

PERSONNEL POLICIES AND PROCEDURES TOWN OF WINDSOR

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1. INTRODUCTION

1.1. These Personnel Policies and Procedures (hereafter “rules,” “policies” or “procedures”) generally describe the employment relationship between the Town of Windsor and its employees. The rules apply to all employees, except where otherwise indicated in these rules, or where an applicable memorandum of understanding (MOU) specifically conflicts with a rule. Each employee will receive a copy of these rules, and is responsible for reading and following these procedures.

1.2. These rules may be amended from time to time. However, in order to be effective, the amendment must be in writing and approved by the Town Council.

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 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 Administrative Services Department directly.

3. CLASSIFICATION PLAN

3.1. The Town maintains a set of job classifications. Each job classification includes a class title and a general written description of the duties and responsibilities. Classification descriptions are available upon request.

3.2. The classification descriptions may be abolished or amended from time to time. In addition, new classification descriptions may be added to the Town's classification plan. The Town provides notice to recognized employee organizations prior to abolishing, amending or adding classifications to the Town's plan.

3.3. If employees believe they are performing work outside the scope of the classification description covering their position, they should report the information, in writing, immediately to the Town's Administrative Services Department.

3.4. The Town may utilize temporary or emergency employees in the event of some legitimate need. Such employees may be assigned to classified, or unclassified, positions.

4. RECRUITMENT AND SELECTION

4.1. Recruitment

4.1.1. The Town may utilize any legitimate recruitment procedure for attracting qualified applicants. Recruitments may be “in house” or “open,” depending on the Town’s needs. The Town will give reasonable notice to all of its employees concerning the Town’s employment opportunities.

4.2. Applications for Employment

4.2.1. 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.

4.2.2. 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. The Town shall have the right to conduct a complete and exhaustive background investigation on all applicants seeking employment in the Town of Windsor.

4.3. Disqualification or Rejection

4.3.1. The Town may reject or disqualify applicants for any legitimate reason. In addition, the Town may permanently disqualify applicants from future employment for good cause. In the event of permanent disqualification, the Town shall notify the applicant of the action, including a brief description of the reasons therefore, and permit the applicant to appeal pursuant to the procedure specified in these rules. The appeal submission shall be maintained with the application file, if requested by the appellant. The appeal procedure shall not be available to applicants, except in cases of permanent disqualification.

4.4. Testing / Assessment Process

4.4.1. The Town may utilize any legitimate method to determine the qualifications of applicants, including without limitation, written tests, physical agility tests, oral examinations, panel interviews, assessment centers and oral interviews. The Town may list successful applicants on a “list of eligibles.” The list of eligibles shall be maintained for the duration specified by the Town.

4.5. Appointment

4.5.1. The Town may appoint any qualified applicant from the list of eligibles to a regular position in the classification for which the applicant is qualified. Positions may

be full time, or part time, depending on the needs of the Town. In the absence of a list of eligibles, the Town may make temporary appointments pending development of a new list. The Town endeavors to provide notice to all Town employees at least one week in advance of new employment opportunities.

4.5.2. The Town in its discretion may permit lateral transfers to a vacant position. The transfer shall be subject to the rules governing transfers. The Town endeavors to provide notice of vacant positions to ensure opportunities for transfer.

4.5.3. The Town may in its discretion cause a new list of eligibles to be generated, in the event the Town believes that circumstances warrant a new list. Such circumstances include, but are not limited to: the age of the eligible list; an inadequate number of candidates; and changing job requirements.

4.6. Fitness for Duty

4.6.1. All employees must be physically and mentally capable of performing the essential functions of their jobs. All appointments may be conditioned upon successful completion of medical and/or psychological examination(s), to be arranged by the Town.

4.7. Probationary Period

4.7.1. 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 six (6) months. Periods of time during unpaid absences shall automatically extend the probationary period by the number of day of the absence. Further, periods of time on paid leave exceeding twenty (20) working days shall extend the probationary period by that number of days the employee is on such leave.

4.7.2. The Town may establish probationary periods exceeding six (6) months in duration for positions involving duties and responsibilities that the Town believes warrant an extended probationary period. In such event, the Town shall indicate the probationary period in the job announcement or other application-related materials. Further, with respect to existing classifications, the Town shall provide advance notice of the probationary period change to the exclusively recognized employee organization.

4.7.3. 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. 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.

4.7.4. 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 ninety

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(90) days in the event the Town has any legitimate question regarding the employee's continued employment. Such ninety (90) day period shall be in addition to those extensions resulting from an employee's absence as described above.

4.7.5. Probationary periods do not apply to "at-will" employment, which can be terminated at any time, with or without cause.

4.8. At Will

4.8.1. Certain positions in the Town of Windsor are designated "at-will." At-will positions are not subject to the job protections described in these personnel rules, including processes and rules for recruitment, discipline, termination, probationary periods, testing, and appointment from eligible lists. The employment of at will personnel may be terminated at any time, for any legal reason, and without any requirement of demonstrating "good cause."

5. PERFORMANCE EVALUATION PROGRAM

5.1. The Town may require employees to undergo performance evaluations periodically throughout their employment. The Town shall prescribe appropriate forms for completing performance evaluations. The Town's performance evaluation program includes an opportunity for employees to discuss their concerns with Department Heads, upon request.

5.2. Performance evaluations shall be maintained in employee personnel files. Employees may submit rebuttals to their performance evaluations, and the rebuttals shall also be maintained in the personnel files with the performance evaluations.

6. FITNESS FOR DUTY EVALUATIONS

6.1. The Town at its expense may require an employee to undergo a fitness for duty evaluation based on any reasonable cause.

7. PERSONNEL FILES

7.1. The Town shall maintain an official personnel file for each of its employees. Personnel files contain such personnel records as may be deemed necessary for the administration of human resources in the Town.

7.2. Personnel files shall be made available for inspection by employees within a reasonable time after an employee's request and without loss of pay, provided that employees must make arrangements with their supervisor if the inspection occurs on duty. Upon written request, employees may obtain copies of the materials subject to inspection. The Town may preclude inspection of certain information in accordance with the law, such as background and other pre-employment information, and materials relating to investigations.

7.3. The Town maintains injury reports and confidential medical records (e.g., Civil Code § 56, et seq.) in separate files.

8. WAGE AND HOUR BENEFITS

8.1. Wages and benefits are subject to approval by the Town Council after the Town meets and confers with recognized employee organizations. Wages and benefit schedules are often contained in the MOUs covering the classification of employment at issue. Employees having any questions about what MOU covers their employment classification should contact the Administrative Services Director.

8.2. The Town is committed to observing all of its obligations under the Fair Labor Standards Act ("FLSA"). These rules, as well as all applicable provisions in memoranda of understanding and all Town pay practices, shall comport with, and shall be interpreted to ensure the minimum requirements of, the FLSA.

8.3. The Town designates as "FLSA Exempt" those employees who work in professional, executive or administrative capacities and who are therefore not entitled to overtime compensation under the FLSA. Except when necessary to address an emergency or special circumstances, employees who *are* entitled to overtime compensation under the law may not work outside of regularly scheduled working hours, or during unpaid meal periods, without the prior authorization of a supervisor. In any event, employees shall report overtime work as soon as possible after the work is performed. Violations of this rule may result in discipline, up to and including termination of employment.

9. ATTENDANCE / MEAL PERIODS / REST PERIODS

9.1. Workweek

9.1.1. The basic workweek for full time employees shall be forty (40) hours per week, in a seven-day period. The workweek commences at 12:01 a.m. every Sunday a.m., and is a regularly recurring seven (7) day period ending at 12 Midnight every Saturday p.m.

9.1.2. The Town shall establish and may modify regular working hours for its employees. 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 the work schedule established for their department.

9.2. Meal Periods

9.2.1. Unless otherwise established for a department or particular employees, employees shall receive a thirty (30) to sixty (60) minute meal period that shall not be compensated. During the meal period, the employee shall be completely relieved of duties. If the employee is authorized in advance and performs work during the meal period, the employee shall be compensated for such time. Meal periods may not be used to shorten the workday.

9.3. Rest Periods

9.3.1. Unless otherwise established for a department or particular employees, employees shall have a fifteen (15) minute rest period for each half of their shift, as scheduled by the Department Director. The rest period may be interrupted or cancelled if necessary to complete work and shall be compensated 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.

10. LEAVES

10.1. General Provisions

10.1.1. 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 1 hour.

10.1.2. 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. The Town may employ any reasonable measure to ensure employees are properly accounting for leaves, 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. The Town may require a fitness for duty certification from any employee returning from leave. Abuse of leave privileges, including working for a secondary employer while on sick leave, may subject an employee to disciplinary action, up to and including termination of employment.

10.1.4. Leave benefits are available only to regular, or probationary, employees working in forty (40) hour-per-week positions, but not part time or "extra help" personnel.

10.2. Available Leave Categories

10.2.1. The Town provides the following leave categories: (a) sick leave with pay; (b) sick leave without pay; (c) jury duty leave; (d) administrative leave with pay; (e) personal leave without pay; (f) bereavement leave; (g) vacation leave; (h) holiday pay; (i) compensatory time off; (j) family medical leave; and (k) workers' compensation leave.

10.2.2. Sick Leave with pay: Full time employees generally accrue sick leave at the rate of 8 hours monthly / 96 hours annually. Sick leave usage is not a "right." Rather, sick leave may only be used in cases of actual sickness or disability. Employees unable to report to work must notify their immediate supervisors not later than one hour before work is scheduled to begin, if possible, or by whatever method is established by the supervisor. An employee may use up to 48 hours of sick leave per calendar year to attend to an illness of a child, parent or spouse of the employee.

10.2.3. If a finding of industrial disability is made in connection with a PERS retirement, employees may not be permitted to exhaust paid sick leave balances unless the Town Manager approves, in his/her discretion.

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10.2.4. Sick Leave Without Pay: In the event paid balances are exhausted, employees may be placed on sick leave without pay if circumstances so warrant in the Town's discretion.

10.2.5. Jury Duty: Employees summoned by State or Federal court to jury duty shall be entitled to full pay during the period of jury service. Employees must keep their supervisors informed of their court schedule, and shall provide proof of service to the Town upon request. Employees shall pay any fees received for jury service to the Town, except for mileage reimbursement.

10.2.6. Administrative Leave with Pay: The Town in its discretion may place an employee on administrative leave with pay. Employees on such leave shall be subject to the Town's instructions during their normal working hours.

10.2.7. Personal Leave Without Pay: The Town in its discretion may permit employees to be on leave without pay. Employees in such status do not accrue vacation or other benefits, or receive service credit and may be required to pay for all fringe benefits, such as health plan premiums, during the period of their leave without pay. Employees shall be entitled to take personal leave without pay when required by State Law.

10.2.8. Bereavement Leave: The Town shall grant leaves of absence with pay up to three (3) days where a member of the employee's or spouse's immediate family dies. "Immediate family" means parent, current spouse, 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 thirty (30) days of a death in the family, unless the employee has made arrangements with the Town regarding its use at a later date.

10.2.9. Vacation Leave: Employees accrue vacation at the following rates:

- (a) Before one year of employment, employees shall not accrue any vacation until their six month anniversary, at which time they shall be provided 5 working days and then continue to accrue vacation at the rate for those employees after one year of employment;
- (b) Beginning the first day after one year of employment: 10 working days per year;
- (c) Beginning the first day after four years of employment: 15 working days per year;
- (d) Beginning the first day after twelve years of employment: 20 working days per year.

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10.2.10. Employees must be employed at least six months, and have successfully completed initial probation, before using vacation leave benefits. Employees shall give at least two (2) weeks notice of a vacation request, unless the vacation is three days, or less, in which case notice shall be at least one (1) week in advance of the requested leave. Employees who terminate 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.

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

- (a) New Year's Day
- (b) Martin Luther King Jr. Birthday
- (c) President's Day
- (d) Memorial Day
- (e) Independence Day
- (f) Labor Day
- (g) Veteran's Day
- (h) Thanksgiving Day
- (i) Day After Thanksgiving
- (j) Day before Christmas
- (k) Christmas
- (l) Floating Holidays (two eight-hour holidays per fiscal year)

10.2.12. 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.

10.2.13. Employees working on a holiday with Town approval will be entitled to an "in lieu" holiday that may be taken on another date, within the fiscal year, subject to supervisory approval. In lieu holidays may not be carried over to another fiscal year, and are lost unless used prior to the end of the fiscal year.

10.2.14. Floating holidays are subject to supervisory approval and may not be carried over to another fiscal year, and are lost unless used prior to the end of the fiscal year.

10.2.15. Compensatory Time Off: Represented employees with agreements between the Town and labor associations may be entitled to compensatory time off (CTO). Employees should consult their MOU, or contact the Human Resources Section of the Administrative Services Department, regarding CTO.

10.2.16. FMLA Leave: Family medical leaves are subject to Town Policy No. 11.

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10.2.17. Workers' Compensation Leave: Employees suffering injuries in the course and scope of their work may be entitled to workers' compensation benefits. Employees having questions should contact the Human Resources Section of the Administrative Services Department.

11. FAMILY AND MEDICAL LEAVES

11.1. Statement of Rule

11.1.1. In accordance with the Family and Medical Leave Act of 1993 (FMLA) and the "California Family Rights Act" (CFRA), eligible employees may take up to a total of twelve (12) work weeks of family and medical leave during a twelve (12) month period for a qualifying event. FMLA/CFRA leave may only be taken for the following reasons:

- (a) Because of the employee's own "serious health condition" that makes the employee unable to perform the functions of his or her position;
- (b) The birth of an employee's child and to care for a newborn;
- (c) The placement of a child with an employee in connection with the adoption or foster care of a child by an employee;
- (d) To care for a child, parent, spouse, or a registered domestic partner who has a "serious health condition";
- (e) For a "qualifying exigency" arising out of the fact that the employee's spouse, son, daughter, or parent is a covered military member on active duty (or has been notified of an impending call or order to active duty) in support of a contingency operation and/or;
- (f) To care for a covered servicemember with a serious injury or illness if the employee is the spouse, son, daughter, parent or next of kin of the servicemember.

Qualifying Exigency Leave

The FMLA allows for eligible employees to take FMLA leave while the employee's spouse, son, daughter or parent (the "covered military member") is on active duty or call to active duty status for a "qualifying exigency." Unlike military caregiver leave which is available for the care of a covered servicemember in the Regular Armed Forces, Reserves, or National Guard, qualifying exigency leave is only available to an eligible employee with an immediate family member who is on active duty or call to active duty status in support of a contingency operation as a member of the Reserves or National Guard. It is not available to employees with family members in the Regular Armed Forces.

*Examples of qualifying exigencies may include:

- Short-notice deployment;
- Military events and related activities;
- Childcare and school activities;
- Financial and legal arrangements;
- Counseling;
- Rest and recuperation;
- Post-deployment activities and/or;
- Additional activities.

11.1.2. 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. An employee is entitled to leave for one of these purposes for a minimum duration of two weeks per state law. However, on two occasions during the 12 month period the employee is eligible for leave in an increment less than two weeks but not less than one work day.

11.1.3. The maximum duration of combined leave for both a husband and wife working for the Town is limited to a total of twelve (12) working weeks if leave is taken for the birth or placement for adoption or foster care of the employees' child.

11.1.4. If an employee requests leave for a qualifying exigency, the employee must provide sufficient information indicating that a family member is on active duty or has been called to active duty status, verifying that the requested leave is for one of the qualifying exigencies listed, and stating the anticipated duration of the absence.

11.1.5. An employee who is the spouse, son, daughter, parent, or next of kin of a covered servicemember is allowed to take 26 workweeks of leave during a single 12- month period to care for the covered servicemember with a serious injury or illness incurred in the line of duty, while on active duty, for which the servicemember is:

- (a) undergoing medical treatment, recuperation, or therapy;
- (b) otherwise in outpatient status and/or;
- (c) otherwise on the temporary disability retired list.

As with leave for other FMLA-qualifying reasons, an employee on military caregiver leave is entitled to paid health benefits as if the employee continued to work.

11.2. Eligibility

11.2.1. Employees are eligible for leave pursuant to this rule if the employee has been employed with the Town for at least 12 months and has been employed for at

least 1,250 hours during the 12-month period immediately preceding the commencement of the leave.

11.3. Notification

11.3.1. Employees shall provide the Town as much notice as possible of their need for FMLA/CFRA leave on forms provided by the Human Resources Division. For a foreseeable leave not based on a qualifying exigency, an employee must give at least 30 days advance notice. If 30 days notice is not practicable, the employee must give notice as soon as practicable. If less than 30 days notice is given, the Town may require explanation of why 30 days advance notice was not practicable. If timely notice is not given, the period of delay may count as non-FMLA absence. In addition, if an employee knows that he/she will need leave in the future, but does not know the exact date(s), the employee shall inform his/her supervisor of the estimated time when the leave will be needed. Violation of the provisions of this policy may result in a delay of the granting of the leave.

11.3.2. Employees may be required to periodically report on their status and intent to return to work.

11.4. Medical Certification

11.4.1. Employees who request leave for their own serious health condition or to care for a child, parent, spouse, or registered domestic partner who has a serious health condition may be required to provide written certification from the health care provider of the individual requiring care. If the leave is for the employee's own serious health condition, the certification must include a statement that the employee is unable to work at all or unable to perform the essential functions of his/her position.

11.4.2. Employees must provide the certification prior to when the leave begins. If the leave is unforeseeable, certification must be provided within 15 calendar days after the notification of the need for the leave. Violation of the provisions of this policy may result in a delay of the granting of the leave until the required certification is provided.

11.4.3. If the Town has reason to doubt the validity of a certification, 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 employee, but paid for by the Town. The opinion of the third health care provider will be binding.

11.4.4. 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 with a serious health condition, the employee must provide medical certification that such leave is medically necessary. “Medically necessary” is defined as a medical need for the leave and certifies that the leave can best be accomplished through an intermittent or reduced leave schedule.

11.4.5. The Town may seek re-certification upon expiration of the time period which the health care provider originally estimated, if the employee requests additional leave.

11.5. Designation

11.5.1 It is the employer’s responsibility to designate leave taken for an FMLA reason as FMLA qualifying. The designation can be made by the employer once it is determined that the leave was taken for a FMLA-qualifying reason.

11.5.2. If an employer does not properly designate leave, the employer may retroactively designate leave as FMLA leave with appropriate notice to the employee as required by the FMLA regulations provided that the employer’s failure to timely designate leave does not cause harm or injury to the employee. In all cases where leave would qualify for FMLA protections, an employer and an employee can mutually agree that leave be retroactively designated as FMLA leave.

11.6. Use of Accrued Leaves

11.6.1. Leave under this policy is unpaid. If an employee is on an unpaid FMLA leave, they are required to use their accrued vacation, and personal or family sick leave, (until the leaves are exhausted) concurrently with FMLA/CFRA leave. Employees must use their accrued sick leave (until the sick leave is exhausted) concurrently with the leave if the leave is for the employee’s own serious health condition. If an employee is on a paid leave such as Workers Comp, disability, Paid Family Leave, Pregnancy Disability, etc., employees may elect to use vacation, accrued sick leave and/or accumulated compensatory time to substitute for all or part of the otherwise unpaid leave under this policy.

11.6.2. If the employee takes a leave of absence for any reason which is FMLA/CFRA qualifying, the Town may designate that leave as running concurrently with the employee’s 12-week FMLA/CFRA leave entitlement; provided that the Town will notify the employee at the time of the designation, and the designation will not be made retroactively except as provided by law.

11.7. Continuation of Benefits

11.7.1. For the duration of the leave pursuant to this rule, the Town shall maintain its portion of the payment for the employee's health insurance premiums under its group health plan. The employee is still responsible for paying their share of supplemental or dependant coverage. The Town may require the employee to reimburse the Town for these costs for the entire leave period if the employee fails to return to work at the conclusion of the leave, provided that the failure to return to work is for a reason other than: (a) the continuation, recurrence or onset of a serious health condition; or (b) the Town Manager waives the requirement owing to some circumstances beyond the control of the employee.

11.8. Reinstatement

11.8.1. Upon expiration of leave, an employee is entitled to be reinstated to the position of employment held when the leave commenced, or to a comparable position with equivalent employment benefits, pay and other terms and conditions of employment. An employee maintains these rights unless the former position is abolished during the period of leave and the employee would otherwise not have been laid off. Employees have no greater rights to reinstatement, benefits and other conditions of employment than if the employee had been continuously working during the leave period.

11.8.2. As a condition of reinstatement of an employee whose leave was due to the employee's own serious health condition, the Town will require a fitness-for-duty certification from the health care provider, certifying that the employee is able to resume work. Failure to provide such certification will result in denial of reinstatement.

11.9. Definitions

11.9.1. For the purposes of this section, the following definitions apply.

- (a) "12-Month Period:" A rolling period measured backward from the date leave is taken and continuous with each additional leave day taken.
- (b) "Child:" A child under the age of 18 years, or 18 years or older who is incapable of self-care in three or more of the instrumental activities of daily living, such as grooming and hygiene, bathing, dressing, eating, cooking, cleaning, taking public transportation, etc.
- (c) "Parent:" The biological parent of an employee or an individual who stands or stood *in loco parentis* (in place of a parent) to an employee when the employee was a child. This term does not include parents-in-law.
- (d) "Spouse:" A husband or wife as defined or recognized under California State law for the purpose of marriage.

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(e) "Registered Domestic Partner": Domestic partners who are registered with the State of California.

(f) "Serious Health Condition:" An illness, injury, impairment, or physical or mental condition that involves:

(1) any period of incapacity or treatment in connection with a hospital, hospice or residential medical care facility;

(2) any period of incapacity requiring absence from work, of more than three full consecutive calendar days if the employee or family member is treated two or more times by a health care provider within 30 days from the first day of incapacity, absent extenuating circumstances, and the first visit has taken place within seven days of the first day of incapacity;

(3) continuing treatment of a health care provider for a chronic or long-term health condition that is incurable or so serious that, if not treated, would likely result in a period of incapacity of more than three calendar days; or

(4) for prenatal care by a health care provider. Continuing treatments include two or more visits to a health care provider; two or more treatments by a health care practitioner on referral from, or under the direction of a health care provider; or a single visit to a health care provider that results in a regimen of continuing treatment under the supervision of a health care provider.

(g) "Health Care Provider:" A medical practitioner authorized to practice medicine in the State of California and performing within the scope of their practice as defined under state law, or as otherwise defined in the Family and Medical Leave Act.

11.9.2. In the event that a conflict arises between this article and federal or state law or regulations, or if some aspect of the Family and Medical Leave is not covered by this article, the federal and state law and regulations will prevail.

11.10. Americans with Disabilities Act Leave

11.10.1. In the event an employee becomes disabled within the meaning of the Americans with Disabilities Act or other applicable disability laws and the Town is reasonably able to accommodate the limits or restrictions on that employee's ability to work, the Town will do so provided that the employee is qualified to perform the duties of a job that may be made available to him or her. In effectuating the provisions of this section and the duties of the law, the Town's efforts to reasonably accommodate the employee shall take precedence over and preempt any other conflicting provisions or limitations in MOUs or these personnel rules, provided that the Town will not terminate or permanently reassign any regular employee. The Town will notify the applicable labor association and, upon request by the association, meet with it to discuss reasonable accommodation questions affecting unit members prior to implementation.

11.11. Pregnancy Disability Leave:

11.11.1. Statement of Rule

11.11.1.1. Disabilities caused or contributed to by pregnancy, childbirth or related medical conditions, for all job-related purposes, shall be treated the same as non-service related disabilities caused or contributed to by other medical conditions, under any disability insurance or sick leave plan available in connection with employment. Written or unwritten employment policies and practices involving matters such as the commencement and duration of leave, the availability of extensions, the accrual of seniority and other benefits and privileges, reinstatement and payment under any disability insurance or sick leave plan, formal or informal, shall be applied to disability due to pregnancy, childbirth or related medical conditions on the same terms and conditions as they are applied to other such disabilities.

11.11.2. Procedure

11.10.2.1. An employee whose attending physician has certified that she is physically incapacitated from performing her duties due to pregnancy or childbirth is eligible to take leave without pay for a reasonable period of time; provided, such period shall not exceed four months (120 calendar days).

- (a) An employee requesting pregnancy disability leave shall submit, in writing, her intent to take leave. The leave request shall indicate when or whether the employee intends to return to work.
- (b) The request for pregnancy disability leave shall be submitted to the department director with a copy to the Administrative Services Director and be accompanied by a statement from the attending physician.
- (c) In order to receive compensation while on disability leave, a full-time employee may elect to use any accrued sick leave consecutively in the beginning of the leave until the sick leave is exhausted and is then entitled to voluntarily use any accrued vacation, compensatory time or personal leave during the four-month period of leave time.
- (d) Leave under this article is granted according to the health of the female employee. Leave for purposes of childcare after the employee is medically able to return to work shall be granted to the employee on the same basis as leave for other non-medical reasons.
- (e) Upon expiration of the approved leave, the employee shall be reinstated to her former position, or to a comparable one with equivalent employment benefits, pay and other terms and conditions of employment if the former position is abolished during the period of leave and the employee would otherwise not have been laid off. Prior to the employee being reinstated,

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the Administrative Services Director may require a statement from the attending physician that the employee is physically capable of resuming the regular duties of her position. Failure to return to work after the authorized four month leave period, unless extended via FMLA/CFRA leave, causes the pregnant employee to have no reinstatement rights.

11.11.2.2. Any period before and after birth where a mother is not able to work for medical reasons may be considered FMLA leave for a serious health condition.

11.11.2.3. In the event that a conflict arises between this article and federal or state law or regulations, or if some aspect of pregnancy disability law is not covered by this article, the federal and/or state law and regulations will prevail.

12. TRANSFERS

12.1. A non-probationary Town employee with at least satisfactory appraisal ratings 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 Administrative Services Department. The employee requesting a transfer must meet the minimum qualifications for the vacant position, and may be subject to interviews and other pre-employment processes specified by the Town. Following reasonable notice to Town employees, vacant positions may be filled through transfers rather than appointments from eligible lists.

12.2. The Town may initiate a transfer of disabled employees who qualify under applicable disability laws but cannot perform the essential functions of their jobs without reasonable accommodation. Such transfers will have priority over any eligibles on an existing eligible list.

13. LAYOFF AND RECALL POLICY

13.1. Whenever in the sole judgment of the Town Council it becomes necessary to abolish any position that is held by a full time regular 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, employees will be given at least 30 days notice of any layoff.

13.2. When a layoff involves a position classification held by more than one person, layoffs will be made on a reverse order of seniority. Seniority will be determined by including all periods of full time regular service at or above the classification level where the layoff is to occur.

13.3. Persons 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 re-employment 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 before seeking promotional and/or general applications from others.

13.4. This policy does not apply to at-will employees.

14. EMPLOYEE SAFETY / VIOLENCE IN THE WORKPLACE

14.1. General Safety Rules

14.1.1. 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.

14.1.2. 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 Administrative Services Director.

14.1.3. If a work-related injury may result in lost work time, the employee should be provided with a workers' compensation claim form within one (1) working day of the injury.

14.1.4. Individual departments may adopt specific safety rules applicable to their operations.

14.2. Violence in the Workplace Policy

14.2.1. Policy

14.2.1.1 Acts of violence, whether threatened, gestured, or carried out will not be tolerated in a Town of Windsor workplace. Anyone witnessing or becoming the subject or victim of such behavior shall immediately report it to the proper authorities for investigation. Minimizing the threat of violence is a duty of all employees to ensure a safe workplace.

14.2.1.2. It is the responsibility of all employees to notify a supervisor, the Administrative Services Director, or the Police Chief immediately of any violent act or a threat, or if a violent act or threat against themselves or any other Town employee occurs in the workplace or is directly associated with their employment with the Town of Windsor. Notification may be made to any of these persons as appropriate and shall be as soon as practicable. Retaliation or the threat of retaliation against a person who reports such an incident is unlawful and shall not be tolerated.

14.2.1.3. Town employees shall not possess the following instruments at a Town worksite or on Town property, including Town parking lots, unless there is a work-related purpose and written approval has been obtained from the employee's Department Head:

- (a) Firearms
- (b) Explosives or ammunition

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- (c) Fixed blade knives
- (d) Folding knives with blades over 3.5 inches
- (e) Illegal weapons such as defined in Section 12020 of the California Penal Code

14.2.1.4. The Town shall take appropriate disciplinary action, up to and including termination of employment, against employees who violate this policy.

14.2.1.5. On a case by case basis, or as needed, the Town will offer incident- related counseling services through the Town's Employee Assistance Program (EAP), or any other resource or program made available by the Town, to employees who are the victims of violence or are subjects of threats of violence or intimidation at the workplace. The Town administration will work with public safety, the courts and other authorities necessary to assure employee safety.

14.3. Procedures - Imminent or Actual Violent Acts

14.3.1. 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 shall, whenever possible:

- (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) 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 shall be conducted within this policy and the laws.

14.3.2. Supervisor/Manager Responsibilities:

- (a) Place themselves in a safe location.
- (b) A supervisor or manager who is informed of a violent act or the threat of a violent act, shall whenever possible ensure the immediate safety of employees and the worksite by calling the Police Department at 565-2121, and notify the Department Head and Administrative Services Director.
- (c) If feasible, the supervisor/manager shall have the involved individuals wait in separate rooms or locations until the police take control or remove them from the premises.

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- (d) In consultation with the Town Manager, 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) Supervisors shall obtain basic information from the employee and provide this to responding police personnel.
- (i) Refer media inquiries to the Town Manager's Office.

14.3.3. Procedures – Future Violence

- (a) Employees who have reason to believe they, or another Town employee, 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 of Windsor, shall inform their supervisor immediately so appropriate action may be taken. The supervisor shall inform his/her Department Head.
- (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 immediately supply a copy of the signed order to their supervisor and the Administrative Services Director. The employee shall also supply a copy of the signed order and proof of service to the Town of Windsor Police Department.

14.3.4. Post-Incident Review

- (a) The Town Manager's Office, the Administrative Services 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.

15. APPEAL PROCEDURE

15.1. This appeal procedure is intended to provide an avenue only for redress of complaints that the Town has in some manner violated these rules.

15.2. The appeal must be initiated within fifteen (15) calendar days of the facts giving rise to the appeal, and must be submitted to the Town's Administrative Services Director. The Director may, in his or her discretion, submit the appeal for response as the first step to a directly involved supervisor or other department representative.

15.3. 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.

15.4. The Administrative Services Director, or the Director's designee, will review the appeal and shall serve notice of a written response within fifteen (15) calendar days of receipt of the appeal.

15.5. 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 fifteen (15) calendar days of the Director's response.

15.6. The Town Manager, or the Manager's designee, will review the appeal and shall serve notice of a written response within fifteen (15) calendar days of receipt of the appeal. The Town Manager's decision shall be final.

15.7. No other grievance or appeal procedure may be used for matters within the scope of this appeal procedure.

15.8. Exhaustion of 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.

16. DISCIPLINE / GENERAL RULES OF CONDUCT

16.1. General Rules of Conduct

16.1.1. It is expected that all employees shall render the best possible service and reflect credit on the Town. Therefore the highest standards of professional conduct are essential and expected of all employees.

16.2. Disciplinary Actions

16.2.1. The Town of Windsor may invoke the following types of disciplinary actions:

- (a) Official Reprimand
- (b) Suspension Without Pay
- (c) Reduction in Pay
- (d) Demotion
- (e) Disciplinary Probation
- (f) Discharge/Termination

16.3. Grounds for Discipline

16.3.1. Disciplinary measures may be taken for any good and sufficient cause. Town employees who are employed "at-will," or who are temporary or probationary, are not subject to the requirement of good cause, and are not entitled to pre-discipline procedures or appeals under these policies

16.3.2. 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, causes other employees not be to able to perform their duties, or involves any improper use of their position for personal advantage or the advantage of others. The type of disciplinary action shall depend on the seriousness of the offense and the relevant employment history of the employee. Causes for disciplinary action against an employee may include, but shall not be limited to, the following:

- (a) Misstatements or omissions of fact in completion of the employment application or to secure appointment to a position with the Town.
- (b) Furnishing knowingly false information in the course of the employee's duties and responsibilities.
- (c) Inefficiency, incompetence, carelessness or negligence in the performance of duties.

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- (d) Violation of safety rules.
- (e) Violation of any of the provisions of these personnel rules and regulations, department rules and regulations, Town policies, Town ordinances or resolutions.
- (f) Inattention to duty.
- (g) Tardiness, or overstaying lunch periods.
- (h) Being under the influence of an intoxicating beverage or non-prescription drug, or prescription drugs not authorized by the employee's physician, while on duty or on Town property, when called in for emergency duty, or any other violations of the Town's Drug and Alcohol Free Workplace Policy.
- (i) Disobedience to proper authority, refusal or failure to perform assigned work, to comply with a lawful order, or to accept a reasonable and proper assignment from an authorized supervisor.
- (j) Any violation of the Town's Nondiscrimination Policy.
- (k) Unauthorized soliciting 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 of a felony, or a misdemeanor involving moral turpitude, or a violation of a federal, state or local law which negatively impacts the employee's ability to effectively perform his/her job or brings discredit to the Town.
- (n) Offensive treatment of the public or other employees.
- (o) Falsifying any Town document or record.
- (p) Misuse of Town property; improper or unauthorized use of Town equipment or supplies; damage to or negligence in the care and handling of Town property.
- (q) Fighting, assault and/or battery.
- (r) Theft or sabotage of Town property.
- (s) Sleeping on the job, except as specifically authorized for 24 hour duty personnel.

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- (t) Accepting bribes or kickbacks.
- (u) Engaging in outside employment which conflicts with an employee's responsibilities.
- (v) Intimidation or interference with the rights of any employee.
- (w) Outside work or any other activity or conduct which creates a conflict of interest with Town work, which causes discredit to the Town, negatively impacts the effective performance of Town functions or is not compatible with good public service or interests of the Town service.
- (x) Failure to maintain the necessary license or certification specified for the position.
- (y) Abusive or intemperate language toward or in the presence of others in the workplace.
- (z) Failure to maintain minimum qualifications, including required licenses or certificates.
- (aa) Any other conduct of equal gravity to the reasons enumerated above as determined by the Town.

16.4. Authority to Discipline

16.4.1. 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.

16.5. Procedure for Disciplinary Action

16.5.1. In the absence of a process in a MOU, employees covered by this policy shall be governed by the following provisions:

16.6. Written Notice / Pre-Discipline Meeting / Final Action

16.6.1. The Town shall issue a written notice of discipline, describing the intended discipline, the basis for the discipline, and attaching any documents upon which the discipline is based. The affected employee may respond by submitting a rebuttal to be lodged in the employee's personnel file, but no further appeal shall be permitted.

16.6.2. For discipline that is greater in severity than a suspension of five working days, the employee shall also receive notice of the right to respond, either orally or in writing, before discipline is imposed. The Town shall set the meeting approximately one

week from the date of the notice, unless a different time and date is set by mutual agreement.

16.6.3. The Town Manager, or designee, shall convene a meeting to review the employee's response and position before imposing 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 new information for consideration by the Town.

16.6.4. At some reasonable time after the employee has been provided an opportunity to respond to the charges, the Town shall issue a final notice of discipline. The notice shall include the final decision, the effective date of the discipline and the facts upon which the discipline is based.

16.7. Appeal

16.7.1. For discipline that is greater in severity than a suspension of five working days, employees shall have the right to appeal from the final decision. The notice of appeal must be received within seven (7) calendar days from the date of the final notice of discipline, or the right to appeal is waived and the discipline shall become final.

16.7.2. The appeal shall be heard by an independent hearing officer to be selected by the Town.

16.7.3. The costs of the 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.

16.7.4. The hearing officer shall have the authority to convene the hearing, receive evidence through testimony and documents and to make findings of fact and conclusions about the discipline. The hearing officer may recommend an outcome, but the final authority rests with the Town Manager. The hearing officer shall serve a recommended decision on the Town and the employee. The Town Manager shall issue a final decision. The Town Manager's decision is reviewable by administrative writ of mandamus.

17. RESIGNATIONS

17.1. General Provisions

17.1.1. Employees are free to resign from their employment, but are encouraged to give at least two (2) weeks notice. A resignation becomes effective upon the Town's receipt of a written notice of resignation. If no written resignation is tendered, but a resignation is indicated orally, a resignation becomes effective upon the Town's notice of acceptance of the resignation. Once a resignation becomes effective, it is irrevocable except that the Town Manager may in his/her discretion permit a resignation to be rescinded.

17.2. Automatic Resignation

17.2.1. Employees are deemed to have resigned when absent from work for three (3) consecutive workdays without prior authorization. The Town shall give notice of such automatic resignation. Except for at-will or probationary employees, regular employees who are separated from the Town's service by automatic resignation may utilize the appeal procedure in these rules.

18. NON-DISCRIMINATION POLICY AND HARASSMENT POLICY

18.1. Purpose

18.1.1. The purpose of this policy is:

- (a) To reaffirm the Town's commitment to prohibit and prevent unlawful discrimination (including harassment) in all workplaces of the Town of Windsor;
- (b) To define discrimination and harassment prohibited under this policy;
- (c) To set forth a procedure for resolving complaints of prohibited discrimination and harassment.

18.1.2. This policy shall not be construed to create a private or independent right of action. Although this policy is intended to prohibit discrimination consistently with Title VII of the Civil Rights Act of 1964, as amended, the Americans with Disabilities Act, the California Fair Employment and Housing Act and California Labor Code Section 1102.1, the Town reserves the right to interpret and apply this policy to provide greater protection than what is afforded under those laws.

18.2. Policy

18.2.1. The Town of Windsor is committed to providing an environment that is free from harassment and discrimination of any kind, including sexual harassment and harassment based on race, color, religion, national origin, ancestry, age, physical disability, mental disability, medical condition, marital status, sexual orientation, or any other characteristic prohibited by state or federal law. Therefore, it is important that the Town maintain an atmosphere characterized by mutual respect in order to assure fair, courteous treatment for employees and the public.

18.3. Unlawful Discrimination/Harassment Prohibited

18.3.1. The Town strongly disapproves of and will not tolerate harassment or discrimination against Town employees or applicants by elected or appointed officials, managers, supervisors or coworkers. The Town also strongly disapproves of unlawful harassment of Town employees by persons with whom the Town has a business, service or professional relationship.

18.3.2. Sexual harassment and illegal discrimination are considered serious acts of misconduct and will not be tolerated. Employees who violate this policy and engage in acts of sexual harassment or illegal discrimination of any type, for any duration, shall be subject to severe disciplinary action, up to and including termination. Retaliation

against individuals who complain of sexual harassment or any type of prohibited discrimination or who participate in an investigation into sexual harassment or discrimination shall not be tolerated. Employees who engage in such acts of retaliation shall be subject to serious disciplinary action, up to and including termination.

18.4. Definitions

18.4.1. Prohibited discrimination and harassment for purposes of this policy, includes but is not limited to:

- (a) Speech: Such as epithets, derogatory comments or slurs, and lewd propositions on the basis of race, sex, religion, national origin, ancestry, disability, medical condition, marital status, age, or sexual orientation. This includes, without limitation, inappropriate sex-oriented comments on appearance, including dress or physical features, and race or ethnicity- oriented stories and jokes.
- (b) Physical Acts: Such as assault, impeding or blocking movement, offensive touching, or physical interference with normal work or movement when directed at an individual on the basis of race, sex, religion, national origin, ancestry, disability, medical condition, marital status, age or sexual orientation. This includes pinching, grabbing, patting, propositioning, leering, or making explicit or implied threats or promises in return for submission to physical acts.
- (c) Visual Insult: Such as derogatory posters, cartoons, or drawings related to race, sex, religion, national origin, ancestry, disability, medical condition, marital status, age, or sexual orientation.
- (d) Retaliation: Adverse employment actions carried out in retaliation for good faith submission of discrimination or harassment charges, or good faith participation in an investigation made pursuant to this policy.
- (e) Adverse employment actions carried out on account of race, sex, religion, national origin, ancestry, disability, medical condition, marital status, age or sexual orientation.

18.5. Harassment

18.5.1. Harassment on the basis of race, religion, creed, political affiliation, color, national origin, ancestry, sex, sexual orientation, age, familial status, or mental or physical disability is prohibited. Verbal or physical conduct relating to these categories constitutes harassment when it:

- (a) Has the purpose or effect of creating an intimidating, hostile or offensive working environment;

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- (b) Has the purpose or effect of unreasonably interfering with an individual's work performance; or
- (c) Otherwise adversely affects an individual's employment opportunities.

18.6. Sexual Harassment

18.6.1. Sexual harassment is a form of unlawful sex discrimination and will not be tolerated by the Town. Federal and State guidelines provide that unwelcome sexual advances, requests for sexual favors and other verbal, visual or physical conduct of a sexual nature constitute unlawful harassment when:

- (a) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment.
- (b) The submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
- (c) Sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature that has the purpose or effect of unreasonably interfering with an employee's work performance or of creating an intimidating, hostile, or offensive work environment.

18.6.2. Sexual harassment refers to conduct that is not welcome, that is offensive, that fails to respect the rights and dignity of others, that lowers morale and that, therefore, interferes with work effectiveness.

18.7. Reporting Unlawful Harassment or Discrimination

18.7.1. Any employee who believes he or she has been unlawfully harassed or discriminated against should promptly report it orally or in writing to the employee's supervisor, the Administrative Services Department or the Town Manager. An employee is not required to complain first to a supervisor if that person is the individual who is harassing and/or engaging in discriminatory actions against the employee. Instead, the employee may report the harassment/discrimination to any member of management.

18.7.2. Any supervisor or manager who receives a complaint of unlawful harassment/discrimination, or who observes or otherwise learns about unlawfully harassing conduct shall notify the Town's Administrative Service Director immediately.

18.8. Remedial Action

18.8.1. If harassment or discrimination is found to have occurred in violation of this policy, the Town shall take action to ensure or confirm that the harassment or discrimination at issue is stopped. The Town may take whatever measures are

appropriate to ensure its workplaces remain free from unlawful discrimination or harassment.

18.8.2. 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.

18.8.3. 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.

18.9. No Retaliation

18.9.1. Employees should feel free to report valid claims of unlawful harassment without fear of retaliation of any kind. The Town will not retaliate against or tolerate retaliation against employees for making any complaint of unlawful harassment in good faith, or against any employee for cooperating in an investigation.

18.10. DFEH and EEOC

18.10.1. In addition to notifying the Town about unlawful harassment or retaliation, an affected employee may also direct his or her complaint to the California Department of Fair Employment and Housing (“DFEH”), which has the authority to conduct investigations of the facts. The deadline for filing complaints with the DFEH is one year from the date of the alleged unlawful conduct. You can contact the nearest DFEH office or the FEHC at the locations listed in the Town’s DFEH poster or by checking with the state government listings in the local telephone directory.

18.10.2. An employee also has the right to direct his or her complaint to the federal Equal Employment Opportunity Commission (EEOC).

18.11. Dissemination of Policy

18.11.1. Copies of the Town’s Nondiscrimination Policy, and of these complaint procedures, shall be provided to all employees of the Town upon issuance, and to all new employees at the time of hiring. From time to time, the Town may also conduct training for its employees to assist them in learning how to recognize, avoid and correct discriminatory behavior.

18.12. Obligation of Employees

18.12.1. Employees are responsible for knowing the Town’s policy on nondiscrimination; refraining from discriminatory behavior, including harassment; reporting incidents of discrimination in a timely fashion; cooperating in any investigation concerning allegations of discrimination; *and* maintaining confidentiality concerning any investigation that is conducted.

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18.12.2. All employees are also encouraged to communicate with one another to assist co-employees to avoid harassing, discriminatory, or otherwise offensive behavior.

19. OUTSIDE EMPLOYMENT

19.1. General Prohibition

19.1.1. Town employees may not engage in any outside employment, enterprise or activity that the Town determines is in conflict with their duties and responsibilities, or any aspect of Town operations.

20. VOLUNTEERS

20.1. General Provisions

20.1.1. The Town may utilize volunteers for the delivery of Town services. The use of volunteers shall be subject to approval by the Administrative Services Director.

20.1.2. Volunteers shall not be eligible for salaries, benefits or other compensation unless specifically provided for by the Town. Subject to approval by the Administrative Services Director, necessary equipment or uniforms and reimbursement for approved actual expenses and mileage may be provided.

20.2. Employee Volunteers

20.2.1. Subject to approval by the Administrative Services 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 and the responsibilities are occasional and sporadic. Employees engaging in such volunteer assignments shall not be entitled to compensation.

21. DRUG AND ALCOHOL-FREE WORKPLACE

21.1. The Town's workplace shall be drug and alcohol-free.

21.2. No employee shall 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 during work hours or in any Town designated workplace. Alcoholic beverages may only be served on Town property at events expressly approved by the Town Manager.

21.3. Upon reasonable suspicion of an employee being under the influence while on duty, the Town may require the employee to submit to drug and alcohol testing, at the Town's expense. Employees who decline to submit to such testing may be subject to discipline, up to and including termination of employment.

21.4. The Town shall periodically distribute the following Notice to employees.

21.4.1.
DRUG AND ALCOHOL-FREE WORKPLACE
NOTICE TO EMPLOYEES

YOU ARE HEREBY NOTIFIED 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.

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, you will comply with the Town's policy on Drug and Alcohol-Free Workplace and will, any time you are convicted of any criminal drug or alcohol statute violation occurring in the workplace, notify your 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 locally:

U.S. Behavioral Health Plan, California – Telephone toll-free 1-866-262-4587

(Employee Signature)

(Date)

22. NEPOTISM

22.1 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.

22.2 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.

22.3 At the time a Town employee, including full-time, part-time seasonal (PTS), temporary agency placements and contract employees apply for a new position, a promotion or transfer, the employee must identify any person who is currently employed by the Town with whom they have either a familial relationship (a relative) or a romantic relationship.

22.4 The *Fair Employment and Housing Act* (FEHA) prohibits harassment and discrimination in **employment** because of race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, mental and physical disability, medical condition, age, pregnancy, denial of medical and family care leave, or pregnancy disability leave (Government Code sections 12940, 12945, 12945.2) and/or retaliation for protesting illegal discrimination related to one of these categories.

Despite these FEHA non-discrimination and non-harassment rules, the FEHA gives 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.

22.5 To avoid creating circumstances in which the appearance of favoritism, conflicts or management disruptions the Town retains its right to:

- a. Refuse the appointment, promotion or transfer of an individual or employee under the direct or indirect supervision of the other party of a familial or romantic relationship.
- b. Refuse the appointment, promotion or transfer of an individual or employee to the same department, division, or facility where the other party to the familial or romantic relationship is assigned when such action has the potential for creating adverse impacts on supervision, safety, security, morale, and/or a conflict of interest.

22.6 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,

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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.

22.7 When two existing employees marry, enter into a domestic partnership, or become romantically involved, and for 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.

22.8 Human Resources shall investigate reports of nepotism and take appropriate action.

22.9 Employees are required to report changes in their personal relationships which may be covered by this policy.

22.10 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.

23. GIFTS AND GRATUITIES

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

23.2. The Town utilizes the limits imposed by the Fair Political Practices Act (\$50 as of January 2002) as a measure of what is presumptively inappropriate under this policy.

24. USE OF INFORMATION AND ELECTRONIC SYSTEMS

24.1. General

24.1.1. The following sets forth the Town of Windsor's policy on access to and use of its electronic systems. Electronic systems are all hardware, software, and other electronic communication or data processing devices owned, leased, or contracted for by the Town of Windsor and available for official use, by the Town of Windsor's employees. This use includes, but is not limited to, electronic mail, voice mail, calendaring, and systems such as the Internet.

24.2. Public Disclosure

24.2.1. Employees who use electronic systems and/or tools provided by the Town of Windsor cannot be guaranteed privacy. Under the Public Records Act, E-mail messages and information stored in computers and other electronic systems of the Town are public records subject to disclosure to the public or may be subpoenaed. In addition, the Town reserves the right to review, audit, and disclose all matters sent over and/or stored in the Town's system at any time without advance notice. The Town Manager, or his/her designee, retain the right to enter and/or retrieve an employee's electronic communication system, data files, logs and programs used on Town owned electronic systems. Security features provided by the electronic communication system, such as, passwords, access codes, or delete functions, shall not prevent authorized Town personnel from accessing stored electronic communications. Deletion of E-mail messages or files may not fully eliminate the message from the system.

24.3. Serial Meetings

24.3.1. 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.

24.4. Use During Normal Business Hours

24.4.1. The Town of Windsor's electronic systems are provided for the purposes of conducting business. Except for brief, occasional, necessary or emergency use the Town's electronic systems shall not be used for personal use during normal business hours. Use of non-Town business software including games or entertainment software is considered an improper use of these electronic systems. Employees shall not conduct personal or private business, including purchase of goods or services via the Town's Internet connection. Such uses are prohibited at all times during normal business hours or outside normal business hours.

24.5. Account Access

24.5.1. Employees shall not attempt to gain access to another Town employees' personal file of electronic mail messages without the latter's express written permission or permission from the Town Manager or designee.

24.6. Prohibited Use

24.6.1. The electronic mail and other electronic systems of the Town shall not be used in a way that may be disruptive, offensive to others, harmful to morale or violate Town policies and procedures or laws. These electronic systems shall not be used to solicit or proselytize others for commercial venture, religious or political causes, outside organizations, or other non-job-related solicitations. Improper use includes any display or messages that are derogatory, defamatory, obscene, violent, or offensive to employees or the public and/or any messages that are of a sexual or discriminatory nature, including, but not limited to, slurs, offensive jokes, or other offensive language of disparagement of others based on their race, national origin, sex, sexual orientation, age, disability, or religious beliefs.

24.6.2. Employees are required to comply with all operational guidelines developed by the Town of Windsor. Such guidelines will address operational standards such as: message retention, schedule, copyright issues, use of passwords, system availability, back-up procedures, etc.

24.6.3. Incidental and occasional personal use of electronic mail is permitted within the Town, but the messages will be treated no differently from other messages and will remain the property of the Town as to review and auditing techniques. All personal use shall be done outside of normal working hours and not during provided morning and afternoon breaks or lunch periods.

24.6.4. Employees who use the Town's electronic mail system to send or receive personal or private messages, must remove such messages from the system no later than 30 days after receiving or sending.

24.6.5. Occasional personal access to the Internet may be permitted. However, such personal use shall only be permitted before or after regular Town business hours as explained above, and shall comply with all provisions herein. All use of the Internet will be periodically reviewed by the Town Manager or designee.

24.6.6. In addition to other prohibited uses, employees shall not: Install programs on the Town computer system (including but not limited to virus checking and screen savers) without the prior written consent of the Department Director and the Administrative Services Director, or each of their designees; copy Town Programs for personal use; disclose an account password or otherwise make the account available to

others; or infringe on others' access and use of the Town's computers, including but not limited to:

- (a) The sending of excessive messages, either locally or offsite;
- (b) Unauthorized modification of system facilities, operating systems or disk partitions;
- (c) Attempting to crash or tie up a Town computer or network;
- (d) Damaging or vandalizing Town computing facilities, equipment, software, or computer files;
- (e) Intentionally developing or using programs which disrupt other computer users or which access private or restriction portions of the system and/or damage the software or hardware components of the system;
- (f) Installing or using a modem on Town owned or leased computers without the prior written consent of the Department Director and Administrative Services Director, or each of their designees;
- (g) 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.

24.7. Public Records

24.7.1. 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 (Government Code section 6250 et seq.), and the limited exceptions thereto. If a draft record is retained, it may become a public record subject to disclosure unless it is subject to an exception under the Public Records Act.

24.7.2. 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.

24.7.3. Public Records requests shall be handled in accordance with Government Code section 6250 et seq.

24.7.4. The Town reserves the right for any reason to access and disclose all messages and other information sent or received by electronic means or stored on electronic media.

24.7.5. The Town has the right to delete or retain any or all messages or other information sent or received by electronic means or stored on electronic media by a Town employee who is no longer employed by the Town.

24.8. Intellectual Property Rights

24.8.1. No employee shall violate any copyright or license to software or other online information (including, but not limited to, text images, icons, programs, etc.) whether created by the Town or any other person or entity.

24.9. Failure to Comply

Town employees who fail to comply with the terms and conditions of this policy shall be subject to disciplinary procedures that may be informal and/or formal actions depending upon the severity of the offense. Discipline may result in termination of employment with the Town of Windsor.

25. DRESS CODE

25.1. Employees of the Town are required to dress appropriately for the jobs they are performing. Therefore, the dress regulations contained in this section shall be followed.

- (a) All clothing must be neat, clean and in good repair.
- (b) Prescribed uniforms and safety equipment must be worn where 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.
- (g) Good personal hygiene is required.
- (h) Dress must be appropriate to the work setting, particularly if the employee deals with the public.
- (i) Employees may be required to wear uniforms specified by the Town. Town uniforms shall be worn in a professional manner.
- (j) Employees shall be mindful of other employees' sensitivity to perfume and other fragrances, and employees shall refrain from wearing fragrances that are offensive or harmful to others.

26. USE OF TOWN EQUIPMENT

26.1. No Town owned equipment, autos, trucks, instruments, tools, supplies, machines, or any other item that is the property of the Town shall be used by an employee other than for Town business, unless the Town Manager approves in advance. No employee shall allow any unauthorized person to rent, borrow, or use any Town property, except upon prior written approval of the Town Manager.

27. TRAVEL AND TRAINING POLICY

27.1. The Town is committed to ensuring that its employees receive adequate training to perform their jobs. Training and travel are subject to department approval. Training opportunities that occur outside normal work hours require approval by the Department Head and the Administrative Services Director. Overnight travel also requires approval by the Department Head and the Administrative Services Director.

27.2. The Town generally requires that training, and attendant travel, be scheduled in a way that will minimize the Town's overtime liability. From time to time, the Town issues policies that govern these areas. Employees must observe these policies.

27.3. Town business travel shall be carried out in an efficient, cost-effective manner resulting in the best value to the Town. Telecommunications instead of travel should be considered when possible. The Town will pay or reimburse all business travel related expenses based on reasonableness and on the actual amount of expense incurred by the employee. Receipts when available are required for all travel expenses. Reimbursement of personal expenses and alcoholic beverages shall not be authorized for payment at any time. Department directors are responsible for determining the necessity, the available resources, and the justification for the method of employee business travel.

27.4. Employees having questions about the Town's travel and training policies should contact the Administrative Services Department.

28. CATASTROPHIC LEAVE

28.1. Accrued leave including sick leave, vacation or compensatory time may be transferred from one or more donating employees to another receiving employee under the following conditions:

- (a) The receiving employee is a full time employee who has successfully completed a probationary period.
- (b) The receiving employee or the receiving employee's child, stepchild, spouse or parent has sustained a life threatening or debilitating illness, injury or condition. The Department Head may require that the condition be confirmed by a doctor's report.
- (c) The receiving employee has or will have exhausted all paid time off.
- (d) The receiving employee must be prevented from returning to work for at least 30 days and must have applied for a medical leave of absence.
- (e) Sick leave may be transferred at the rate of one (1) hour sick leave for every four (4) hours of other time (i.e., holiday, vacation or compensatory time).
- (f) Donating employees must retain at least 80 hours of vacation and 80 hours of sick leave for their own use.

28.2. Donated time will be converted from the type of leave given to sick leave and credited to the receiving employee's sick leave balance on an hour-for-hour basis and shall be paid at the rate of pay of the receiving employee.

28.3. Donations must be a minimum of eight hours and thereafter in whole hour increments.

28.4. The total leave credits received by the employee shall normally not exceed three months; however, if approved by the Town, the total leave credits received may be up to a maximum of one year.

28.5. Donations approved shall be on a form signed by the donating employee and approved by the receiving employee's Department Head. Once posted, these donations are irrevocable except in the event of the untimely death of a catastrophic leave recipient. In that event, any excess leave will be returned to donating employees on a last in-first out basis (i.e., excess leave would be returned to the last employee(s) to have donated).

29. MISCELLANEOUS

29.1. Town May Amend or Revise Policies

29.1.1. From time to time the Town may adopt new or amended policies, after appropriate consultation or meet and confer with the Town's labor representatives.

29.2. No Contract

29.2.1. These policies do not create a "contract" of employment between the Town and any employee. Public employment is statutory, not contractual.

29.3. Severability

29.3.1. If any part of these rules is determined to be unconstitutional or illegal, such part shall be severed from these rules and the remaining rules shall be given full force and effect.

29.4. Word Usage

29.4.1. The term "Town" as used in these rules refers to the Town of Windsor. Responsibilities and rights of the Town under these rules are exercised by the Town Manager, and may be delegated by the Manager in her / her discretion.