as these terms are further defined in Government Code section 12945.6. If an employee experiences more than one reproductive loss event within a 12-month period, the Town is only obligated to grant a total amount of 20 days of leave within a 12-month period. The leave days need not be consecutive, but must be completed within three months of the event entitling the employee to leave for reproductive loss. Or, if prior to, or immediately following a reproductive loss event, an employee is on, or chooses to go on leave based on another leave entitlement under state or federal state law, the reproductive loss leave must be completed within three months of the end of that other leave. The reproductive loss leave is unpaid, except that an employee may use vacation, personal leave, accrued and available sick leave, or compensatory time off. An employee is not eligible for this leave if the employee has already utilized the total amount of leave described in this Rule, or the employee has not been employed with the Town for at least 30 days prior to the commencement of the leave.

10.9. Military Leave: Military leave will be granted in accordance with state and federal law. An employee requesting military leave shall promptly provide the department head with a copy of the military orders specifying the dates, site, and purpose of the activity or mission. Within the limits of such orders, the department head may determine when the leave is to be taken and may modify the employee's work schedule to accommodate the request for leave.

10.10. School-Related Leaves:

10.10.1. School or Licensed Day Care Activity Leave: Any employee who is a parent, guardian, step parent, foster parent, grandparent, or person who stands in loco parentis to one or more children who are in kindergarten or grades 1 through 12, or who are in a licensed day care facility, shall be allowed up to 40 hours each school year, not to exceed eight hours in any calendar month of the school year, to participate in activities of their child's school or licensed day care facility; find, enroll, or reenroll a child in a school or with a licensed child care provider; or to pick up a child due to a child care provider or school emergency. The employee must provide reasonable advance notice to the supervisor of the planned absence. The leave is unpaid unless the employee uses vacation, personal leave, or compensatory time off. The employee must provide documentation from the school or licensed day care facility as verification that the

employee participated in school or day care activities on a specific date and at a particular time. If both parents, guardians, or grandparents having custody of a child work for the Town, only the first employee requesting leave will be entitled to leave under this provision.

10.10.2. Child Suspension Leave: Any employee who is the parent or guardian of a child in grades 1-12 may take time off to go to the child's school in response to a request from the child's school if the employee gives advance notice and documentation to the supervisor. A school has the authority to request the parent to attend the child's school if the child has: committed any obscene act; habitually used profanity or vulgarity; disrupted school activities; or otherwise willfully defied the valid authority of school personnel.

10.11. Industrial Illness Leave: Employees who are absent from work because of injury or illness covered by Workers' Compensation will continue in pay status under the following provisions:

10.11.1. Coordination of Benefits: When the employee authorizes it, the difference between the amount granted pursuant to Workers' Compensation and the employee's regular pay will be deducted from the employee's accumulated sick leave, vacation, personal holidays, and compensatory leave time, if any. The employee will continue in pay status and receive their pay until their accumulated sick leave, and authorized compensatory time, floating holidays and vacation days have been depleted to the nearest hour.

10.11.2. Accrual of Sick and Vacation Leave Continues While on Paid Leave: During the time the employee is in fully paid status while absent from work because of Workers' Compensation injury or illness, the employee will continue to accrue sick and vacation leave only for hours paid by the Town.

10.11.3. Unpaid Leave and Continuation of Health Care Benefits: Any employee subject to this Policy who depletes accumulated leave while absent from work because of Workers' Compensation injury or illness may receive an unpaid leave of absence and continuation of health care benefits consistent with state and/or federal law.

10.12. Time Off to Vote: Any employee who does not have sufficient time outside of working hours to vote, may request up to two hours of paid leave either at the beginning or end of scheduled working hours to enable the employee to vote. The employee must request time off to vote from the supervisor at least two days prior to Election Day.

10.13. Vacation Leave Accrual and Use: Employees earn vacation while in paid status Vacation leave will not accrue when an employee is not in paid status, unless required by law or other policy. Vacation cannot be used for any period of incarceration.

10.13.1. Scheduling and Cash Out of Vacation Leave: Probationary employees must be employed at least six months, and have successfully completed initial probation, before using vacation leave benefits. Vacation requests for up to two (2) days may be approved by the supervisor with one day's notice. One week's notice shall be given for requests for more than two (2) days. Two weeks' notice shall be given for requests for four (4) days or more. Employees who separate employment shall be cashed out of their

accrued but unused vacation, at the employee's hourly rate at the time of separation from Town service.

10.13.2. Vacation Accrual Rate on Reemployment: When a former full-time Town of Windsor employee, who left the Town employment in good standing, within the last 24 months is rehired into a full-time position, the employee's prior years of service with the Town will count towards the accrual of their vacation rates. Prior leave balances will not be reinstated.

10.14. Holiday Pay: The Town observes the following legal holidays, which are available to those employed at least 30 days prior to the date of the holiday:

- New Year's Day
- Martin Luther King Jr. Birthday
- President's Day
- Memorial Day
- Independence Day
- Labor Day
- Veteran's Day
- Thanksgiving Day
- Day After Thanksgiving
- December 24
- December 25
- Floating Holidays (two ten-hour holidays per fiscal year)

10.14.2. Terms of Holiday Pay: Legal holidays falling on a Saturday are observed on Friday. Legal holidays falling on a Sunday are observed on Monday. To qualify for holiday pay, employees must be on paid status on the regularly scheduled workday before and after the legal holiday, unless the absence is with the written permission of the Town, or due to illness. Holidays occurring during an employee's vacation will be treated as a paid holiday.

10.14.3. Work on Holidays: Non-exempt employees working on a holiday with Town approval will be entitled to holiday pay, plus, time and a half for any hours worked on the holiday. For any hours worked on the holiday, non-exempt employees may choose compensatory hours in lieu of time and half pay. Non-exempt employees who work on the holiday, also have the option to bank the holiday hours as a future floating holiday.

10.14.4. Use and Scheduling of Floating Holidays: Employees must give one week's notice of a request to use a floating holiday. The scheduling of a floating holiday is subject to supervisory approval. A floating holiday may not be carried over to another fiscal year, and is lost unless used prior to the end of the fiscal year. A floating holiday may not be cashed out.

11. FAMILY AND MEDICAL LEAVES

11.1. Statement of Policy – Concurrent Running of Family Medical Leave Act (FMLA) and California Family Rights Act (CFRA) Leaves: The Town provides family and medical care leave for eligible employees as required by State and federal law. Employees who misuse or abuse FMLA leave may be disciplined up to and including termination. Employees who fraudulently obtain or use CFRA leave are not protected by the CFRA's job restoration or maintenance of health benefits provisions. This Policy is supplemented by the Federal Family and Medical Leave Act (FMLA) and the California Family Rights Act (CFRA). Unless otherwise stated in this Policy, "Leave" means leave pursuant to the FMLA and CFRA. Unless otherwise provided by law, the Town will run FMLA and CFRA leaves concurrently.

11.2. Reasons for Leave: Leave is only permitted for the reasons listed below:

(a) The birth of a child or to care for a newborn of an employee;

(b) The placement of a child with an employee in connection with the adoption or foster care of the child;

(c) Leave to care for a child, parent, or spouse who has a serious health condition;

(d) Under the CFRA only, leave is permitted to care for a domestic partner, grandparent, grandchild, parent-in-law, sibling, or designated person who has a serious health condition. Leave for this purpose does not apply to FMLA leave and will not run concurrently with leave under the FMLA;

(e) Leave because of a serious health condition that makes the employee unable to perform any one or more essential functions of their position;

(f) Leave for a variety of "qualifying exigencies" arising out of the fact that an employee's spouse, son, daughter, or parent is on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation;

(g) Under the CFRA only, leave for a variety of "qualifying exigencies" arising out of the fact that an employee's domestic partner is on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation. Leave for this purpose does not apply to FMLA leave and will not run concurrently with leave under the FMLA; or

(h) Under the FMLA only, leave to care for a spouse, son, daughter, parent, or "next of kin" who is a covered service member of the U.S. Armed Forces who has a serious injury or illness: incurred in the line of duty while on active military duty; or existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces. This leave can run up to 26 weeks of unpaid leave during a single 12- month period.

11.3. Employees Eligible For Leave: An employee is eligible for leave if:

(a) The employee has been employed by the Town for at least 12 months; and

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

(c) For FMLA eligibility, the Town must directly employ at least 50 full or part-time employees within a 75-mile radius for each working day during each of 20 or more calendar workweeks in the current or preceding calendar year. The workweeks do not have to be consecutive. The phrase “current or preceding calendar year” refers to the calendar year in which the employee requests the leave or the calendar year preceding this request.

11.4. Amount of Leave*:* Eligible employees are entitled to a total of 12 workweeks (or 26 workweeks to care for a covered servicemember) of leave during the 12-month period. If FMLA leave qualifies as both military caregiver leave and care for a family member with a serious health condition, the leave will be designated as military caregiver leave first.

11.5. Minimum Duration of Leave:

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

(b) If leave is requested to care for a child, parent, parent-in-law, spouse, domestic partner, grandparent, grandchild, sibling, designated person, or the employee themselves with serious health condition, there is no minimum amount of leave that must be taken. However, compliance with the notice and medical certification provisions in this Policy is required.

11.6. Both Parents Employed by the Town: If both parents of a child, adoptee, or foster child are employed by the Town and are entitled to bonding leave:

(a) The aggregate number of workweeks of FMLA leave to which both may be entitled may be limited to 12 workweeks during any 12-month period; and

(b) Each parent is entitled to take 12 workweeks of CFRA leave during any

12-month period.

If both parents of a covered servicemember are employed by the Town and are entitled to leave to care for a covered servicemember, the aggregate number of workweeks of leave to which both may be entitled is limited to 26 work weeks during the 12-month period. This limitation does not apply to any other type of leave under this Policy.

11.7. Employee Benefits While On Leave:

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

(b) **Benefit Plans Not Provided through the Town's Group Health Plan During Unpaid Leave Do Not Continue:** The Town does not pay for benefit plans that are not part of the group health plan for any employee on unpaid leave. As a result, employees will not continue to be covered under the Town's benefit plans that are not provided through the Town's group health plans while the employee is on unpaid leave.

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

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

11.8. Substitution of Paid Accrued Leaves: Although FMLA/CFRA leave is unpaid, an employee may elect, and the Town will require an employee to concurrently use all paid accrued leaves during family leave as described below.

11.8.1. Employee's Right to Use Paid Accrued Leave Concurrently with Family Leave: An employee may use any earned or accrued paid leave except sick leave for all or part of any unpaid family and medical leave. An employee is only entitled to use sick leave concurrently with family leave for the employee's own serious health condition or that of the employee's parent, parent-in-law, spouse, domestic partner, child, grandparent, grandchild, sibling, or designated person.

11.8.2. Town's Right to Require an Employee to use Paid Leave when using FMLA/CFRA Leave: Employees must use and exhaust their accrued leaves concurrently with FMLA/CFRA to the same extent that employees have the right to use their accrued leaves, with two exceptions:

(a) Employees are not required to use paid leave during leave pursuant to a disability plan that pays a portion of the employee's salary while on leave unless the employee agrees to use paid leave to cover the unpaid portion of the disability leave benefit; and

(b) An employee must agree to use accrued sick leave to care for a child, parent, spouse or domestic partner, grandparent, grandchild, sibling, or designated person.

11.8.3. Town's Right to Require an Employee to Exhaust FMLA/CFRA Leave Concurrently with Other Leaves: If an employee takes a leave of absence for any purpose which also qualifies under both the FMLA and CFRA, the Town will designate that leave as running concurrently with the employee's 12-week FMLA/CFRA leave entitlement.

11.8.4. Town's and Employee's Rights if an Employee Requests Accrued Leave without Mentioning FMLA or CFRA: If an employee requests to utilize accrued vacation leave or other accrued paid time off without reference to a FMLA/CFRA qualifying purpose, the Town may not ask the employee if the leave is for a FMLA/CFRA qualifying purpose. However, if the Town denies the employee's request and the employee provides information that the requested time off is for a FMLA/CFRA qualifying purpose, the Town may require the employee to exhaust accrued leave as described above.

11.9. Medical Certification/ Recertification*:* Employees who request leave must provide a medical certification and/or recertification to support the need for the leave as described below:

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

period the health care provider originally estimated that the employee needed for their own serious health condition, the employee must obtain recertification if additional leave is requested.

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

(c) **Servicemember Serious Injury or Illness:** Employees who request FMLA leave to care for a covered servicemember who is a child, spouse, parent or "next of kin" of the employee, must provide written certification from a health care provider regarding the injured servicemember's serious injury or illness. The Town will verify the certification as permitted by the FMLA regulations.

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

11.10. Time to Provide a Medical Certification*:* When an employee has provided at least 30 days' notice for a foreseeable leave, the employee must provide a medical certification before the leave begins. When this is not possible, the employee must provide the medical certification to the Town within the time frame requested by the

Town (which must allow at least 15 calendar days after the employer's request), unless it is not practicable under the particular circumstances to do so despite the employee's diligent, good faith efforts.

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

11.12. Human Resources Department's Review of the Contents of Medical Certification for Employee's Own Serious Health Condition:

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

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

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

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

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

11.16. Reinstatement Upon Return from Leave:

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

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

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

(d) **Release to Return to Work Certification:** As a condition of reinstatement of an employee whose non-intermittent leave was due to the employee's own serious health condition, which made the employee unable to perform his or her job, the employee must

obtain and present a release to return to work from the health care provider stating that the employee is able to resume work. Failure to provide such certification will result in denial of reinstatement.

(e) **Reinstatement of "Key Employees":** The Town may deny reinstatement to a "key" employee (i.e., an employee who is among the highest paid 10 percent of all employed by the Town within 75 miles of the worksite) if such denial is necessary to prevent substantial and grievous economic injury to the operations of the Town, and the employee is notified of the Town's intent to deny reinstatement on such basis at the time the employer determines that such injury would occur. Under the CFRA, the Town may not deny reinstatement to a "key" employee during or upon the expiration of the CFRA leave.

11.17. Definitions: The following definitions apply to the Family and Medical Leave Policy:

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

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

(c) "Child" means:

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

- For CFRA" a biological, adopted, foster or step-child, a legal ward, a child of a domestic partner, or a person to whom the employee stands in loco parentis.

(d) "Parent" means the biological, foster, or adoptive parent, a parent-in-law, a stepparent, a legal guardian, or other person who stood in loco parentis to the employee when the employee was a child. Parent-in-law means the parent of a spouse or domestic partner.

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

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

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

1) Inpatient Care in a hospital, hospice, or residential medical care facility, including any period of incapacity (e.g., inability to work or perform other regular daily activities due to the serious health condition, treatment involved, or recovery therefrom). A person is considered “inpatient” when a health care facility admits him or her to the facility with the expectation that he or she will remain at least overnight, even if it later develops that such person can be discharged or transferred to another facility, and does not actually remain overnight; or

2) A serious health condition involving continuing treatment by a health care provider includes a period of incapacity (i.e., inability to work, or perform other regular daily activities) due to serious health condition of more than three consecutive calendar days, and any subsequent treatment or period of incapacity relating to the same condition, that also involves:

- Treatment two or more times by a health care provider, by a nurse or physician’s assistant under direct supervision by a health care provider, or by a provider of health care services (e.g., a physical therapist) under orders of, or on referral by a health care provider; or

- Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider. This includes for example, a course of prescription medication or therapy requiring special equipment to resolve or alleviate the health condition. If the medication is over the counter, and can be initiated without a visit to a health care provider, it does not constitute a regimen of continuing treatment.

3) Any period of incapacity due to pregnancy or for prenatal care. Note that pregnancy is a “serious health condition” only under the FMLA. Under California law, an employee disabled by pregnancy is entitled to pregnancy leave.

4) Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which:

- Requires periodic visits for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider;

- Continues over an extended period of time (including recurring episodes of a single underlying condition); and

- May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.). Absences for such incapacity qualify for leave even if the absence lasts only one day.

5) A period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by health care provider.

6) Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment.

(h) "Health Care Provider" means:

1) A doctor of medicine or osteopathy who is authorized to practice medicine or surgery in the State of California;

2) Individuals duly licensed as a physician, surgeon, or osteopathic physician or surgeon in another state or jurisdiction, including another country, which directly treats or supervises treatment of a serious health condition;

3) Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by x-ray to exist) authorized to practice in California and performing within the scope of their practice as defined under California State law;

4) Nurse practitioners and nurse-midwives and clinical social workers who are authorized to practice under California State law and who are performing within the scope of their practice as defined under California State law;

5) Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts; and

6) Any health care provider from whom an employer or group health plan's benefits manager will accept certification of the

existence of a serious health condition to substantiate a claim for benefits.

(i) “Covered active duty” means:

1) in the case of a member of a regular component of the Armed Forces, duty during deployment of the member with the Armed Forces to a foreign country; or

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

(j) “Covered Servicemember” means:

1) a current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness; or

2) a veteran who is undergoing medical treatment, recuperation, or therapy, for a serious injury or illness and who was a member of the Armed Forces, including a member of the National Guard or Reserves, at any time during the period of five years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy.

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

1) a military medical treatment facility as an outpatient; or

2) a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients.

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

(m) “Serious Injury or Illness” means:

1) in the case of a member of the Armed forces, including a member of the National Guard or reserves, means an injury or illness that a covered servicemember incurred in the line of duty on active duty in the Armed Forces (or existed before the beginning of the member’s active duty and was aggravated by

the service in the line of duty on active duty in the Armed Forces) and that may render the servicemember medically unfit to perform the duties of the member's office, grade, rank, or rating; or

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

(n) "Designated Person" means any individual related by blood or whose association with the employee is the equivalent of a family relationship. The Designated Person must be identified by the employee at the time the employee requests leave to care for that person. The employee can only designate one "Designated Person" per 12-month family leave period.

11.18. Required Forms

Employees must complete the applicable forms to receive FMLA/CFRA. **Please request the appropriate forms from the Human Resources department.**

12. LEAVE BECASE OF PREGNANCY, CHILDBIRTH, OR RELATED MEDICAL CONDITIONS

12.1. Amount of Pregnancy Disability Leave: An employee who is disabled because of pregnancy, childbirth or a related medical condition is entitled to an unpaid leave for up to the number of hours she would normally work within four calendar months (one-third of a year or 17 1/3 weeks). For a full-time employee who works 40 hours per week, "four months" means 693 hours of leave entitlement, based on 40 hours per week times 17 1/3 weeks. An employee who works less than 40 hours per week will receive a pro rata or proportional amount of leave.

12.2. Transfer or Reasonable Accommodation: An employee disabled by pregnancy may request a transfer or reasonable accommodation based on the advice from her health care provider that a transfer or reasonable accommodation is medically advisable.

12.3. Employee Notice Requirement: Requests for transfer, reasonable accommodation, or pregnancy leave may be submitted verbally or in writing with 30-days advance notice if the request is foreseeable. If the request is not foreseeable, the request must be made as soon as practical. All leave requests must be submitted to the Human Resources Department. The Human Resources Department will respond within 10 calendar days of receiving the request, or sooner if practicable. All leaves must be confirmed in writing, have an agreed-upon specific date of return.

12.4. Certification Requirement: The request for transfer, reasonable accommodation, or pregnancy leave must be supported by a written certification from the attending physician stating that: 1) the employee is disabled from working by pregnancy, childbirth or a related medical condition and needs leave, transfer, or a reasonable accommodation; 2) the date on which the employee became disabled by pregnancy, childbirth or a related medical condition; and 3) the estimated duration or end date of the transfer, reasonable accommodation, or leave.

12.5. Compensation During Leave: In order to receive compensation while on disability leave, an employee must use any accrued sick leave until the sick leave is exhausted and is then entitled to voluntarily use any accrued vacation, compensatory time or personal leave during the remainder of the leave time.

12.6. Group Health Insurance During Leave: An employee on pregnancy disability leave may continue to receive any group health insurance coverage that was provided before her leave, beginning on the date the pregnancy disability leave begins and continuing for up to four months in a 12-month period, at the same level and under the same conditions that coverage would have been provided if the employee had continued in employment continuously for the duration of the leave. The Town may recover premiums it paid to maintain health coverage, if an employee does not return to work following pregnancy disability leave, unless the reason for failure to return is a circumstance beyond her control or the use of the separate right to 12 weeks of bonding leave under the California Family and Medical Leave Act.

12.7. Sick and Vacation Leaves: Sick and vacation leaves do not accrue while an employee is on unpaid pregnancy disability leave.

12.8. Employee Status During Leave: The employee retains employee status during the leave. The leave is not a break in service for purposes of longevity or seniority under any collective bargaining agreement or employee benefit plan. Benefits will be resumed

upon the employee's reinstatement in the same manner and at the same levels as provided when the leave began, without any new qualification period, physical exam, or other qualifying provisions.

12.9. Reinstatement: Upon expiration of pregnancy disability leave, the employee will be reinstated to her original position, unless her position was eliminated for a legitimate business reason during her leave. If the employee's original position is filled, the employee will be assigned to a comparable, open position.

12.10. Interactive Process: If at the end of the pregnancy disability leave, the employee is unable to perform the essential functions of her job because of mental or physical disability, the Town will initiate an interactive process with the employee to identify potential reasonable accommodation(s) in accordance with these Rules.

13. TRANSFERS

13.1. Employee Initiated: A non-probationary Town employee with at least satisfactory appraisal ratings, on his or her most recent evaluation, may request a transfer to a lateral or other lower-level vacant position in the Town. The transfer request may be initiated by submitting forms as prescribed by the Human Resources Department. The employee requesting a transfer must meet the minimum qualifications for the vacant position, and may be subject to interviews and other selection processes specified by the Town.

13.2. Town Initiated: The Town may fill vacant positions through transfers rather than from eligibility lists. The Town may initiate a transfer upon request of the employee, when it is in the best interests of the Town to do so, due to layoff, or in order to reasonably accommodate employees with disabilities due to pregnancy or other physical or psychological causes. The employee transferred must meet the minimum qualifications for the vacant position, and may be subject to interviews and other selection processes specified by the Town.

14. RESIGNATION, JOB ABANDONMENT, LAYOFF, AND SEPARATION

14.1. Types of Separation: All separations of employees from positions in Town employment are designated as one of the following types:

(a) probationary release;

(b) no cause release of part-time/temporary/ seasonal (PTS) or at-will employee;

(c) resignation;

(d) retirement;

(e) job abandonment;

(f) layoff;

(g) non-disciplinary separation;

(h) disciplinary separation.

14.2. Probationary Release: Probationary employees may be released at any time during the probationary period without cause or notice. A released probationary employee has no right to appeal or to submit a grievance. *See* Rule 5.7 If the Town approves, the released probationary employee may be appointed to any vacant position in a classification in which the employee is qualified and performed satisfactorily for at least one year, subject to a new probationary period.

14.3. No-Cause Release of PTS or At-Will Release: At-will employees and part-time/ temporary/ seasonal employees may be released at any time, without cause, and without right of appeal.

14.4. Resignation: An employee who wishes to resign in good standing must submit written notice of resignation to the Department of Human Resources preferably within two weeks prior to the planned separation date. A written resignation becomes irrevocable upon the Town's written acceptance of resignation. If an employee gives only verbal notice of resignation, the oral resignation also becomes irrevocable upon the Town's written acceptance of the resignation.

14.5. Retirement: An employee planning to retire must provide written notice to the Human Resources Department, preferably at least 30 days prior to the effective date of the retirement. A notice of retirement becomes irrevocable once the Town accepts the notice of retirement in writing.

14.6. Job Abandonment For-Cause or Permanent Employees: For-cause or permanent employees are deemed to have resigned if they are absent for five consecutive scheduled work days/ shifts without prior authorization from the Town and without notification to the Town during the period of the absence. For-cause or permanent employees will be given written notice, at their address of record, of the description of the job abandonment, and an opportunity to provide an explanation for the unauthorized absence. A for-cause or permanent employee who timely responds to the deadlines listed in the written notice can arrange for an appointment with the Human Resources Department, before final action is taken, to explain the absence

and failure of notification. An employee separated for job abandonment will be reinstated upon proof of justification for such absence that the Town deems adequate, such as severe accident or illness, false arrest, or mental or physical impairment that prevented notification to the Town. No employee separated for job abandonment has the right to a post-separation appeal.

14.7. Layoff: Whenever in the sole judgment of the Town Council it becomes necessary to abolish any position that is held by a for-cause or permanent employee due to a reorganization, lack of work or funds, the employee holding said position may be laid off or demoted without disciplinary action and without the right of appeal. Whenever possible, for-cause or permanent employees will be given 30 days' notice of any layoff. At-will, part-time /temporary /seasonal, and/or probationary employees have no rights to layoff protections.

14.7.1. Order of Layoff: When a layoff involves a classification held by more than one for-cause or permanent incumbent, layoffs will be made in an inverse order of seniority within the classification, plus higher classifications. Seniority will be determined by including all days of work and on authorized or legally-protected leaves of absence. Length of service does not include unauthorized periods of leave or suspension or layoff. If two or more employees in a classification to be laid off have the same length of employment, the employee to be laid off will be chosen by lottery.

14.7.2. Displacement: Employees who are noticed for layoff and who have held for-cause status in a lower classification within the same classification series in the same department, may displace employees in the lower classification provided that the employee seeking to displace has greater length of employment in the classification than the incumbent in the lower classification. Employees in lower classifications will be displaced in inverse order of their length of employment in the classification. The displacing employee must serve a probationary period as described in these rules unless the employee has already successfully completed probation in that classification. Any employee who seeks to displace another must provide the Human Resources Department with written notice no later than five working days after the date of the notice of layoff.

14.7.3. Transfer: If the Human Resources Department determines that a for-cause employee who is subject to layoff is qualified to perform the duties in a vacant position, the employee will receive a written notice of option to transfer in lieu of layoff. An employee who does not accept a transfer within 10 days after the date of the written notice, forfeits the option to transfer. An employee who accepts a transfer will be paid the rate applicable to the position into which they transfer.

14.7.4. Reemployment List: Employees laid off or demoted in accordance with this policy will have their names kept on a re-employment list for two full years from the date of layoff or demotion. The reemployment list will be used by the Town when a vacancy arises in the same or lower classification of position in the department where the layoff originally occurred, and before the Town seeks promotional and/or general applications from others.

14.7.5. Appeal: An employee who has been noticed for layoff, and who has any questions or concerns about the layoff decision or process, may make an appointment to be heard by the Human Resources Director for a pre-layoff review. The employee must request this appeal in writing within five work days

from the date of the notice of layoff. The decision of the Human Resources Director is final.

14.8. Non-Disciplinary Separation:

14.8.1. Non-Disciplinary Separation Because of Inability to Accommodate a Disability: Any employee who is separated because of an inability to accommodate a disability after the reasonable accommodation and interactive process has been completed will be given a pre-separation notice of the reasons for the separation, the evidence supporting the decision to separate, and an opportunity to respond before the separation takes effect. Any for-cause or permanent employee who is separated because of inability to accommodate a disability has the opportunity for a post-separation appeal as described in the rule regarding Discipline Policy and Procedures, except that if the Town or the employee files for CalPERS disability retirement, the only post-separation appeal is through CalPERS procedures.

14.8.2. Non-Disciplinary Separation Because of Inability to Accommodate Due to Anti-Nepotism Policy: A separation due to the inability to accommodate an employee as a result of the operation of the Town's Anti-Nepotism Policy is not disciplinary and is not subject to any pre- or post-disciplinary procedure.

14.9. Disciplinary Separation: A for-cause or permanent employee may be separated for disciplinary reasons as provided in the rule regarding Discipline Policy and Procedures.

14.10. Return of Town Property: All Town property must be returned prior to separation, including keys, key fobs, identification cards, equipment, credit cards, gas cards, cell phones, pagers, and any other Town property.

14.11. Job References/ Verification of Employment: All reference inquiries or verifications of employment must be referred to and approved by the Human Resources Department. Unless the Human Resources Department receives a written waiver signed by the employee, the Town will release only the employee's dates of employment and last position held. No Town employee outside of the Human Resources Department may provide any information in response to requests for official Town references or verification of employment, unless specifically approved by the Human Resources Department. Employees may provide a personal reference.

15. EMPLOYEE SAFETY / POLICY AGAINST VIOLENCE IN THE WORKPLACE

15.1. General Safety Rules:

(a) Safety is everyone's responsibility. All employees must use safe work practices and report any unsafe conditions that may occur. The Town also recognizes its responsibility to maintain safe workplaces.

(b) All work-related injuries must be reported to the responsible supervisor. If there is any question regarding the appropriate supervisor, the report should be made immediately to the Human Resources Department.

(c) If a work-related injury may result in lost work time, the employee should be provided with a workers' compensation claim form within one working day of the injury.

(d) Individual departments may adopt specific safety rules applicable to their operations.

15.2. Policy Against Violence in the Workplace:

15.2.1. Safe and Secure Workplace: The Town is committed to providing a safe and secure workplace and will not tolerate acts or threats of violence in the workplace. The workplace includes any location where authorized Town business is conducted, including vehicles and parking lots. Any violation of this Policy may lead to criminal prosecution and/or disciplinary action.

15.2.2. Prohibited Behavior: Retaliation, or the threat of retaliation against a person who makes a good faith report of a violation of this Policy is prohibited. Employees are prohibited from participating in or promoting acts of intimidation, workplace violence, threats, coercion, assault and/or abusive behavior toward any person while in the course of Town employment. The Town has zero tolerance for any conduct that references workplace violence, even if it was intended to be harmless, humorous, a prank, blowing off steam, or venting. Workplace violence is any conduct that causes an individual to reasonably fear for his or her personal safety or the safety of his or her family, friends, and/or property. Specific examples of workplace violence include, but are not limited to:

(a) Threats or acts of physical harm directed toward an individual or family, friends, associates, or property;

(b) The destruction of, or threat of destruction of Town property or another employee’s property;

(c) Fighting, challenging another person to fight, or participating in dangerous or threatening horseplay;

(d) Striking, punching, slapping, or assaulting another person;

(e) Grabbing, pinching, or touching another person in an unwanted way;

(f) Harassing or threatening phone calls or communications or posts of any type and in any format;

(g) Stalking;

(h) Possessing any weapon(s) during work hours unless the Town issues or approves the weapon(s) for the purpose of performing job-related tasks. “Weapon” is defined as a firearm, chemical agent, club or baton, knife, or any other device, tool, or implement that can cause bodily harm if used as a weapon or displayed in such a manner to threaten a person with harm.

15.3. Procedures – Response and Reporting of Imminent or Actual Violent Acts

15.3.1. Employee Responsibilities: An employee who is in immediate apparent danger of a violent act, or another employee who witnesses a violent act or the threat of a violent act must:

(a) Place themselves in a safe location.

(b) Call the Police Department at 565-2121 and request the immediate response of a police officer. Be prepared to inform the police dispatcher of the circumstances and exact location of where an officer is needed.

(c) Immediately inform a supervisor or manager of the circumstances.

(d) Refer media inquiries to the Town Manager’s Office.

(e) Cooperate fully in any administrative or criminal investigation which may be conducted.

15.3.2. Supervisor/Manager Responsibilities: A supervisor or manager who is in immediate danger of a violent act, or who witnesses or receives a report of a violent act or the threat of a violent act, must:

(a) Place themselves in a safe location.

(b) Whenever possible ensure the immediate safety of employees and the worksite by calling the Police Department at 565-2121, and immediately notify the Department Head and Human Resources Director.

(c) If feasible, have the involved individuals wait in separate rooms or locations until the police take control or remove them from the premises.

(d) In consultation with the Town Manager and Human Resources Director, determine if it is appropriate to obtain a restraining order or other appropriate injunctive and/or other legal and/or equitable relief.

(e) Reassign/relocate personnel or job duties, if required.

(f) Terminate any business relationship.

(g) Any other action deemed by the Town to be necessary or required under the circumstances.

(h) Obtain basic information from the employee and provide this to responding police personnel.

(i) Refer media inquiries to the Town Manager's Office.

15.4. Procedures to Prevent Violence

(a) Employees who have reason to believe they, or another Town employee has been, or may be victimized by a violent act sometime in the future, at the workplace or as a direct result of their employment with the Town, shall inform their supervisor immediately so appropriate action may be taken. The supervisor shall inform the Department Head and the Department of Human Resources.

(b) Employees who have signed and filed a restraining order, temporary or permanent, against an individual due to a potential act of violence, who would be in violation of the order by coming near them at work, shall promptly supply a copy of the signed order to their supervisor and the Human Resources Director. The employee shall also supply a copy of the signed order and proof of service to the Town of Windsor Police Department.

(c) The supervisor must document the complaint or incident, including the names and /or descriptions of the parties, and a description of the acts or behavior.

(d) The Human Resources Department will see that reported violations of this Policy are investigated as necessary.

15.5. Post-Incident Review

(a) The Town Manager's Office, the Human Resources Department, the Police Department, and the affected department may conduct a post-incident review and use the review to evaluate this policy and procedure.

(b) The Town may determine what continuing support systems are needed and oversee post-incident activities, including incident-related counseling services through the Town's Employee Assistance Program (EAP), The Town will communicate with public safety officials, the courts, and others as necessary to assure employee safety. The Town will notify its workers' compensation providers and report incidents as required by law.

15.6. Prevention and Recordkeeping: Each department head has the authority to enforce this policy by:

(a) Training supervisors and subordinates about their responsibilities under this policy;

(b) Assuring that reports of workplace violence are addressed;

(c) Notifying the Human Resources Department and/or the Town's Police Department of any incidents;

(d) Making all reasonable efforts to maintain a safe and healthful workplace; and

(e) Maintaining records and follow up actions regarding reports of workplace violence.

16. APPEAL PROCEDURE

16.1. Scope of Appeal Procedure: This appeal procedure is intended to provide an avenue only for redress of complaints that the Town has in some manner violated these Personnel Rules to the detriment of the employee. This appeal procedure is intended to provide an informal avenue for redress of complaints relating to these rules, and to give the Town an opportunity to investigate the complaint and correct any problems before they become more serious. This procedure applies to all employees, except PTS employees, unless: the employee is covered by a grievance procedure in a MOU; another dispute resolution procedure applies to the dispute; or a discipline policy and procedure applies. This appeal procedure cannot be used to challenge the content of a performance evaluation.

16.2. Time to File the Appeal: The appeal must be initiated within 15 calendar days of the facts giving rise to the appeal, and must be submitted to the Human Resources Director.

16.3. Contents of an Appeal: Appeals must be in writing, signed by the affected employee(s) and allege that the Town has violated a specific provision of these rules. Appeals must contain the specific facts upon which they are based. Appeals that fail to include these elements may be rejected on that basis.

16.4. Human Resources Department Review: The Human Resources Director, or designee, will review the appeal. The Human Resources Director has the discretion to submit the appeal for preliminary response to a directly involved supervisor or department. The Human Resources Director shall serve notice of a written response within 15 calendar days of receipt of the appeal; or of the department’s response, whichever is later.

16.5. Appeal to Town Manager: If the appellant is dissatisfied with the Town’s first response, the appellant may submit an appeal to the Town Manager. The appeal must be received by the Town Manager within 15 calendar days of the Director's response.

16.6. Town Manager Makes the Final Decision: The Town Manager, or designee, will review the appeal and shall serve notice of a written response within 15 calendar days of receipt of the appeal. The Town Manager's decision shall be final.

17. DISCIPLINE / GENERAL RULES OF CONDUCT

17.1. General Rules of Conduct: It is expected that all employees shall render the best possible service and reflect favorably on the Town. Therefore, the highest standards of professional conduct are essential and expected of all employees. Town employees who are employed “at will”, part-time, temporary, or seasonal (PTS), or probationary, are expected to follow the rules of good conduct described in this Rule, but do not have any rights to the pre-discipline or appeal procedures described in this Rule.

17.2. Types of Disciplinary Actions:

17.2.1. Types of Disciplinary Actions: The Town may invoke the following types of disciplinary actions, depending upon a variety of factors, including the seriousness of the offense, whether it is a repeated offense, the relevant employment history of the employee, and the harm to the public service:

(a) **Written Reprimand:** A written reprimand is a written direction from a supervisory employee to discontinue inappropriate conduct or to correct a performance issue. A written reprimand will be kept in the employee’s personnel file, and is not subject to the discipline appeal procedures described below. The employee has the right to have a written rebuttal attached to the reprimand in the in the personnel file if the employee submits the rebuttal to the Human Resources Department within 14 days after the date of the reprimand.

(b) **Suspension Without Pay**: The Town may suspend an employee without pay. For a suspension of up to five days, the Town will provide a written notice of discipline describing the basis for the discipline, and attaching any supporting documents. An employee may submit a written rebuttal to a notice of suspension of up to five work days, which will be attached to the written notice and kept in the personnel file, but no other appeal is permitted. A suspension without pay for more than five days is subject to the discipline appeal procedures described below. Employees who are exempt from Fair Labor Standards Act (FLSA) overtime will only be suspended as authorized by the FLSA.

(c) **Reduction in Pay or Paid Leave:** The Town may reduce an employee’s pay or paid leave. A reduction for disciplinary purposes may take one of the following: a decrease in salary to a lower step within the salary range; a decrease in salary paid to an employee for a fixed period of time; or loss of accrued paid vacation or administrative leave, floating holiday, or compensatory time off. A reduction in pay or in paid leave is subject to the discipline and discipline appeal procedures described below. Employees who are exempt from FLSA overtime are not subject to pay reduction, but are subject to reduction of paid leave.

(d) **Demotion:** The Town may demote an employee from their position to a lower position. A demotion is subject to the discipline and discipline appeal procedures described below.

(e) **Discharge/Termination:** The Town may terminate an employee's employment. A discharged employee is subject to the discipline and discipline appeal procedures described below.

17.3. Grounds for Discipline: Disciplinary measures may be taken as to for-cause employees for any good cause. Town employees who are employed "at-will," or who are PTS or probationary, are not subject to the requirement of good cause. Good cause exists, not only when there has been an improper act or omission by an employee in the employee's official capacity, but when any conduct by an employee brings discredit to the Town, affects the employee's ability to perform his or her duties, prevents other employees from performing their duties, or involves any improper use of their position for personal advantage or the advantage of others. Causes for disciplinary action against an employee may include, but shall not be limited to, the following:

(a) Providing wrong or misleading information or omissions of relevant facts in completing a Town employment application, or to secure or maintain appointment to a position or promotion with the Town.

(b) Dishonesty, making any false statement, or omitting relevant information in the course of the employee's duties and responsibilities.

(c) Inefficiency or incompetence in the performance of duties.

(d) Violation of safety rules, or reckless or unsafe conduct.

(e) Violation of any of the provisions of these Personnel Rules, department rules and regulations, Town policies, or Town ordinances or resolutions.

(f) Unsatisfactory job performance, inattention to duty, carelessness, or negligence in the performance of duties.

(g) Tardiness, or overstaying lunch periods or breaks.

(h) Use of leave from work in a manner not authorized or provided for under these Personnel Rules.

(i) Being under the influence of an intoxicating beverage or non-prescription drug, or prescription drugs not currently authorized by the employee's physician, while on duty or on Town property, or when called in for emergency duty.

(j) Insubordination, insulting or demeaning the authority of a supervisor, disobedience to proper authority, or a refusal or failure to perform assigned work, comply with a lawful order, or accept a reasonable and proper assignment from an authorized supervisor.

(k) Soliciting or selling anything for personal gain on Town property.

(l) Unauthorized absence without leave; failure to report after leave of absence has expired or after a requested leave of absence has been disapproved, revoked, or canceled; or any other unauthorized absence from work.

(m) Conviction, meaning any judicial determination of guilt of a crime that has a nexus to the employee's job duties, or which negatively impacts the employee's ability to effectively perform the job, or which brings discredit to the Town.

(n) Offensive treatment of the public or other employees.

(o) Abusive conduct, including bullying, malicious verbal, visual or physical conduct, or the sabotage or undermining of another person's work.

(p) Falsifying or tampering with any Town document or record.

(q) Misuse or unauthorized use of any type of Town property, including Town monies, equipment, resources, or supplies.

(r) Damaging any type of Town property, or negligence in the care and handling of type of Town property.

(s) Fighting, horseplay, assault and/or battery.

(t) Theft or sabotage of Town or other property.

(u) Sleeping on the job.

(v) Soliciting or accepting bribes or kickbacks.

(w) Unapproved outside employment, or engaging in outside employment which conflicts with an employee's responsibilities to the Town or which negatively impacts the effective performance of Town functions or is not compatible with the public's interest.

(x) Intimidation or interference with the rights of any employee, including any act of retaliation taken because another employee complained of workplace misconduct.

(y) Failure to maintain the necessary license or certification specified for the position.

(z) Abusive, vulgar, or obscene language in the workplace.

(aa) Failure to maintain minimum qualifications, including required licenses or certificates.

(bb) Disclosure of confidential closed session or other confidential information to any unauthorized person or entity.

(cc) Carrying firearms or weapons onto or into any Town property, vehicle, or office, or possession firearms or weapons during Town employment.

(dd) Working overtime without prior authorization or refusing to work overtime.

17.4. Authority to Discipline: Any authorized supervisory employee may institute disciplinary action for cause against an employee under his/her control in accordance with the procedures outlined in these rules.

17.5. Procedure for Disciplinary Action: In the absence of a process in a MOU, for-cause employees receive the following provisions:

17.5.1. Written Notice of Intended Discipline: The department director will issue the employee a written notice of intended discipline that: describes the intended disciplinary penalty; the specific charges that support the intended discipline; a summary of the facts that show that the elements of each charge at issue in the intended discipline; a copy of all materials upon which the intended discipline is based; notice of the employee's right to respond to the department director regarding the intended discipline within five days from the date of the notice, either by requesting a meeting, or by providing a written response, or both; notice of the employee's right to have a representative at the meeting; and notice that failure to respond by the time specified constitutes a waiver of the right to respond prior to the final imposition of discipline. The written notice will specify a pre-disciplinary meeting for approximately one week from the date of the notice, which may only be changed by mutual agreement.

17.5.2. Pre-disciplinary Meeting: Should the employee timely request the designated pre-disciplinary meeting, the department director or designee, shall convene the meeting to hear the employee's response and any mitigating circumstances before deciding whether to impose the discipline. The employee shall be entitled to a representative of his/her choice; provided, however, that the inability of a particular representative to attend the meeting shall not be cause requiring a continuance of the meeting. At the meeting, the employee shall be provided the opportunity to respond to the charges and to present any information for consideration by the Town.

17.5.3. Final Notice of Discipline: At some reasonable time after the employee has been provided an opportunity to respond to the charges, the department director or designee will: 1) take no disciplinary action; 2) modify the intended discipline; or 3) impose the intended disciplinary action. In any case, the department director will provide the employee with a notice that contains the following: the level of discipline, if any, to be imposed and the effective date of the discipline; the specific charges upon which the discipline is based; a summary of the facts that show the elements of each charge; a copy of all materials upon which the discipline is based; and if the discipline is greater in severity than a suspension of five days, a reference to the employee's appeal right and deadline to appeal.

17.5.4. Delivery of the Final Notice of Discipline: The final notice of discipline will be sent by delivery method that verifies delivery to the last known address of the employee, or delivered to the employee in person. If the notice is not deliverable because the employee has moved without notifying the Town, or the employee refuses to accept delivery, the discipline will still go into effect as stated in the Final Notice of Discipline.

17.6. Availability of and Request for Appeal: For discipline that is greater in severity than a suspension of two working days, for-cause or permanent employees shall have the right to appeal from the Final Notice of Discipline. The notice of appeal must be in writing and received within seven calendar days from the date of the Final Notice of Discipline, or the right to appeal is waived and the discipline shall become final.

17.6.1. Advisory Hearing Officer: The appeal shall be heard by an independent, advisory hearing officer to be selected from the California Office of Administrative Hearings.

17.6.2. Costs of Advisory Hearing: The costs of the advisory hearing officer shall be borne by the Town. Either party may request that the matter be transcribed, and the requesting party shall bear the expense of the transcript.

17.6.3. Advisory Decision and Final Decision: The advisory hearing officer shall have the authority to convene an evidentiary hearing, receive evidence through testimony under oath and documents, and to make findings of fact and conclusions about the discipline. The advisory hearing officer may recommend an outcome, but the final authority rests with the Town Manager. The hearing officer shall serve an advisory decision on the Town and the employee. The Town Manager has the discretion to determine the facts and penalty and to issue a final decision. The Town Manager will cause the final decision to be mailed along with a proof of service by U.S. mail that shows that each party and their representative were mailed the final decision. It is the employee's responsibility to inform the Town of any change of address. A copy of the disciplinary documents and decisions will be kept in the employee's personnel file. The Town Manager's decision is reviewable by administrative writ of mandamus.

17.7. Removal of Written Reprimands: An employee may make a written request to the Town Manager that a written reprimand be removed from the employee's personnel file if no other written reprimand or disciplinary action has occurred during the previous 5 years.

The Town Manager will review the request and make a decision as to whether or not to approve it based on the employee's current performance, overall work record, and the severity of the offense. If the Town Manager does not approve the request, the employee will be provided an explanation for the denial in writing. The Town Manager's decision not to remove a written reprimand shall be final and not subject to appeal through these discipline and grievance rules.

If a request to remove a written reprimand is denied, the employee may again request that it be removed two years following the initial denial.

Written reprimands for vehicle accidents deemed preventable and for violations of Town policies related to harassment and discrimination shall not be removed from the employee's file.

18. POLICY AGAINST DISCRIMINATION, HARASSMENT, OR RETALIATION

18.1. Purpose of Policy:

(a) To reaffirm the Town's commitment to prohibit and prevent discrimination, harassment, and retaliation in all workplaces of the Town of Windsor;

(b) To define all relevant terms;

(c) To set forth a procedure for investigating and resolving internal complaints of prohibited discrimination, harassment, or retaliation; and

(d) To encourage all covered individuals to report – as soon as possible – any conduct reasonably believed to violate this Policy.

18.2. Summary of Policy:

(a) **Zero Tolerance**: The Town has zero tolerance for any conduct that violates this Policy. Conduct need not rise to the level of a violation of law to violate this Policy. A single act can violate this Policy and provide grounds for discipline or other appropriate sanctions.

(b) **Coverage and Scope**: Harassment, discrimination or retaliation against an applicant, unpaid intern, volunteer, contractor, or employee by another employee, elected or appointed official, member of the public, or contractor on the basis of any protected status as defined below, or on the basis of any other protected classification that is defined hereafter by a state or federal law, will not be tolerated.

(c) **All Terms and Conditions of Employment**: This Policy applies to all terms and conditions of employment, including, but not limited to: hiring, placement, promotion, disciplinary action, layoff, recall, transfer, leave of absence, compensation, and training.

(d) **Penalty for Violations**: Disciplinary action up to and including termination, or other appropriate sanction will be instituted for conduct found to be in violation of this Policy.

18.3. Definitions:

18.3.1. Protected Classifications: This Policy prohibits harassment or discrimination because of an individual's protected classification. "Protected Classification" includes race (including hair texture or protective hairstyles), religion, color, sex (including gender, gender identity, gender expression, transgender, pregnancy, breastfeeding and reproductive health decision-making), national origin, ancestry, citizenship status, physical or mental disability, medical condition, genetic characteristics or information, marital status, age 40 and over, sexual orientation (including homosexuality, bisexuality, or heterosexuality), military or veteran status, or off-duty cannabis use that does not impair work performance. "Protected Classification" includes not only the individual's actual protected

classification, but also: the perception that an individual has a protected classification; and that the individual associates with a person who has or is perceived to have a protected classification.

18.3.2. Policy Coverage: This Policy prohibits the Town's elected or appointed officials, employees, contractors, or members of the public from harassing or discriminating against applicants for Town employment, Town employees, unpaid Town interns, Town volunteers, or contractors for the Town because of a protected classification as defined in this Policy.

18.3.3. Discrimination: This Policy prohibits treating a covered individual differently and adversely because: of the individual's actual or perceived protected classification; the individual associates with a person who is or is perceived to have a protected classification; or the individual participates in a protected activity as defined in this Policy.

18.3.4. Harassment: This Policy prohibits harassment of a covered individual because of the individual's actual or perceived protected classification. Harassment includes, but is not limited to, the following conduct:

(a) **Speech:** Such as epithets, derogatory comments or slurs, or propositions on the basis of a protected classification. This includes, without limitation, comments on appearance, including dress or physical features, or dress consistent or inconsistent with gender or gender identification, or race or ethnicity-oriented stories or jokes.

(b) **Physical Acts:** Such as assault, impeding or blocking movement, offensive touching, or physical interference with normal work or movement on the basis of a protected classification. This includes pinching, grabbing, patting, propositioning, leering, or making explicit or implied threats or promises in return for submission to physical acts.

(c) **Visual Acts in Digital or Any Other Forms**: Such as derogatory posters, cartoons, or memes, drawings related to a protected classification.

(d) **Unwanted Sexual Advances:** Such as requests for sexual favors and other acts of a sexual nature, if submission is made a term or condition of employment, if submission or rejection of the conduct is used as a basis for employment decisions, or if the conduct is intended to or actually does unreasonably interfere with an individual's work performance or create an intimidating, hostile, or offensive working environment.

(e) **Other Examples of Conduct that Might Constitute Harassment:** Harassment includes conduct that another individual who is a member of the protected classification would find unwelcome or unwanted. Harassment may include the following:

- Conduct to which the recipient appears to have consented. The Town does not recognize as a defense that the recipient appeared to have consented to the conduct at issue by

failing to protest about the conduct. A recipient may not protest offensive or inappropriate conduct for many legitimate reasons, including, but not limited to, the need to avoid being perceived as insubordinate or to avoid being ostracized or subjected to retaliation.

- Conduct about which no employees previously complained. The fact that no employee previously complained about the same or substantially similar conduct does not mean that the conduct is inoffensive or appropriate nor does that fact preclude an employee from complaining about such conduct if it is repeated.

- Conduct witnessed by a third party or about which a third party learns, even if they did not witness such conduct. Visual, verbal, or physical conduct between two people who do not find such conduct to be offensive or inappropriate may constitute harassment of a third party witnesses such conduct or learns about the conduct later and finds the conduct to be offensive or inappropriate. Conduct can constitute harassment even if it is not explicitly or specifically directed at a particular individual.

- Conduct can constitute harassment even if an individual has no intention to harass. Conduct that may be well-intentioned conduct (e.g., gifts, over-attention, endearing nicknames, hugs) may nevertheless constitute harassment if the conduct is directed at, or implicates a protected classification, and if the receiving individual finds such conduct inappropriate or offensive**.**

18.4. Retaliation: Any adverse conduct taken because an individual's protected activity is prohibited.

(a) **"Protected activity**" means: making a request for accommodation for a disability or due to a religious practice; making a good faith report of harassment or discrimination; participating in the complaint or investigation process described in this Policy; or associating with an individual who has taken any of these protected activities.
(b) **"Adverse conduct"** includes but is not limited to the following actions: (1) disciplinary action; (2) counseling; (3) taking sides because an individual has reported harassment or discrimination; (4) spreading rumors about a complainant or about someone who supports or assists the complainant or who participates in the investigation; (5) shunning or avoiding an individual who reports harassment or discrimination; or (6) making real or implied threats of intimidation to prevent or deter an individual from reporting harassment or discrimination.

18.5. Reporting & Investigation Procedure:

18.5.1. How to Report: Any employee, job applicant, unpaid intern, volunteer, or contractor who believes in good faith that a violation of this policy has occurred should promptly report it orally or in writing to the employee's supervisor, the Human Resources Department, any Department Director, or

the Town Manager. An individual is not required to complain first to their supervisor. Instead, the individual may report to any member of Town management.

18.5.2. How to Respond to a Report: Any supervisor, manager, or elected or appointed official who receives a report of a potential violation of this Policy, or who observes or otherwise learns about a potential violation of this Policy shall notify the Town's Human Resources Director immediately.

18.5.3. Proactive Approach: The Town takes a proactive approach to potential Policy violations and will conduct an investigation if its officers, supervisors or managers become aware that a Policy violation may be occurring, regardless of whether the recipient or third party reports a potential violation.

18.5.4. Human Resources Department's Response:

(a) Provide the complainant with a timely response indicating that the complaint has been received and that a fair, timely, and thorough investigation will be conducted.

(b) Timely authorize and supervise the investigation of the complaint using fair, impartial, and qualified personnel, and/or investigate the complaint. The investigation process will treat all parties fairly, and will include interviews, if possible, with: the complainant; the accused; and other persons who have relevant knowledge of the allegations at issue.

(c) Review the information gathered through the investigation to reach a reasonable conclusion as to whether the conduct constitutes a violation of this Policy. The review will give consideration to the facts and the totality of the circumstances, such as the nature of the conduct, and the context in which the conduct occurred.

(d) Timely report a summary of the determination as to whether a Policy violation occurred to appropriate persons, including the complainant, the accused, the supervisor, and the department director. If discipline is imposed, the fact or level of discipline will not be communicated to the complainant.

18.6. Remedial Action: If a Policy violation is found to have occurred, the Town shall take action to ensure or confirm that the violation is stopped. The Town will take whatever measures it deems appropriate to ensure its workplaces remain free from unlawful discrimination or harassment.

(a) Employees found to have engaged in discrimination or harassment covered by this policy may be subject to disciplinary action up to and including termination of employment.

(b) Employees found to have been dishonest or uncooperative during an investigation into allegations of unlawful harassment may be subject to disciplinary action up to and including termination of employment.

18.7. Option to Report to CRC and EEOC: In addition to reporting Policy violations to the Town, an affected employee may also complain to the California Department of Civil Rights ("CRC") or to the US Equal Employment Opportunity Commission ("EEOC"). These administrative agencies have authority to investigate a complaint and offer legal remedies. The nearest offices are listed in the government section of the phone book, or employees can check Town bulletin boards for office locations and telephone numbers.

18.8. Confidentiality: Every possible effort will be made to assure appropriate levels of confidentiality of complaints made under this Policy. Complete confidentiality cannot occur, however, due to the need to investigate, provide due process, or take effective remedial action. Employees and witnesses may receive directions from the investigator about the confidentiality of their interview. The Town will not disclose a completed investigation report except as it deems necessary to support a disciplinary action, take remedial action, to defend itself in an adversarial proceeding, or to comply with the law, local, state, or federal regulation, or an order of an administrative body or court.

18.9. Dissemination of Policy: Copies of this Policy are available to all employees of the Town and will be provided to all new employees at the time of hiring. The Town will conduct training, as required by law for its employees and elected officials to assist them in learning how to recognize, avoid and correct discriminatory behavior.

18.10. Obligation of Employees and Supervisors:

(a) **Employees**: Employees are responsible for knowing and obeying the provisions of this Policy; reporting potential violations in a timely fashion; cooperating in any investigation concerning allegations of discrimination; and are prohibited from attempting to influence other employees, including employees who may have witnessed relevant conduct while the investigation is open and ongoing.

(b) **Managers and Supervisors**: Managers and Supervisors are responsible for all of the employee responsibilities above, and for: modeling appropriate behavior; receiving complaints in a fair and serious manner; monitoring the work environment and taking immediate appropriate action to stop potential violations; following up with complainants to ensure that behavior in violation of this Policy has stopped and there are no reprisals; and participating in periodic training regarding this Policy.

19. REASONABLE ACCOMMODATION AND INTERACTIVE PROCESS FOR: APPLICANTS OR EMPLOYEES WITH DISABILITIES, PREGNANCY-RELATED CONDITIONS; VICTIMS OF DOMESTIC VIOLENCE; SEXUAL ASSAULT OR STALKING; OR RELIGIOUS BELIEF - OBSERVANCE

19.1. Reasonable Accommodation: Absent undue hardship to the Town or its operations, or the existence of a direct threat to the health and safety of the employee or others, the Town provides employment-related reasonable accommodations to:

- qualified individuals with disabilities, both applicants and employees, to enable them to perform essential job functions;
- employees with conditions related to pregnancy, childbirth, or related medical conditions, if the pregnant employee so requests and with the advice of the employee's health care provider;
- employee victims of domestic violence, sexual assault, or stalking to promote the safety of the employee victim while at work;
- applicants or employees who request reasonable accommodation to address a conflict between religious belief or observance and any employment requirement.

19.2. Supporting Documentation or Certification:

19.2.1. Reasonable Medical Documentation of Disability: If the disability or the need for reasonable accommodation is not obvious, the Town may require the individual to provide reasonable medical documentation confirming the existence of the disability and the need for reasonable accommodation, along with the name and credentials of the individual's health care provider. If the individual provides insufficient documentation, the Town will: explain the insufficiency; allow the employee or applicant to supplement the documentation; and pursue the interactive process only to the extent that the request for reasonable accommodation is supported by the medical documentation provided.

19.2.2. Medical Certification Indicating the Advisability of Reasonable Accommodation or Transfer Due to Pregnancy or Related Conditions: The Town will provide the employee notice of the need for medical certification within two business days after the employee's request for accommodation. A medical certification indicating the advisability of reasonable accommodation, including transfer, is sufficient if it contains: a description of the requested accommodation or transfer; a statement describing the medical advisability of the accommodation or transfer; the date the need for accommodation or transfer will become necessary; and the estimated duration of the accommodation or transfer.

19.2.3. Certification of Victim Status: An employee who is a victim of domestic violence, sexual assault, or stalking and who requests an

accommodation to provide for the employee's safety while at work must provide both of the following:

- a written statement signed by the employee or individual acting on the employee's behalf, to certify that the accommodation is to address victim-safety concerns while at work; and

- a certification demonstrating the employee's status as a victim of domestic violence, sexual assault, or stalking, which can be in the form of: a police report indicating the employee's victim status; a court order separating the perpetrator from the employee or that the employee has appeared in court for that purpose; or documentation from a medical professional or counselor that the employee is undergoing treatment for physical or mental injuries or abuse resulting from an act of domestic violence, sexual assault, or stalking.

19.3. Fitness for Duty Examination:

19.3.1. Applicants: After a conditional offer of employment has been extended to an applicant, the Town may require the applicant to submit to a fitness for duty examination that is job-related; necessary for efficient operations of the Town; and required of all applicants for the job classification. An applicant or employee who is required to pass a medical and/or psychological examination will be notified of the right to obtain a second option at the employee's expense and to submit that second opinion for consideration.

19.3.2. Current Employee: The Human Resources Department may require an employee to submit to a fitness for duty examination to determine if the employee has a disability and is able to perform the essential functions of the job, with or without reasonable accommodation, when there is significant evidence that:

(a) the employee's ability to perform one or more essential functions of the job has declined; or

(b) could cause a reasonable person to question whether an employee is still capable of performing those essential functions in a manner that does not harm the employee or others.

19.3.3. Role of Health Care Provider: The Town may request the applicant's or employee's health care provider to conduct a fitness for duty exam on the applicant or employee, or may request a Town-selected health care provider to do so at the Town's expense. The Town will allow an employee paid time off to attend the exam. The Town will provide the health care provider with a letter requesting a fitness for duty examination and a written description of the essential functions of the job. The examination will be limited to determining the functional limitations that the applicant or employee has that require reasonable accommodation. Should the health care provider exceed the scope of the Town's request and report confidential health information, the

Town will return the report and request another report that includes only the non-confidential fitness for duty information that the Town has requested. The health care provider will examine the applicant or employee and provide the Town with non-confidential information regarding whether:

(a) the applicant or employee has a disability (which the health care provider need not identify) within the meaning of the California Fair Employment and Housing Act:

(b) the applicant or employee is fit to perform essential job functions;

(c) there are any workplace restrictions or functional limitations, and their duration;

(d) there are any reasonable accommodations that would enable the employee or applicant to perform essential job functions; and

(e) the applicant's or employee's continued employment poses a threat to the health and safety of the applicant/ employee or others.

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

19.3.5. Medical Information from the Applicant or Employee: If an applicant or employee submits medical information to the Town from their own health care provider, the Town will not forward that information on to the health care provider who conducted the fitness for duty examination for the Town without the applicant's or employee's written authorization. Upon receipt of a written authorization, the Town will request the Town's health care provider to determine whether the applicant's or employee's medical information alters the original fitness for duty assessment.

19.4. Interactive Process:

19.4.1. When to Initiate the Interactive Process: The Department of Human Resources will initiate the interactive process when:

(a) an applicant or employee with a known physical or mental disability or medical condition requests reasonable accommodation(s); or

(b) the Town otherwise becomes aware of the need for an accommodation through a third party (e.g., a doctor's note requesting an accommodation), or by observation of the employee's work; or

(c) the Town becomes aware of the possible need for an accommodation because the employee with a disability has exhausted workers' compensation leave, family and medical act leave, or other leave rights, but the employee and/or the employee's

health care provider indicate that further accommodation is necessary; or

(d) an employee with pregnancy, childbirth, or related medical conditions requests a reasonable accommodation or transfer based on the advice of the health care provider; or

(e) an employee with a physical or mental disability, regardless of cause, fails to return to work following pregnancy disability leave; or

(f) an employee-victim of domestic violence, sexual assault, or stalking requests a reasonable accommodation for their safety at work; or

(g) an employee requests an accommodation to address a conflict between religious belief, observance or practice and any employment requirement; or

(h) an employer is aware of the need for a reasonable accommodation for an employee's or applicant's religious beliefs, observance, or practices.

19.4.2. Interactive Communication: After receipt of a request for accommodation, documentation of disability or victim status, fitness for duty information and/or any other triggers for the interactive process, the Human Resources Department will promptly arrange for a discussion or discussions, in person or via conference telephone call, with the applicant or employee and the applicant's or employee's representatives, if any. The purpose of the interactive communication will be to discuss in good faith all potential reasonable accommodations. The Human Resources Department will document these communications in writing.

(a) **Potential Accommodations for Applicants or Employees with Disabilities:** Depending on the facts of each case, the interactive process will begin with a review of possible accommodations that would enable the individual to retain their current job. If there is no such accommodation that does not cause hardship or present a risk of harm to the individual or others, the interactive discussion will also include if there is a reasonable accommodation in any vacant Town job for which the individual is qualified. The Town will consider in good faith all accommodations that the applicant or employee suggests, but the Town has the right to select and implement any accommodation that it deems effective. The range of potential accommodations includes, but is not limited to:

- making existing facilities used by employees readily accessible to, and usable by, individuals with disabilities, including: acquisition or modification of equipment or devices, adjustment or modifications of examinations, training materials or policies, or the provision of qualified readers or interpreters;
- job restructuring;

- part-time or modified work schedules;
- paid or unpaid leave of absence of a finite duration that is likely to enable the employee to return to work at the end of the leave;
- preferential consideration to reassignment to a vacant, comparable position, except when such preference would violate a bona fide seniority system;
- reassignment to a vacant, lower paid position if there is no funded, vacant comparable position for which the individual is qualified; or
- if the individual agrees, reassignment to a temporary position.

(b) **Potential Accommodations for Employees Affected by Pregnancy and Related Medical Conditions:** Depending on the facts of each case, the interactive process will identify and implement a reasonable accommodation that is consistent with that her health care provider has certified is medically advisable. Whether an accommodation is reasonable is a case-by-case analysis that takes into account factors, including, but not limited to: the employee's medical needs; the duration of the needed accommodation; and the Town's past and current practices. The range of potential accommodations includes, but is not limited to:

- transfer to a less strenuous or hazardous position for the duration of the pregnancy;
- change in or restructuring of work duties, such as modifying lifting requirements;
- providing more frequent breaks;
- providing seating;
- time off for medical appointments;
- transfer temporarily to a job with equivalent pay and benefits that the employee is qualified to perform in order to accommodate a reduced work week schedule or intermittent leave (however, a reduction in work hours may be considered a form of pregnancy disability leave and deducted from the employee's four-month pregnancy disability leave entitlement).

(c) **Potential Accommodations for Employee-Victims of Domestic Violence, Sexual Assault, or Stalking:** Depending on the facts of each case, the interactive process will review all possible accommodations that would enhance the safety of the employee victim at work. In determining what accommodation is reasonable, the Town will consider the exigent circumstance or danger facing the employee. The range of potential safety measure accommodations includes, but is not limited to:

- transfer, reassignment, modified schedule;
- change in work telephone number;

- change in location of work station;
- installation of locks;
- assistance in documenting domestic violence, sexual assault, or stalking that occurs in the workplace;
- the implementation of safety procedures;
- adjustment to job structure, workplace facility, or work requirement;
- referral to a victim assistance organization.

(d) **Potential Accommodations for Religious Creed, Religious Dress or Grooming Practice:** Depending on the facts of each case, the interactive process will review all possible accommodations that would resolve the conflict between the religious belief or observance and any employment requirement. The range of potential accommodations includes, but is not limited to:

- job restructuring or assignment (but not segregation from other employees or the public);
- modification of work practices, including dress or grooming standards;
- allowing time off in an amount equal to the amount of non-regularly scheduled time the employee has worked, in order to avoid a conflict with a scheduled religious observance;
- considering alternatives to union membership or payment of union dues.

19.4.3. Determination: After the interactive process communications, the Human Resources Department will review the information received and determine: whether all available information has been reviewed; whether all potential accommodations that the applicant or employee has suggested have been fully considered; whether additional interactive discussions would be helpful; whether the applicant's or employee's preferences have been taken into account; if there is a reasonable accommodation that would enable the applicant or employee to perform essential job functions without harming self or others; or if the accommodations would pose an undue hardship on the Town's finances or operations. The Human Resources Department will inform the applicant or employee of the Town's determination in writing. The Human Resources Director will use discretion based upon the facts of each case.

19.5. Access to Medical Information Regarding Fitness for Duty: Medical information regarding fitness for duty and the need for accommodation will be kept separately from non-medical information. Access to this information will be accessible only by the Human Resources Department, the Town's legal counsel, first aid and safety personnel in case of emergency, and supervisory employees who are responsible for identifying and monitoring reasonable accommodations. Medical information may be released as required or allowed by law.

20. WHISTLEBLOWER PROTECTION

20.1. Policy: In order to ensure the public that it is operating lawfully, the Town prohibits Town employees from any of the following:

(a) Taking any employment action against an employee because the employee has, or is believed to have disclosed information to any governmental or law enforcement agency, including the Town, if the employee has reasonable cause to believe that the information disclosed a violation of federal or state law, or a violation or noncompliance with a local, state or federal rule or regulation;

(b) Preventing an employee from disclosing information to a government agency, including the Town, if the employee has reasonable cause to believe that the information disclosed a violation of a federal or state law, or a violation or noncompliance with a local, state, or federal rule or regulation;

(c) Retaliating against an employee for refusing to participate in any activity that would result in a violation of federal or state law, or a violation or noncompliance with a local, state, or federal rule or regulation; and/or

(d) Retaliating against an employee because the employee's family member has, or is perceived to have engaged in any of the protected activities listed in (a) – (c) above.

20.2. Policy Coverage: This Policy governs Town elected and appointed officials, and employees. This Policy protects Town employees.

20.3. Definitions:

(a) **"Protected activity"** includes any of the following:

- Making a good faith complaint with the Town or a state or federal law enforcement or administrative agency that discloses any information that the complainant has reasonable cause to believe violates state or federal law or a violation or noncompliance with a local, state, or federal rule or regulation
- Participating in or cooperating in good faith with a local, state, or federal enforcement agency that is conducting an investigation into alleged unlawful activity
- Testifying in good faith and with a reasonable cause as a party, witness or accused regarding alleged unlawful activity
- Associating with another employee who is engaged in any of the protected activities enumerated here
- Refusing to participate in any activity that the employee reasonably believes would result in a violation of state or

federal law, or a violation or noncompliance with a local, state, or federal rule or regulation
- Providing informal notice to the Town regarding alleged unlawful activity
- Calling a governmental agency's whistleblower hotline in good faith
- Filing a written complaint under penalty of perjury that the Town has engaged in gross mismanagement, a significant waste of public funds, or a substantial and specific danger to the public health or safety.

(b) **"Adverse action"** may include, but is not limited to any of the following:

- Real or implied threats of intimidation to attempt or prevent an employee from reporting alleged wrongdoing or because of actual or potential protected activity
- Taking any form of disciplinary action because of actual or potential protected activity
- Extending a probationary period because of actual or potential protected activity
- Altering work schedules or work assignments because of actual or potential protected activity
- Denying promotion to an individual because of actual or perceived protected activity
- Condoning hostility or criticism of co-workers or third parties because of actual or perceived protected activity
- Spreading rumors about an employee because of that employee's actual or perceived protected activity
- Shunning or unreasonably avoiding a employee because of the employee's actual or perceived protected activity

20.4. Complaint Procedure: An employee who feels a violation of this policy has occurred should immediately report the conduct according to the complaint procedure in the Town's Policy Against Discrimination, Harassment, or Retaliation (section 18.5.1). The Town will investigate and take remedial and/or disciplinary actions as it deems necessary.

21. LIMITATIONS ON OUTSIDE EMPLOYMENT

21.1. No Outside Employment Without Prior Approval: An employee shall not engage in any paid or self-employment activity, or enterprise or activity which is inconsistent, incompatible or in conflict with the employee's duties or responsibilities for the Town or with the function of the department in the Town where the employee works. In order to avoid perceived or actual conflicts of interest that may arise from outside employment, all employees must obtain written approval from the Human Resources Director prior to undertaking any outside employment as described in this Rule.

21.2. Authorization & Appeal Process:

(a) **Written Request:** Any employee who wants to undertake an outside employment, activity, or enterprise must submit a written request to the Human Resources Department. The written request must include: the work hours and/or time required; job title or the nature of the activity; the work location; and the supervisor, manager and name of the outside employer, activity, or enterprise.

(b) **Conflict Analysis and Decision:** The Human Resources Director will determine if the outside employment, activity, or enterprise is compatible with the employee's Town employment. If the Director determines that such activity is compatible, or would be if any conditions or restrictions were applied, the Director will authorize the activity and specify the conditions/ restrictions in writing on an outside employment authorization memo to the employee, and place a copy in the employee's personnel file.

(c) **Appeal:** If the Human Resources Director denies an employee's outside employment request, the employee may submit a written notice of appeal to the Town Manager within 10 calendar days of the date of denial. The Town Manager will review the appeal and may conduct fact finding meetings with appropriate Town staff. The Town Manager shall consider all details and data collected, and make a final decision on the appeal, within 10 calendar days of the appeal submission date. The final decision will be put in writing by the Town Manager, and will be final.

21.3. Prohibited Outside Activities: An employee's outside employment, activity or enterprise will be prohibited if it:

(a) involves the use for private gain or advantage of Town time, facilities, equipment, and supplies, or the badge, uniform, logo, prestige, or influence of the employee's Town office or employment;

(b) involves receipt or acceptance by the employee of any money or other thing or consideration from anyone other than the Town for performance of an act which the employee would be required or expected to do in the course of the employee's employment;

(c) involves the performance of an act in other than the employee's official capacity as a Town employee which act may later be subject directly or indirectly to the control, inspection, review, audit, or

enforcement by such employee or the department by which the employee is employed; or

(d) involves time demands that would render the employee's performance of the employee's regular job duties less efficient or dangerous to the employee or others.

21.5. Revocation/Suspension of Outside Employment Authorization: Any outside employment authorization may be revoked or suspended under the circumstances listed below. An employee may appeal the revocation or suspension as provided in this Rule.

(a) The employee's work performance declines;

(b) An employee's conduct or outside employment conflicts with the conditions of the outside work authorization or is incompatible with the employee's or the employee's department's work for the Town.

21.6. Use of Town Equipment or Resources Prohibited: Under no circumstances may an employee use Town equipment, vehicles, tools, supplies, or resources while an employee is engaged in outside employment, enterprise, or activity.

22. LIMITATIONS ON POLITICAL ACTIVITY

22.1. No Solicitation During Work Hours or in Town Offices: Neither Town employees nor officers may solicit or receive political funds or contributions, to promote the passage or defeat of any ballot measure that would affect working conditions, during Town work hours or in Town offices.

22.2. No Targeted Solicitation of Town Officers or Employees: Neither Town employees or officers, nor candidates for Town elective offices, may directly or indirectly solicit political contributions from other officers or employees of the Town unless the solicitation is part of a solicitation made to a significant segment of the public which may incidentally include officers from or employees of the Town.

22.3. No Political Activity in Uniform: Neither Town employees nor officers may participate in political activities of any kind while in a Town uniform or other Town-issued clothing.

22.4. No Political Activity on Town Property or During Town Work Hours: Neither Town employees nor officers are permitted to engage in political activity during work hours or on Town property.

22.5. Definition of Political Activity: Political activity includes, but is not limited to: soliciting votes, funds contributions, support, or counsel; discussing his or her candidacy or any other candidate for the same office; organizing, conducting, addressing, selling or distributing tickets for any public or private meeting or gathering that is not directly related to Town employment; or writing, preparing, publishing, or distributing political cards, statements, letters, advertising, signs, brochures, folders, literature or material.

22.6. First Amendment Rights - The Town recognizes employees have free speech rights under state and federal constitutions.

23. VOLUNTEERS

23.1. General Provisions:

(a) The Town may utilize volunteers for the delivery of Town services. The use of volunteers shall be subject to approval by the Human Resources Director.

(b) Volunteers shall not be eligible for salaries, benefits, or other compensation. Subject to approval by the Human Resources Director, necessary equipment or uniforms and reimbursement for approved actual expenses and mileage may be provided.

23.2. Employee Volunteers: Subject to approval by the Human Resources Director, employees may volunteer to provide services to the Town outside of their normal duties, provided they are not performing the same or similar duties for which they are normally compensated. Employees engaging in such volunteer assignments shall not be entitled to compensation.

24. DRUG AND ALCOHOL-FREE WORKPLACE

24.1. Purpose and Scope: The purpose of this Rule is to promote a drug and alcohol-free workplace and to eliminate drug and alcohol-related inefficiencies and risks. This Rule applies to all Town employees, whether they are on Town property, in Town vehicles, or private vehicles used for Town business, or they are performing Town-related business in any location, except as this Rule is superseded by a MOU or federally-mandated drug and alcohol policies. Compliance with this Rule is a condition of employment.

24.2. Drug and Alcohol-Free Awareness Program: The Town's employee assistance provider offers counseling and treatment of drug- or alcohol-related problems. The employee assistance provider has information about: (a) the dangers of drug or alcohol abuse in the workplace; (b) the penalties that may be imposed for drug or alcohol abuse violations; (c) the Town's policy of maintaining a drug- and alcohol-free workplace; and (d) available drug or alcohol counseling, rehabilitation, or employee assistance programs.

24.3. Prohibited Conduct:

(a) The manufacture, distribution, sale, dispensation, or use of any controlled substance, narcotic (including marijuana), or prescription drug that has not been lawfully prescribed, in either Town workplaces or whenever Town business is performed. A controlled substance is any drug, medication or substance that is listed in the U.S. Controlled Substances Act and regulation 21 USC section 1308.11-13.08.15, including but not limited to: narcotics, street drugs, or prescription medications.

(b) Working or scheduled for stand-by if impaired by alcohol or any controlled substance, narcotic (including marijuana), or prescription drug that has not been lawfully prescribed.

(c) An employee's failure to notify the department head before beginning work, or being called in to work, when taking medications, drugs, or impaired by alcohol or a controlled substance which could interfere with the safe and effective performance of duties or operation of Town equipment.

(d) An employee's failure to notify the Human Resources Director of any criminal conviction for a drug violation that occurred in the workplace within five days of the conviction.

(e) Alcoholic beverages may be served on Town property at events only if expressly approved by the Town Manager.

24.4. Drug and Alcohol Testing: The Town has discretion to test applicants and employees for alcohol and drug use under the following circumstances. The Town will use an outside laboratory to perform all testing.

(a) **Pre-Employment Testing for External Applicants for Certain Jobs:** Those external applicants who apply for certain jobs, where a special need for pre-employment drug testing exists, must take, and pass a drug and alcohol test following a conditional offer of

employment. The categories subject to pre-employment drug and alcohol testing are:

1) **safety** sensitive jobs that have public safety implications, such as operating heavy trucks to transfer hazardous material, protecting national security, enforcing drug laws, and/or operating natural gas pipelines; or

2) **jobs** that involve the direct influence over children.

(b) **Reasonable Suspicion Testing:** The Town may require a blood test, urinalysis, or other drug and/or alcohol screening of those employees who are reasonably suspected of using or being under the influence of a drug or alcohol at work, under the following circumstances:

1) **"Reasonable Suspicion"** to test exists if, based on objective factors, a reasonable person would believe that the employee is under the influence of drugs or alcohol at work. Examples of objective factors include, but are not limited to: unusual behavior, slurred or altered speech, body odor, including the smell of drugs or alcohol, red or watery eyes, unkempt appearance, unsteady gait, lack of coordination, sleeping on the job, a pattern of abnormal or erratic behavior, a verbal or physical altercation, puncture marks or sores on skin, runny nose, dry mouth, dilated or constricted pupils, agitation, hostility, confused or incoherent behavior, paranoia, euphoria, disorientation, inappropriate wearing of sunglasses, tremors, an accident involving Town property or equipment, or other evidence of recent drug or alcohol use.

2) **Documentation and Analysis:** In order to receive authority to test, the supervisor must record the factors that support reasonable suspicion in writing and analyze the matter with the Director of Human Resources. Any reasonable suspicion testing must be approved by the Director of Human Resources.

3) **Testing Protocol:** If the documentation and analysis show that there is a reasonable suspicion of drug or alcohol use at work, and the Director of Human Resources or designee has approved, the employee will be relieved of duty, transported to the testing facility and to the employee's home after the test. The employee will be placed on sick or other paid leave until the test results are received.

24.5. DRUG AND ALCOHOL-FREE WORKPLACE POLICY EMPLOYEE ACKNOWLEDGEMENT

I understand that it is a violation of Town policy for any employee at a Town work site to unlawfully manufacture, distribute, dispense, possess, use or be under the influence of any alcoholic beverage, drug or controlled substance as defined in the Controlled Substances Act and Code of Federal Regulations. I have read the Town's Drug and Alcohol-Free Workplace Rule.

Town work site is defined as any place where Town work is performed, including a Town owned building or other premises and any Town owned or approved vehicle used in the conduct of Town business.

As a condition of your continued employment with the Town, I will comply with the Town's policy on Drug and Alcohol-Free Workplace and will, any time I am convicted of any criminal drug or alcohol statute violation occurring in the workplace, I will notify my supervisor of this conviction no later than five days after such conviction.

The following drug and alcohol counseling, rehabilitation, and/or employee assistance programs are available:

Aetna Behavioral Health – 1-800-342-8111

Employee Name (please print): _____

Employee Signature: _____

Date: _____

25. ANTI-NEPOTISM POLICY

25.1. Relationships Governed by this Policy: This policy applies to individuals who have a familial relationship, meaning that they are related by blood, marriage or adoption including, but not limited to, the following relationships: spouse, domestic partner, child, step-children, parent, step-parent, grandparent, grandchild, brother, sister, half-brother, half-sister, aunt, uncle, cousin, niece, nephew, parent-in-law, daughter-in-law, son-in-law, brother-in-law and sister-in-law. This policy also applies to persons involved in a romantic relationship.

25.2. Applicant's Duty to Disclose: At the time an individual applies for a position with the Town, that individual must identify any person who is currently employed by the Town with whom the individual has either a familial relationship (a relative) or a romantic relationship. These relationships will be taken into consideration during the recruiting process.

25.3. Employee's Duty to Notify: At the time a Town employee, including full-time, part-time /temporary /seasonal (PTS), temporary agency placements or contract employees apply for a new position, a promotion or transfer, the individual must identify any person who is currently employed by the Town with whom they have a familial relationship (a relative including spouse), domestic partnership, or a romantic relationship.

25.4. Town's Authority: The Town the right to refuse the appointment or transfer of an individual or employee to a position that has the potential for creating adverse impacts on supervision, safety, security, morale, and/or a conflict of interest. The Town Manager shall have the authority to determine if such adverse impacts exist.

25.4.1. Employment of Relatives

The Town will not appoint, promote, or transfer a person to a position within the same department, division, or facility in which the person's relative already holds a position, if any of the following would result:

(a) A direct or indirect supervisory relationship between the relatives;

(b) The two relatives having job duties which require performance of shared duties on the same or related work assignment;

(c) Both relatives having the same supervisor; or

(d) A potential for creating an adverse impact on supervision, safety, security, morale, or efficiency.

25.4.2. Spouses or Domestic Partners

The Town will not appoint, promote, or transfer a person, to the same department, division, or facility in which the person's spouse or registered domestic partner already holds a position, if such employment would result in any of the following:

(a) One spouse or domestic partner being under the direct supervision of the other spouse or domestic partner; or

(b) Potential conflicts of interest or hazards for married persons or those in domestic partnership which are greater than for those who are not married or in domestic partnerships.

25.5. Supervision: For purposes of this policy, “supervision” means having any direct or indirect authority in the interest of the employer to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them, or to adjust their grievances, or effectively to recommend this action, if, in the connection with the foregoing, the exercise of this authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

25.6. Romantic Relationships After Employment: When two existing employees marry, enter into a domestic partnership, or become romantically involved, and have the potential of creating adverse impacts as described above, the Town Manager, in conjunction with the department head and Human Resources, shall make reasonable efforts to minimize the impacts by taking steps that may include reassignment of duties or transfer.

If the Town is unable to make acceptable accommodations, the two employees will be notified by the Town that one of the employees must separate from Town employment within 60 days. The determination of who shall separate from the Town will be the recommendation of the employees themselves. In the event the employees do not provide the Town with a recommendation, the employee with earliest date of hire shall be chosen to be retained. Any such separation is not disciplinary and is not subject to any pre- or post-disciplinary procedure. However, involved employees may request a meeting with the Town Manager to discuss.

25.7. Investigation: Human Resources shall investigate reports of nepotism and take appropriate action.

25.8. Employee Duty to Report Changes: Employees are required to report changes in their personal relationships which may be covered by this Policy.

25.9. Scope of Inquiry Regarding Relationships: Human Resources may inquire about the relationships covered by this policy between employees only for the purpose of determining the appropriateness of the working relationship under this Policy.

26. GIFTS AND GRATUITIES

26.1. Policy: No officer or employee of the Town shall solicit or accept, for self or family, any favors, benefits, gifts, or gratuities under circumstances which might be construed by reasonable persons as influencing the performance of the employee's governmental duties.

The Town utilizes the $50 gift reporting requirement imposed by the Fair Political Practices Act as a limitation on the receipt of gifts.

27. APPEARANCE STANDARDS

27.1. Basis for Standards: These dress code, tattoo, and body piercing appearance standards are designed to promote the Town's legitimate and non-discriminatory goals of workplace safety and projecting a professional image that is consistent with the employee's job duties, safety, and level of public contact.

27.2. Dress Code: Employees of the Town are required to dress appropriately for the jobs they are performing. The following dress code regulations apply to all Town employees. If an employee has questions about how this dress code applies, the employee should promptly discuss the matter with the supervisor for consideration and determination.

(a) All clothing must be neat, clean and in good repair, and appropriate for both a professional work environment and the job functions performed.

(b) Prescribed uniforms and safety equipment must be worn when applicable.

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

(d) Hair must be neat, clean, and well groomed.

(e) Beards, mustaches, and sideburns must be maintained in a neat and well-groomed fashion.

(f) Jewelry is acceptable except in areas where it constitutes a health or safety hazard. Regulations about jewelry that pierces the skin is discussed below.

(g) Good personal hygiene is required, and employees should emanate no body or smoking odors or fragrances.

27.3. Tattoos: Employees are expected to project a professional appearance while at work and must abide by the standards in this rule. If an employee has questions about how these standards apply, the matter should be immediately raised with the supervisor for consideration and determination.

(a) Any visible tattoos shall not be obscene, sexually explicit, discriminatory to any classification that is protected under state or federal law or be related to any criminal gang.

(b) Any non-conforming tattoos will be covered with clothing, bandage, or makeup while at work or removed.

27.4. Piercing: Employees are expected to project a professional appearance while at work and not endanger themselves or others with excessive body piercing. If an employee has questions about how these standards apply, the matter should be immediately raised with the supervisor for consideration and determination.

(a) No objects, articles, jewelry, or ornamentation of any kind shall be attached to or through the skin if visible on any body part, including

the tongue or any part of the mouth, except earrings or piercings that are subtle in nature, non-threatening, and professional.

(b) Any non-conforming piercing shall be removed, covered with a bandage, or replaced with a clear plastic spacer.

28. TRAVEL AND TRAINING POLICY

28.1. Training and Travel Must Provide a Substantial Benefit to the Town: The Town is committed to ensuring that its employees receive adequate training to perform their jobs. Training and travel, however, use public resources and therefore must provide a substantial benefit to the Town. As a result, the use of Town resources for training and travel are subject to department approval. Training opportunities that occur outside normal work hours, or involve overnight travel, require approval by both the Department Head and the Human Resources Director.

28.2. Employee Compensation During Travel and Training: The Town generally requires that training, and attendant travel, be scheduled in a way that will minimize or eliminate the Town's overtime liability. For employees who are eligible for overtime, all time traveling to and from the training location is compensable, including time traveling as a passenger; subject to the following exceptions:

(a) Time spent taking a meal break, sleeping, engaging in purely personal pursuits (such as social activities before or after training), are deducted from compensable travel or training time; and

(b) Time spent traveling directly between home and a transportation station that takes the same or substantially the same time and distance as the employee's home to work travel, is deducted from compensable travel time.

28.3. Cost Control: Town business travel shall be carried out in an efficient, economical, and reasonable manner resulting in the best value to the Town. Telecommunications instead of travel should be considered when possible. Department directors are responsible for determining the necessity, the available resources, and the justification for the method of employee business travel. The Town will pay or reimburse all business travel related expenses as described below. Receipts when available are required for all travel expenses. Travel payments or reimbursement will be limited to costs that fall within the following guidelines:

(a) **Transportation:** The most economical mode and class of transportation reasonably consistent with scheduling needs and cargo space requirements must be used, using the most efficient route. Government and group rates must be used when available.

- Airfares that are equal or less than those available through the Enhanced Local Government Airfare Program offered through the League of California Cities and the State of California are presumed to be the most economical and reasonable.

- Automobile mileage on the employee's vehicle is reimbursed at the IRS rate in effect at the time of travel. The IRS rate is designed to compensate the driver for gasoline, insurance, maintenance, and other vehicle operating expenses. Bridge tolls are also reimbursable.

- Car rental rates that are equal or less than those available through the State of California shall be considered the most economical and reasonable.

- Taxi/Shuttle/Uber-Lyft fares may be reimbursed, including a 15% tip per fare, when the cost of such fares is equal or less than the cost of car rentals and gasoline combined, or when such transportation is necessary for time and efficiency.

(b) **Lodging:** Lodging expenses will be reimbursed when travel for Town business reasonably requires an overnight stay. Employees may not exceed the group rate and must request government rates, when available. If lodging costs exceed the government rate for that area, reimbursement may be conditioned on documentation of a good faith effort to find lodging at a government rate.

(c) **Meals**: Meal expenses and associate gratuities will be reimbursed up to the regular federal M&IE per diem rate established for Santa Rosa, California in effect at the time the meal expenses are incurred.

(d) **Telephone/ Cellular:** Employees will be reimbursed for actual telephone expense incurred on Town business. Cellular calls will be reimbursed based on the portion of minutes for calls made for Town business.

(e) **Airport Parking**: Long-term parking must be used for travel exceeding 24 hours.

(f) **Baggage Handling fees** of up to $1.00 per bag and gratuities of up to 15% will be reimbursed.

28.4. Non-Reimbursable Expenses: The Town will not reimburse for an employee's personal expenses incurred while traveling, including any of the following:

(a) The personal portion of any trip (e.g., extending a stay after a training for personal vacation).

(b) Family expenses, including a partner's expenses when accompanying the employee on agency-related business, or the expenses of children or pets.

(c) Entertainment expense, including theater, movies (in room or theater), sporting events (including gym, massage, or golf related expenses).

(d) Non-mileage personal automobile expenses, including repairs, traffic citations, insurance, or gasoline.

(e) Alcoholic beverages or personal expenses.

(f) Personal losses incurred while on Town business.

28.5. Expense Report: Expense reports must document that the expense meets the requirements of this Policy, and must be submitted with receipts within 30 days of the expense. Inability to timely provide the expense report or receipt may result in the expense not being reimbursed.

29. TOBACCO FREE WORKPLACE

The Town is committed to promoting a safe and healthy workplace for its employees and the public. The use of tobacco in any form is prohibited in all parts of every Town office, in Town vehicles, and within 20 feet of any main entrance, exit or operable window of any Town office. (Government Code section 7597.) This Policy prohibits any method of tobacco use, including spit tobacco, cigarette smoking, vaping, and electronic smoking devices. In order to protect employees and the public from second-hand smoke or tobacco odors, employees who smoke in permissible areas must make all reasonable efforts to prevent smoke or tobacco odors from lingering on their clothing, hair, or breath while they are working for the Town.

30. ACCEPTABLE USE POLICY - EQUIPMENT, RECORDS, AND RESOURCES

30.1. Policy: This policy outlines guidelines for responsible and acceptable use of the Town of Windsor's communication systems, equipment, records, and resources. It applies to all users, elected, and assigned officials, ensuring compliance with business objectives, legal requirements, and ethical standards.

30.2. Town Equipment or Resources: Town equipment, records, or resources is any Town-owned or supplied item, record, or resource, including, but not limited to: intellectual property (e.g., photographs, plans, drawings, formulas, customer lists, designs, formulas), work product, minutes, agendas, reports, vehicles, telephones, radios, cell phones, pagers, tools, machines, supplies, copy machines, facsimile machines, desks, office equipment, computers (including hardware and software), file cabinets, lockers, Wi-Fi, internet, intranet, Town network, data systems, routers, voice mail, servers, and email or voice mail communications stored in or transmitted through Town electronic resources or equipment.

This policy applies to both Town-owned property and personal property connected to Town systems.

> **30.2.1. Telecommunication Devices:** The Town recognizes the need for Town of Windsor-owned telecommunication devices to be issued to employees. Town owned devices are issued for Town of Windsor official business. Personal use, misuse, or abuse of this privilege may result in loss of the use of the telecommunication equipment and/or disciplinary action.
>
> Each Department Head will administer the issuance of the telecommunication devices for their department. Users are responsible for maintaining adequate physical protection of all equipment issued to them by the Town. If any Town-owned devices are damaged or stolen, the user must notify their department supervisor immediately.
>
> The Town reserves the right to audit/review all phone bills, call logs, or usage history on town-issued devices.
>
> The Town of Windsor owns any equipment purchased by the Town of Windsor and should be returned to the Department Head when the employee separates from service with the Town, or when the need for such equipment no longer exists. Equipment must be returned in good working order. In addition, any credentials needed to access the mobile device will need to be provided to the Town when it is returned.

30.3. General Use and Ownership: Resources provided by the Town are to be used primarily for business purposes in serving the interests of the Town, our clients, and customers during normal operations.

The Town’s communication systems and/or equipment and all information stored on them or on removable media are provided at the Town of Windsor’s expense and are the Town of Windsor’s sole property.

30.4. No Expectation of Privacy: Employees who use electronic systems and/or tools provided by the Town have no expectation of privacy. Communications are business records that can be reviewed by the Town at any time, or subpoenaed under law. Under the Public Records Act, Town email messages or any other Town

information stored in computers and other electronic systems of the Town, or **the employee's personal computer or electronic systems, are public records subject to disclosure to the public or may be subpoenaed.**

30.4.1. Access and Monitoring: The Town reserves the right to review, audit, and disclose all data or information sent over and/or stored in the Town's electronic resources or equipment at any time without advance notice. The Town Manager, or designee, retain the right to enter and/or retrieve an employee's electronic communication system, data files, logs and programs used on Town owned resources or equipment.

Security features provided by the electronic communication system, such as usernames, passwords, access codes, or delete functions, must be disclosed to the Town and shall not prevent authorized Town personnel from accessing Town equipment or resources. Deletion of electronic mail messages or files may not fully eliminate the message from Town-owned electronic resources or equipment. As a result, Town employees have no expectation of privacy in their use of any Town equipment, records, or resources.

30.5. Security and Proprietary Information: Users are responsible for safeguarding the confidentiality and integrity of data they access. The unauthorized disclosure, use, or copying of any confidential or proprietary information belonging to the Town of Windsor or its clients is strictly forbidden. Users must comply with all controls and safeguards to protect the Town's information assets, as specified in the National Institution of Standards and Technology (NIST).

Computer systems are at risk of being invaded by viruses or other malware through loaded software or downloaded material through the internet or other sources. User or consultant-owned software or removable media may only be installed on Town of Windsor-owned computers with prior authorization from the Department Head and IT. Only software acquired through licensing agreements or shared software through public domain authorized by the IT department may be loaded onto Town of Windsor computers. External attachments or website links (URLs) shall not be opened if the attachment or link is suspicious, from an unknown source, sent via unknown file extensions, ".exe" files, contains macros, or is otherwise not expected by the recipient.

Unauthorized installation, distribution, or use of unlicensed software is strictly prohibited and may result in disciplinary action.

30.6. Appropriate Use Only – No Misuse: Employees may only use Town equipment or resources in compliance with Town policies. Except as authorized by this policy, employees are expected to avoid any use or communication which is unrelated to Town business, destructive, wasteful, or illegal. The Town has discretion to restrict or rescind employee access to Town equipment or resources. The following are examples of misuse of Town equipment or resources:

(a) Any use that violates applicable law and/or Town policies, rules or procedures;

(b) Exposing others to materials which are offensive, harassing, or obscene. This includes information which could create an intimidating, offensive or hostile work environment;

(c) Any use that may create or further a hostile attitude or give offense on the basis of any protected status identified in the Town's Policy Against Discrimination, Harassment, or Retaliation, including race, color, religion, sex, gender, gender expression, gender identity, national origin, ancestry, citizenship, age, marital status, physical or mental disability, medical condition, genetic information, sexual orientation, military or veteran status, or any other basis protected by law;

(d) Communication of confidential Town information to unauthorized individuals within or outside of the Town;

(e) Unauthorized attempts to access or use Town data or break into any Town or non-Town system;

(f) Theft or unauthorized transmission or copying of paper or electronic files or data;

(g) Initiating or sustaining chain/spam letters, e-mail or other unauthorized mass communication;

(h) Misrepresentation of one's identity for improper or illegal purposes;

(i) Personal commercial or business activities (e.g., "for sale" notices, personal ads, etc.);

(j) Transmitting/accessing obscene material and/or pornography;

(k) Online gambling;

(l) Installing or downloading unauthorized software or equipment;

(m) Violating terms of software licensing agreements or copyright, whether Town-created or created by any other entity;

(n) Using Town equipment or resources to access and/or use dating web resources, personal social media, or games of any type.

(o) Any unauthorized access to Town equipment or resources, including: using keys or key cards; using or disclosing the username or password of another person or employee to gain access to their email or other electronic resources; or making Town equipment or resources available to others who would otherwise have no authorized access.

(p) Using Town equipment, logo, email, or resources to speak on the Town's behalf without authorization.

(q) Gaining access to another Town employees' electronic mail messages without the latter's express written permission or permission from the Town Manager or designee.

(r) Forwarding or reproducing communications marked attorney-client privileged or confidential without the prior consent of the Town

Manager and/or Town Attorney; or violating any federal, state, or local law in the use of Town information systems.

(s) Storing Town records or information of any type on an employee's personal computer or device, without prior authorization from their supervisor. Users should delete any Town records or information including data and/or files from personal devices once the Town information or records have been saved to a Town device or system.

30.7. Town Email: The Town of Windsor's email system exists for the purpose of conducting Town of Windsor business, and all electronic data placed on this system is the property of the Town of Windsor. The Town establishes and assigns official email addresses to each employee as the Town deems necessary. Employees must send all Town communications that are sent via email to and from their official Town email address. Employees are prohibited from using their private email address when communicating Town business via email. Should an email related to Town business be sent to an employee's personal email account, the email should be immediately forwarded to the employee's Town email account and responded to accordingly.

If disclosure of email messages (or other data files) should be required under the Public Records Act, cooperation with law enforcement, or other lawful requests (despite the designation of any message as "private" or "confidential"), the Town shall not be liable for this disclosure in any way. In short, the Town of Windsor's Information System does not provide any guarantee of personal privacy protection, and users should use it with this limitation in mind.

30.8. Internet Purpose and Usage: The Town of Windsor's internet connection exists solely for the purpose of conducting Town of Windsor business and is not intended for personal use. Good judgment and common sense should always prevail regarding the appropriate use of the Town's internet connection. Under this standard, use of the Town's internet connection for any reason is expressly prohibited under the following circumstances:

(a) Compromises the integrity of the Town of Windsor and its business operations in any way;

(b) Commits any illegal act;

(c) Violates any applicable law and/or Town policies, rules, or procedures.

Each user accessing the Town of Windsor's internet connection is responsible for understanding and following these guidelines. Unauthorized or improper use of the Town's internet connection may result in terminating access to it and, depending on the severity of the outcome of unauthorized or improper use, may result in disciplinary action, up to and including termination.

A user who inadvertently accesses an internet site, which is prohibited under the Town of Windsor's system security rules, or that exhibits suspicious activity indicative of malware activity shall immediately report the incident to the System Administrator and their supervisor.

30.9. Incidental Personal Use of Town Communications Equipment Permitted: Employees may use Town telephones, cell phones, internet access, and e-mail for

incidental personal communications, including union communications, provided that the use:

(a) Is kept to a minimum and limited to break times or non-working hours;

(b) Does not interfere or conflict with Town operations or the work performance of any Town employees;

(c) Allows the employee to perform Town work more efficiently;

(d) Is not abusive, illegal, inappropriate, or prohibited by this policy (for example, no social media use, no electronic dating, no gaming);

(e) Clearly indicates it is for personal use and does not indicate or imply Town sponsorship or endorsement.

30.10. Remote Access: All remote access to the Town's network must be strictly controlled. Access will be granted on a need-to-use basis as determined by the IT & the Managing Department. Unauthorized use of remote access is strictly prohibited. This includes attempting to access resources or data for which the user does not have explicit permission. Remote access credentials must remain confidential and not be shared with anyone. Credential sharing could lead to unauthorized access and a possible company data breach.

30.11. Data Handling and Responsibility: Data files created for Town of Windsor business must be stored on the Town of Windsor file server or Town of Windsor approved cloud services, not on the local hard drive or personal cloud services. All users have an affirmative duty to report any abuse or misuse of any Town of Windsor systems and/or equipment to the user's Department Head immediately.

When using the Town of Windsor's communication systems and/or equipment, users shall use the same standards of care and professionalism as used in other business communications. Individual users must be aware of and at all times attempt to prevent potential Town of Windsor liability in their use of its communication systems.

All usage shall fully comply with all copyrights and licensing agreements.

Users shall only represent the Town of Windsor on social media with authorization.

30.12. Equipment Care: Reasonable care should be taken to prevent equipment loss or damage. When traveling with Town of Windsor communications equipment, care should be taken to keep the communications equipment secure. Communications equipment should be kept within reach; when it is necessary to leave equipment, the equipment should be stored in a locked environment and out of sight. Users are responsible for the cost of intentional damage or reckless loss of assigned communications equipment. If a device is lost or stolen, it must be reported within 24 hours to the direct supervisor.

30.13. Serial Meetings: In accordance with the Brown Act (Govt. Code Section 54950 et seq.), Town employees must take care to ensure that electronic systems are not used to transmit, either all-at-once or serially, Town legislative officials' positions on matters of Town business to a majority of any Town body of elected officials.

30.14. Public Records Act Requirements: All permanent Town records, including those stored on paper and electronic media, may be governed by the mandatory public disclosure requirements of the Public Records Act and the limited exceptions thereto. The following rules apply in order ensure compliance with the Public Records Act:

30.14.1. Town Email Must be Used for Town Business: All Town employees are required to: (a) use Town email addresses for all communications in the course of Town work so that the communications can be retained as public records; and (b) copy all communications received in the course of Town work on a personal email account to a Town email address so that the communications can be retained as public records.

30.14.2. Retention of Records: If a draft record is retained, it may become a permanent public record subject to disclosure unless it is subject to an exception under the Public Records Act.

30.14.3. Procedure for Destroying Public Records: All permanent records, whether stored on paper or electronic media, shall not be destroyed unless prior written authorization is obtained pursuant to Government Code Section 34090 and Town Resolution No. 1015-01, which provides the process for the destruction of most public records by the Town.

30.14.4. Responding to Public Records Act Requests: Public Records requests shall be handled in accordance with the law. Employees are required to provide the Town access to all communications made in the course of Town work, including communications improperly, mistakenly or temporarily stored on personal devices. Upon the Town's direction, employees are required to declare, under penalty of perjury, that they have provided the Town all communications undertaken for Town business so that the Town can respond to Public Records Act requests.

30.15. No Private or Commercial Use of Town Name or Logo: No employee may use, imprint, or publish the words "Town of Windsor" or any Town logo as part of a name, title, object, or event for a private or commercial purpose.

Employee Name (please print): _____

Employee Signature: _____

Date: _____