

**RESOLUTION NO. 2016-09**

**AMENDMENTS TO THE TOWN OF SILVER CITY  
EMPLOYEES PERSONNEL MANUAL**

**WHEREAS**, the Town Manager, acting pursuant to the authority conferred upon him pursuant to Section 5(b) of Ordinance No. 744, has recommended to the Governing Body that the Town of Silver City Employees Personnel Manual should be amended; and

**WHEREAS**, the Governing Body has been fully advised as to the proposed amendments and approves of such amendments;

**NOW, THEREFORE, BE IT RESOLVED** by the Council of the Town of Silver City that:

1. The proposed amended personnel manual is adopted, effective immediately.
2. The Town Manager shall forthwith cause a copy of the amended personnel manual to be distributed to everyone who is governed and affected by the provision thereof.

**ADOPTED AND APPROVED** this 9th day of February, 2016.

**TOWN OF SILVER CITY**

\_\_\_\_\_  
Michael S. Morones, Mayor

Attest:

\_\_\_\_\_  
Ann L. Mackie, Town Clerk

(Seal)

2016 PROPOSED CHANGES TO  
EMPLOYEES PERSONNEL MANUAL

- Pg 1 Sec 1.0, Introduction and Welcome: 3<sup>rd</sup> paragraph, delete following sentence, “Management is tolerant of honest mistakes.”
- Pg 4 Sec 1.4, Labor Relations Contract: Incorporate Resolution 2011-20 reference Police Department sworn administrative personnel
- Pg 12 Sec 2.10, Probationary Period: Change insurance eligibility requirement dates to, “per requirements of the Town’s current insurance provider.”
- Pg 18 Sec 4.5, Outside Employment: Note, “Refer to Section 4.22, F (Employees Ethics Policy)”
- Pg 19 Sec 4.8, Voluntary Contributions: Delete “or a labor organization” at end of sentence
- Pg 24 Sec 4.13, Travel Expense: Add to “Note” that employee will be reimbursed for expenses for second certification examination if he/she is successful.
- Pg 24 Sec 4.14, Dress and Appearance, include specific language
- Pg 29 Sec 4.16, Employee Abuse of Driving Privilege: Add to subsection A, “or termination for safety -sensitive and CDL employees; change subsection B to read, “Assessment using screening tool approved by NM Department of Finance and Administration (DFA).”
- Change last paragraph to the following: Any employee convicted of a second or subsequent DUI offense within 5 years of the beginning of the current fiscal year will be uninsurable, and thereby, unemployable by the Town. Employees hired after the beginning of the fiscal year will become uninsurable and unemployable if they have a second or subsequent DUI conviction within 5 years of the date of hire. (Safety-sensitive and CDL employees are excluded as driving records are more stringent for these assignments.)
- Pg 31 Sec 4.17, Motor Vehicle Records Check: Change last sentence in subsection D to, “If the potential job applicant had more than one DUI within the last 5 years, he/she will be ineligible for any position with the Town, excluding applicants for safety-sensitive and CDL position whose driving record requirements are stricter.”
- Pg 32 Sec 4.18, Town Rules and Regulations: Add to subsection E, “except for law enforcement personnel”.
- Pg 32 Sec 4.19, Racial/Sexual Harassment: Change section title to “Harassment”; move subsection C, Policy, to subsection A, and include “sexual orientation”.

- Pg 39 Sec 4.22, Employee Ethics Policy, re-draft policy to make process easier to follow and to delete requirement for two hearings.
- Pg 44 Sec 4.23, Work Safety: Add the following language at end of second sentence, “The Safety Manual and related policies will be updated as needed, and updates will be approved by the Town Manager.
- Pg 45 Sec 4.26, Personnel Records, delete “resume of accomplishments”, and insert, “employee performance appraisal forms”.
- Pg 46 Sec 5.1, Employee Evaluations, second paragraph, insert the following at the end of the first sentence, “Probationary employees will be evaluated at least once during their probation period. The evaluation will be submitted with recommendation for successful or non-successful completion of probation period.”
- Pg 46 Sec 5.2, Payday, change “Tuesday” to “Wednesday”; insert the following after the second sentence, “Employees are required to sign their time sheet. If the employee will not be working on the day the time sheets are due, he/she must review, sign and date prior to the time sheet deadline. If the employee is out due to an unplanned circumstance, the employee must make arrangements with Payroll staff, upon his/her return, and review and sign the time sheet/s.”
- Pg 47 Sec 5.3, Payroll Deductions, change “Payroll Department” to “Payroll Division”. Following paragraph (pg 41), add “or designee” after “Finance Director”
- Pg 50 Sec 5.8, Recording Hours Worked, correct “Payroll Department” to “Payroll Division”; add “or designee” at end and “(refer to Section 5.2)”
- Pg 51 Sec 5.11, Wage and Salary, replace “resume of accomplishments” with “performance evaluation”, delete “scheduled salary reviews”. Delete last 2 paragraphs in this section
- Pg 48 Sec 6.2,D. 1. Sick Leave, add “Note: regular contact with your supervisor is required on a weekly basis” at end of paragraph
- Pg 57, Sec 6.2, D. 14. Sick Leave, add “Restricted duty will be considered if available and re-evaluated every 30 days
- Pg. 57 Sec 6.4, B. Family Medical Leave, insert language on new requirements reference “military caregiver leave”
- Pg 62 Sec 6.5, Sick Leave Bank, delete this section, and insert Leave Donation Policy
- Pg 68 Sec 6.7, Military Leave, define federal fiscal year on 2<sup>nd</sup> paragraph, 4<sup>th</sup> line as October 1 to September 30

- Pg 69 Sec 6.8, A. 1. Leaves of Personal Necessity, pro-rate personal days as follows: one day for employees whose date of hire is between July 1 to September 30.
- Pg 70 Sec 6.8, B. 5. Leaves of Personal Necessity, add at end of # 5, “unless covered by any other federal law”. This will also be noted at the end of B. 9. Include the following sentence prior to the last statement in parenthesis: “Use of leave without pay without prior authorization will be subject to the disciplinary process as outlined on Section 10.0.”
- Pg 71 Sec 6.9, Funeral Leave, 5<sup>th</sup> paragraph, add language to comply with IAFF contract
- Pg 72 Sec 6.10, B., Education, delete last sentence in paragraph B; Procedure, delete “all future” in first sentence
- Pg 74 Sec 6.14, Employees Wellness Benefit, change reimbursement amount from “up to \$10 per month” to “up to \$30 per month”; add that proof of membership dues paid must be submitted on a quarterly basis
- Pg 75 Section 6.16, Longevity Pay, add per Resolution 2013-13
- Pg 76 Section 7.2, Long-Term Disability Insurance, add at end of paragraph, “and the Social Security Administration Office”
- Pg 76 Section 7.3, Retirement Plan, change the amount of years for vesting under PERA from 5 years to 8 years (6 for Police)
- Pg 76 Section 7.4, Workers’ Compensation, subsection B, change, “will transport you to the Town’s designated provider” to “will transport you to your designated provider”.
- Subsection F, add at end, “If restricted duty is available, it will be approved for 30 days, and the availability of the restricted duty will be re-evaluated after the 30 days.”
- Subsection G, clarify that if approved, Workers’ Compensation Insurance will pay an employee up to 2/3 of the salary after the 7<sup>th</sup> day of lost time due to a job-related injury. If the employee has accumulated sick leave, he/she may use that to get paid for the first 5 days that are not paid by Workers Compensation Insurance.
- Pg 78 Section 7.6, Unemployment Compensation, change NM Department of Labor/Employment Security Division to NM Workforce Solutions
- Pg 81 Section 10.0, Disciplinary Procedures, Subsection B, reference the counseling statement, change “will” to “may”
- Pg 82 Section 10.1, Disciplinary Action: Investigation and Hearing: Investigation process for EEO complaints defined

Pg 85 Section 10.3, Voluntary Termination, Subsection G, change wording to, “Upon termination, an exit interview will be conducted by your department head, and you may schedule an appointment with the Personnel Officer.....”

Pg 92 Section 11.0, Drug and Alcohol Policy, Subsection 11.3, Employee Assistance Program, add the following language at the end of the first sentence on the second paragraph, “if done prior to any recommendation for discipline or prior to any positive drug and alcohol test.”

P 100 Section 13.2, Internet and E-mail Policy, reword last sentence on paragraph 3 to read, “Employees releasing confidential information via social media will be subject to disciplinary action.”

**TOWN  
OF  
SILVER CITY**



**EMPLOYEES  
PERSONNEL  
MANUAL**

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## **EMPLOYEES PERSONNEL MANUAL**

(First revisions approved by Town Council on May 16, 1988 as per Resolution No. 88-11.  
Second revisions approved by Town Council on January 25, 2000 as per Resolution No. 2000-03.  
Third revisions approved by Town Council on June 28, 2005, as per Resolution No. 2005-15.  
**Fourth revisions approved by Town Council on \_\_\_\_\_, 2016, as  
per Resolution No. 2016-09.**

### 1.0 INTRODUCTION AND WELCOME

Welcome to our organization, The Town of Silver City! This manual has been developed to help you understand the Town's personnel policies.

Our Town Government is a Council-Manager form of government. This means that a five-member, locally elected Board headed by the Mayor is responsible for setting policies, passing laws, and approving the budgets and plans which guide our actions. The Town Manager is responsible for the day-to-day operations of the Town, carrying out the laws and policies established by the Council, and supervising all Town employees. The Manager has appointed several Department Heads to oversee the actual operation of the various departments, and these Chiefs and Directors are the people primarily responsible for providing services to the public.

You, the employee, are the most important ingredient in our organization, and we are committed to your success. ~~Management is tolerant of honest mistakes.~~ We will provide you with a salary, benefits, and the resources to do your job. We must ensure that our business of serving the public is successful. With that in mind, the following are our Town values:

- A. HONESTY. We don't lie, cheat, steal or otherwise break the law.

B. SAFETY. We do things safely. We do not only provide for the health, safety and welfare of the citizens, but we care for our own.

C. COURTESY. We are ladies and gentlemen serving ladies and gentlemen.

D. PRODUCTIVITY. We are paid to do a job. That's effectiveness. We will accomplish our tasks.

E. EFFICIENCY. We do our jobs efficiently. We are responsible for the fiscal health of the Town.

The acronym H-SCOPE stands for Honesty, Safety, Courtesy, Productivity, Efficiency.

Your supervisors and the Town administration look forward to working with you. We hope you will enjoy your career with the Town of Silver City.

#### 1.1 PERSONNEL PHILOSOPHY

The personnel policies of the Town are based on the belief that the success of the organization and the services it provides is primarily dependent upon you, the Town's employees. We will provide training and opportunities so that your career with the Town is fulfilling and satisfying. Further, we encourage cooperation between departments in order to fulfill our number one responsibility, service to the citizens of the Town of Silver City.

The Town will provide equal opportunity to all qualified employees and applicants without regard to race, religion, creed, color, gender, age, physical impairment, or national origin.

Equal opportunity encompasses all phases of employment, including recruitment, selection, assignment (or classification), promotion, demotion, transfer, lay-off and re-call, and selection for training. Similarly, all salaries, wages, other compensation, insurance programs, and all other benefits or privileges of employment will be administered in conformity with this policy.

The Town will comply with the requirements of equal employment as set forth in applicable Presidential Executive Orders and other Federal and State Laws and Regulations, including the Vocational Rehabilitation Act of 1973 and the Vietnam Era Veterans Readjustment Assistance Act of 1974.

The objective of the Town is to hire and promote individuals who are qualified for positions of employment by virtue of job-related standards of education, training and experience, and to avoid all unlawful employment and promotion practices.

Management is held accountable and has full authority for the implementation and enforcement of the Equal Employment Opportunity Program.

#### 1.2 ADMINISTRATIVE RESPONSIBILITIES

The Town Manager, or the Manager's designee, shall administer all aspects of Personnel Administration in accordance with these rules and in compliance with Town Ordinances and the laws of the State of New Mexico and the United States of America.

The Town Manager, or the Manager's designee, is authorized to interpret the regulations for employees having questions. That interpretation will become policy. It is your responsibility to review and become familiar with all Town policies and procedures.

#### 1.3 DEPARTMENTAL REGULATIONS, POLICIES AND PRACTICES

Supplemental Personnel Regulations not in conflict with the rules in the Employees Personnel Manual may be drafted by Department Heads to meet specific needs of their areas of responsibility, but must be filed with the Personnel Office and approved by the Town Manager 30 days prior to implementation. Such rules must be distributed to employees of those Departments so that they may familiarize themselves with the regulations which apply to them. Once approved by

the Town Manager, filed with the Personnel Office, and distributed to Departmental employees, such Departmental or Division regulations shall be equally binding as the Rules in respect to conduct and discipline. These regulations will be attached as an addendum to the Employees Personnel Manual. If such regulations appear to conflict with the Employees Personnel Manual, the Employees Personnel Manual will govern unless interpreted otherwise by the Town Manager.

#### 1.4 LABOR RELATIONS CONTRACTS

Town-sanctioned rules and regulations, administrative directives, departmental rules and regulations, and workplace practices shall control unless there is a conflict with a collective bargaining agreement. Where a conflict exists, the collective bargaining agreement will control.

*Per Resolution No. 2011-20, sworn administrative personnel of the Police Department, excepting those personnel who are otherwise employed by personal service contracts, will be afforded the benefits of the 2011-2012 SCPOA/Town Collective Bargaining Agreement, with the exception of benefits going to arbitration and grievance procedures. Benefits afforded are those regarding paid vacations, longevity pay, educational incentives, clothing allowance, and personal property replacement. In addition, the specific and aforementioned benefits included in succeeding collective bargaining agreements between the SCPOA and the Town shall likewise be extended to sworn administrative personnel of the Police Department, with the continuing exception of contract personnel.*

#### 1.5 CONFIDENTIAL NATURE OF BUSINESS

As an employee of the Town, there is a possibility that you will be exposed to confidential information. Disclosure of sensitive information received as part of your employment can create serious internal and/or external problems, including serious legal entanglements. You are prohibited

from divulging such information outside the formal process for requesting public information.

### 1.6 EMPLOYEE CONDUCT AND CITIZENS RELATIONS

As a municipal employee, you have a responsibility to conduct yourself in a pleasant, courteous and businesslike manner at all times. Remember, the impression a citizen has of the Town is the one that you leave with him, and you have an obligation to the public whenever questions are asked. If you can answer their questions correctly, please do so. If you do not know the answer, make an effort to refer the person to the appropriate Town department where the information can be obtained. You are prohibited from using abusive language or behavior. Your personal conduct should be above reproach at all times. Violation of this policy will result in disciplinary action, per Sections 10.0 and 10.1.

Your response to a citizen over the telephone is just as important as the treatment accorded in person. Properly used, the telephone is a means of promoting good will and a positive image of the Town.

As a Town employee, you may periodically encounter and have to deal with irate citizens. You should strive to handle the complaint in the best possible manner, treating the citizen courteously. However, in no event are you expected to deal with citizens who use abusive language or behavior. If this happens, inform the citizen you are not required to deal with this type of behavior or language and immediately report the incident to your supervisor. The supervisor will report it to the chain of command for appropriate action.

### 2.0 HIRING POLICY

The following procedures shall be used in filling all vacancies or newly created positions with the Town, with the exception of YCC or summer youth employees:

- A. Department head requisitions position
- B. Personnel Office staff advertises position, internally and/or externally, as applicable.

(Some vacancies may only require internal advertisement.) Personnel Office staff screens applications received, and separates those which do not meet the minimum requirements of the vacant position. (This will in no way violate the Americans with Disabilities Act.)

C. A screening committee will be appointed by the department head of the vacant position, or the Town Manager when the vacancy is a managerial position.

D. The screening committee will consist of department head or designee and at least two other members. The screening committee will:

1. Interview only those internal applicants whose applications met the minimum requirements for the job, and the best qualified, external applicants, as determined by the selection committee, not to exceed five, unless more than one vacancy is being filled.

Note: Applicants should not be questioned about items not relevant to their ability to perform the job. The same general questions should be asked all applicants interviewed for a specific position.

2. Test, dependent upon department rules, if appropriate.

3. Department head, or designee, checks job-related references (minimum of three) of applicant being recommended for the vacancy

E. A recommendation, in writing, and supported with tangible evidence, i.e., application, test results, reference checks, answers to interview questions, verification that all minimum requirements are met, is submitted to the Personnel Officer for her/his review, and she/he either concurs with the recommendation or requests additional justification. (Recommendation must be kept confidential until the Manager approves it.)

F. Personnel Officer's concurrence or non-concurrence, along with recommendation and supported documents are forwarded to the Town Manager for his review and approval/disapproval.

G. If the recommendation is rejected, other candidates are recommended until the Manager accepts the recommendation.

H. If the recommendation is accepted, the Town Manager in cooperation with the department head and personnel staff, establishes the starting salary, and authorizes the department head to offer the job, contingent on passing a physical exam and drug and alcohol test, and the results of a driver's license check. The Town will ensure compliance with the Americans with Disabilities Act, per Section 1.1.

I. Personnel staff will schedule an employment physical examination for new employee.

J. If the person recommended fails to pass the physical exam and/or the drug and alcohol test, or if the person has an invalid driver's license or is deemed uninsurable due to his driving record, the department head makes a new recommendation and the procedure set forth herein is followed until the position is filled.

J. Personnel staff will notify all applicants of the results.

#### 2.1 PREFERENCE TO TOWN EMPLOYEES

Existing employees may apply for any position for which applications are being taken and for which the employee meets the minimum qualifications. If an applicant who is not an existing employee and an applicant who is an existing employee have equal qualifications, preference will be given to the Town employee, provided the employee also meets the requirements of Section 3 Plan adopted as Resolution No.95-15, which requires that preference in hiring be given to lower income

persons (not to exceed \$19,120) residing in the Town.

## 2.2 MINIMUM QUALIFICATIONS

All new applicants for any position with the Town must meet the minimum qualifications for the position as set forth in the Job Description, and each will be evaluated on the same minimum qualifications. All appointments and promotions to employment with the Town will be made on the basis of merit, without regard to race, age religion, color, national origin, handicap, ancestry, gender, or physical/mental disability of the applicant. If an accommodation is required to employ a candidate with a disability, the department head will consult with the Finance Director and the Town Manager to determine if the accommodation would result in an undue hardship to the operations of the Town.

## 2.3 PROVISIONAL APPOINTMENT

The requirements of Section 2.2 may be waived by the Town Manager if, after reasonable effort to find qualified applicants, it is determined that a qualified person is not available to fill the vacancy. In that event, the next most qualified person may be hired and the pay scale will be adjusted and the person will remain on probationary status until meeting the minimum job qualifications. Provisional appointments will last no longer than one year, at that point; the provisional employee will be promoted or released.

## 2.4 DISQUALIFICATION OF APPLICANTS

An applicant may be disqualified from further consideration if the applicant:

- A. Lacks the minimum qualifications;
- B. Is below the legal minimum age for the position applied for;
- C. Does not complete the application;

- D. Has falsified information on the application;
- E. Fails to qualify on an appropriate test;
- F. Fails to pass employment physical and drug and alcohol test, if one is required;
- G. Refuses to sign affidavit allowing background investigation if position warrants such an investigation;
- H. Resigned from previous Town employment in poor standing or was dismissed for cause; or
- I. Is a relative as described in the Nepotism Policy.

#### 2.5 PHYSICAL EXAMINATIONS

Post-offer employment physical examinations are required and may be required upon return from injury or illness, transfers or promotions to a different job or when a question arises about physical or emotional ability to carry out present job duties. The Town may request that you take a physical examination at any time the Town determines it is in your and the Town's best interest. The Town may also request that you undergo a functional capacity evaluation to determine if you are able to perform the essential functions of your job. Whenever the Town requests you to take a physical examination, the Town will assume the cost of the examination.

#### 2.6 BACKGROUND INVESTIGATION

For those positions required by New Mexico statutes to be filled by a person who is clear of felonious crimes or who is required to be bondable, an examination of a candidate's conviction record and a background investigation will be conducted. Recruitment announcements for such positions will notify applicants that they are subject to such investigation and they will be required to sign an authorization for such investigation.

## 2.7 IMMIGRATION REFORM AND CONTROL ACT

Upon selection of a candidate, the Personnel Office shall verify and document the identity and immigration status of the individual. The candidate shall be required to complete the Form 1-9 and provide the necessary documentation of employment eligibility verification within three days of his/her first day of employment. Failure to supply documentation of their legal authorization to work in the United States will result in their dismissal from employment.

## 2.8 NEPOTISM

No member of the immediate family of an employee shall be under the supervision of a relative. No member of the immediate family shall work in the same division/Fire Department Team, except for seasonal employees, or pay or approve for payment any voucher or bill submitted by a member of his immediate family whether an employee or not. The following definitions will be used in interpreting and administering this policy.

Immediate family is defined as spouse, child, stepchild, parent, step-parent, parent-in-law, sister, sister-in-law, brother, brother-in-law, son-in-law ~~and~~ daughter-in-law, grandparents and grandchildren.

## 2.9 EMPLOYEE ORIENTATION

The Personnel and Payroll staff are responsible for your general orientation. Personnel and Payroll staff will advise you on general conditions of employment and benefits offered by the Town. You will sign appropriate forms ( i.e., Personnel Certification, PERA, insurance, W-4 deductions, I-9, etc.). The department head and Personnel Officer will schedule an orientation on policies and procedures for all newly-hired or promoted supervisors.

The department head will make provisions for a supervisor to be available for specific orientation regarding departmental functions, responsibilities, and unique requirements of the department. The supervisor will also ensure that orientation includes the following:

- A. Introduction to fellow workers.
- B. Review of work responsibilities and performance standards.
- C. Review of safety regulations and practices.
- D. Review of supplies, equipment acquisition and maintenance.
- E. Any and all applicable departmental policies and procedures.
- F. Supervisory expectations of worker performance.

#### 2.10 PROBATIONARY PERIOD

The first six months of employment, with exception of department heads and law-enforcement personnel which have a one-year probationary period, are known as the probationary period of employment. Law enforcement individuals who left Town employment in good standing, had previously completed their probationary period, and are rehired will be placed on a six-month probationary period. The probationary period is a period that gives you, the employee, an opportunity to discover whether you enjoy working for the Town and whether or not you wish to continue your employment. It also gives the Town the opportunity to evaluate your interest in your job and your ability to carry out the requirements of the job. During this period, your supervisor will periodically counsel you. Training and evaluation are on-going processes.

As a Town employee, you should always feel free to ask questions. During your probationary period, you should learn as much about the organization as possible by asking questions and talking with your supervisor. Direction and supervision offered during your

probationary period is intended to help you succeed at your job.

As a probationary employee, you are entitled to personal days, holiday pay, funeral leave, sick leave as earned, vacation as earned, unpaid leave as authorized by the Town Manager, Worker's Compensation Insurance, FICA Insurance, and PERA (Public Employees Retirement Association) benefits. You are also eligible for group health, life, and short-term disability insurance, *per requirements of the Town's current insurance provider.*

Termination is possible at any time during the six-month period (Twelve-month period for department heads, fire and law-enforcement personnel) for any reason or no reason, or if you request it. As a management tool and to help you evaluate your progress, probationary employees will be formally evaluated in accordance with department head guidance. Upon completion of the probationary period, you will be considered a regular, full-time or regular, part-time employee.

If you are transferred or promoted to a different classification after becoming a regular, full-time or regular, part-time employee, you will be placed on a three month probationary period for the new position (six months for department heads, fire and law-enforcement personnel). You will be allowed to return to your former classification within three months (six months for department heads and law-enforcement personnel) of your promotion or transfer provided that your former position has not been filled. In such cases, your seniority in your previous classification will be reinstated.

In the event an employee serving an initial probationary period is promoted, the employee will remain on probation for a minimum of six months from the original date of hire (twelve months for department heads, fire and law-enforcement personnel) or three months (six months for department heads, fire and law enforcement) from the date of promotion, whichever is the longer period. Any employee who has been promoted or transferred and fails to complete such

probationary period will be returned to the pay and position held immediately prior to promotion or to a position with equal pay and responsibility. Any employee who has been demoted and fails to complete such probationary period will be dismissed by the Town Manager.

A probationary employee is not entitled to the rights of the Grievance and Appeal Procedures as outlined in Section 8.0. and may be dismissed with or without cause. Employees under disciplinary probation are not eligible for promotions, transfers or pay increases during that period.

The initial probationary period may be extended only by the authority of the Town Manager and must be done before the probationary period has expired. This practice will not be encouraged. An employee's initial probationary period may be extended a maximum of two times. Probationary periods for promotions or transfers may also be extended a maximum of two times.

#### 2.11 REHIRE OF FORMER EMPLOYEES

If an employee terminates voluntarily and is later rehired, he/she will be hired as a new employee and will be required to serve the stated probationary period of employment no matter how short or long the period of time between the termination and rehire dates, unless the rehired employee is a returning police officer. A returning police officer who had previously completed his/her probationary period and left in good standing will be on a six-month probationary period.

The employee's date of rehire will be the new date of employment. Any previous accumulated service, as discussed above, may be used for the purposes of calculation of the employee's retirement which is totally dependent on the rules and regulations of PERA and the status of the employee's PERA account.

#### 2.12 CATEGORIES OF EMPLOYMENT

The following definitions are provided to determine your classification and entitlement to

participate in Town benefits.

A. Full-Time Regular. A full-time Town employee who works at least 32 hours per seven day period, has completed the probationary period and is entitled to all employee benefits.

B. Probationary. A full-time or part-time employee who has not yet completed the trial period of employment. The probationary period is the final step in the selection process. Employees during the probationary period have no rights to the grievance and appeal procedures outlined in Section 8.0 of these policies, and may be dismissed with or without cause.

C. Part-Time Regular. A Town employee who works less than 32 hours a week in a regular, budgeted job. Such employees are entitled to all employee benefits on a pro rata basis if they work 40 hours or more per pay period.

D. Temporary. A full-time or part-time employee hired on a temporary appointment of less than 12 months, are given a definite termination date and are not eligible for employee benefits.

E. Seasonal. A full-time or part-time employee hired to provide services during a particular season, whose employment ends with the season. These employees are not eligible for employee benefits.

F. Contract Employee. An employee hired under a negotiated contract for a specific time frame, position, salary and benefits.

G. Acting Employee. An employee appointed to temporarily assume the duties of a vacant supervisory position pending a regular competitive appointment. The employee will assume the acting appointment in addition to performance of any usual duties, and will be paid the entry level salary of the acting position. (If the present salary is equal to or greater than the entry level salary of the acting position, the Acting Employee will receive a five percent increase.)

### 3.0 CLASSIFICATION PLAN

In order to establish fair and impartial methods of determining salaries, the Town of Silver City has established a position classification plan. The plan is designed to accomplish two basic results:

A. Town positions are compared with one another and ranked according to type of work performed, level of difficulty and responsibility, and knowledge, skills, training, experience and education required.

B. A pay plan is arranged to provide a logical progression for each position from initial hire to years of experience so that individual merit as well as seniority may be adequately recognized.

The salary schedules are a 3 x 10 model, i.e., 3 percent between salary steps within each salary grade and 10 percent between salary grades. Moreover, the salary schedules consists of 10 salary grades, with 17 steps in each grade. Positions are assigned to a salary schedule.

If you move into a job which is assigned to a higher pay grade, you have received a promotion which requires a probationary status in the new job for a period of three (3) months. Your new rate of pay will be determined by granting a two-step increase at the old rate and comparing that amount to the pay scale of the new classification. The pay rate that is closest to, but not less than, the amount of the two-step increase at the old rate will be your new rate of pay. If you do not complete the probationary period in the higher grade, you may be returned to your former job and pay without prejudice if your former job has not been filled. The decision to return to your former position must be made within three (3) months. In such cases, you shall have your seniority in your previous classification reinstated.

Each position classification has a written description of its most common duties although, not every task your supervisor assigns may be listed. You should familiarize yourself with the written description for the position. If you do not believe that the description adequately describes your general duties and responsibilities; you may, through channels, request the Town Manager to direct that the position be re-analyzed.

Although the lowest step in a salary grade is entry level, the Town Manager may authorize hiring an employee at a higher step in the grade if the applicant has skills and experience which justify a higher starting salary.

#### 4.0 CONDITIONS OF EMPLOYMENT

##### 4.1 PUBLIC EMPLOYMENT AS A PUBLIC TRUST

In performing your duties and in your many contacts with the public, you should be continuously aware that the impression of town government which the public forms is based upon employees' manner, appearance, speech and conduct. Consequently, town government is dependent upon reliability, integrity, industriousness, helpfulness, courtesy, efficiency, patience, grooming, dress and language which are appropriate to the work situation and acceptable to the majority of the community. Your behavior creates a perception of the Town and therefore it should not interfere with your performance on the job or undermine the public confidence to the point that your job performance or the service provided to citizens is diminished.

##### 4.2 ATTENDANCE

Employees are expected to arrive promptly and be prepared to work at the scheduled time and place. If illness or other conditions prevents your arrival or punctuality, you will contact your immediate supervisor as soon as possible to request sick leave or other leave. Simply notifying a

supervisor will not constitute automatic approval of leave. If you know in advance that you will be unable to report, you should contact your supervisor prior to starting time or within the first half hour of scheduled work or in accordance with Department Policy.

#### 4.3 ABSENCE WITHOUT NOTICE

Absence without notice is defined as the failure of any employee to report to work without contacting his or her supervisor within the first half hour of scheduled work or in accordance with Department Policy. Failure to notify the Town of an absence of three (3) days or more will be considered an automatic resignation (job abandonment) on your part unless you can prove that it was impossible to notify the Town. Absences without notice of less than three (3) days will be dealt with disciplinary action, per Section 10.0. Calling in does not necessarily constitute an excused absence.

If you leave your duties before the scheduled ending time because of illness or other reasons and do not inform your supervisor prior to leaving, it will be considered an unauthorized leave. After proper warning, you may be terminated for excessive unexcused absences.

#### 4.4 LUNCH PERIODS AND BREAKS

You may take two (2) fifteen (15) minute rest breaks per day at approximately the mid-way point of each half of the daily working schedules, depending upon the workload for that particular day. These breaks should be taken in the immediate vicinity of your worksite (unless otherwise approved by your supervisor) and at a time that will not interfere with your assigned duties, as determined by your supervisor. Rest breaks will not accumulate if they are not taken and are not to be used to shorten the normal work day.

You will be scheduled, by your supervisor, for an unpaid lunch break of not less than one-half (1/2) hour nor longer than one (1) hour in duration. Police officers, due to the nature of their

assignments, receive a lunch break on a paid status.

#### 4.5 OUTSIDE EMPLOYMENT

Employment with the Town will be considered the primary employment of all full-time employees. You may not engage in outside employment unless you are given written approval by your department head and the Town Manager. A copy of this approval will be placed in your personnel file. (*Note: Refer to Section 4.22, F, Employees Ethics Policy.*)

If an injury or occupational illness due to outside employment prevents you from performing your Town duties, the Town will not pay your accrued sick leave. You may request a leave of absence without pay if injured while working in a secondary, outside job which the Town has approved.

Permission to engage in outside employment will not be granted if;

- A. The outside employment impairs the employee's on-the-job efficiency;
- B. Unfavorable publicity to the Town or poor public relations would result;
- C. The outside employment conflicts with your official capacity with the Town;
- D. You receive below average rating from the supervisor on punctuality, safety, work performance or attendance records;
- E. The outside employment is unusually physically strenuous and/or hazardous.

#### 4.6 POLITICAL ACTIVITY

You must not campaign, distribute literature or solicit political contributions while acting in an official capacity or in Town uniform. You may not interfere with the right of another employee to have and express personal choice or commitment.

#### 4.7 PUBLIC ANNOUNCEMENTS

The Town Manager, or designee, will make or approve all reports and announcements to newspapers and other news media.

#### 4.8 VOLUNTARY CONTRIBUTIONS

As a Town employee, you shall not be required to contribute funds to a community volunteer service charity drive, or an employee organization, ~~or a labor organization.~~

#### 4.9 BULLETIN BOARDS

You have a responsibility to read and follow official notices and items of interest posted on Town bulletin boards which are located in or near each department. Current job vacancies will be posted on all such bulletin boards. Because of the public nature of the boards, distasteful, risque, or potentially offensive material may not be posted.

#### 4.10 TELEPHONE COURTESY

Like other Town resources, desk telephones are provided for business purposes and should not be routinely used for personal or private calls. Employees are expected to exercise reasonable discretion in using Town desk phones for personal use. Excessive incoming or outgoing personal calls during the workday can interfere with employee productivity and be distracting to others. Employees should make personal calls during non-work times and ensure that friends and family members are aware of the Town's policy. Employees may not use Town telephones for personal activities, such as soliciting for commercial ventures, political or religious causes, or other outside organizations. On occasion, it is understood that personal calls will be made or received during work hours. The number of these calls should be kept to a minimum number and of short duration. Flexibility will be provided in circumstances demanding immediate attention so long as the employee discusses it with supervisory staff in advance. Employees are required to reimburse the

Town for any personal long-distance calls or faxes sent. Town-issued desk telephones are not private or secure. The Town has the right to monitor telephone bills and usage to determine if misuse or abuse exists. Town telephones may not be used to defame, harass, intimidate or threaten any other person. Personal cell phones must be turned off during working hours, unless otherwise authorized by the department head. Charging long-distance personal calls to the Town is prohibited, unless reimbursed by the employee with approval of supervisor.

#### 4.11 CHAIN OF COMMAND POLICY

You are required to follow "chain of command" when communicating concerns, either orally or in writing, regarding Town of Silver City's internal affairs. Exceptions to this policy may be found in the Town's grievance procedure. This policy is not intended to discourage employees from communicating or associating with each other or the Town Council. The intent of this policy is simply to assure that every level of management within the Town organization knows of, and has had the opportunity, to review and resolve situations that may arise within their jurisdiction or within the preview of their responsibility.

##### A. Conflict Reporting and Requirements:

- 1) You are encouraged to resolve conflicts arising from the work relationship within your "chain of command."
- 2) If conflict resolution is not possible within your "chain of command," you may acquaint staff support (outside of the chain of command, i.e., Personnel and/or Payroll staff) with the problem and request assistance.
- 3) Permission to visit the Personnel Office or Payroll Office is not required. However, if visitation to the Personnel Office or Payroll Office is to be made during working hours,

you must inform your immediate supervisor that you plan to solicit assistance.

4) If Personnel or Payroll staff are not able to resolve the conflict, you may make an appointment with the Town Manager to discuss the conflict and solicit assistance for resolution. You are not required to seek permission from your chain of command to visit with the Town Manager. However, you are required to inform the chain of command about your intention of meeting with the Town Manager prior to the meeting.

B. Responsibility and Authority of Management Personnel:

1) The Town Manager, pursuant to NM Law and the Town Charter, has final authority for all activities and business conducted by the Town Government, as well as execution of special assignments.

2) Department heads are officials appointed by the Town Manager to manage all the resources of and ensure the mission of major organizational units identified as departments. Department heads are authorized to exercise independent judgement on behalf of all personnel within their department and to establish such rules, regulations or policies necessary for efficient operation of the Department.

3) Supervisors are assigned by department heads, and the Town Manager, to directly supervise all resources of organizational units within a particular department. Supervisory and managerial personnel are designated as heads of a group of employees, a section, a major functional unit or an activity, who have the authority and responsibility to exercise independent judgement. Supervisors also recommend hiring, transfer, suspension, layoff, recall, promotion and termination of subordinates. Further, they may assign, reward or discipline subordinates, and address employee grievances. They are charged with assigning job tasks, setting performance

standards and evaluating job performance accordingly.

C. Interaction with Town Council

1) If the concern you raise is in regard to a policy previously established by the Town Council, or a policy to be contemplated by the Town Council for passage, you have the same right as any other citizen to appear at the Town Council meeting and make your wishes known publicly to the Town Council. This right, though, does not exempt you from requirements of Section 4.11.

2) There shall be no corrective administrative action taken against an employee for publicly making his/her feeling known to the Town Council.

4.12 OPEN DOOR POLICY

The Town Manager is available to any employee wishing to discuss work-related problems or concerns in an open and informal manner.

When you feel that your concerns have not been adequately met, or acted upon, by those in the chain of command, you have the right to complain directly to the Town Manager without fear of reprisal or retaliation.

You are encouraged to resolve any conflict arising from the work relationship with your immediate supervisor or department head.

An appointment should be scheduled with the Town Manager's office. Once the date and time have been agreed upon, you must inform your immediate supervisor of the scheduled meeting. You are not required to obtain permission from your supervisor to exercise this right.

Nothing in this policy shall be construed to obligate the Town Manager to act on any complaint that is brought up.

Any supervisor found to have threatened, coerced, or reprisal against an employee exercising their right to meet with the Town Manager shall be subject to disciplinary action.

#### 4.13 TRAVEL EXPENSE

In order to be allowed to travel on town business, you must read the Town's Safety Manual within the year, and be a regular, full-time or regular, part-time employee. A temporary employee is not eligible for out-of-town travel, unless authorized by the Town Manager. Elected officials and other Town agents will be covered by the Town's Procurement Code. A Travel Request form must be completed in full and submitted to the Department Head, Finance Director and Town Manager for approval five working days prior to travel. If the Travel Request form has not been completed and turned in within the five day period prior to travel, you will be responsible for all expenses incurred and will be reimbursed after your return to normal duty within the limits described in the Procurement Manual. The Accounts Payable Division will explain the regulations and how to prepare your travel request. For insurance purposes, a travel request form must be completed even if there is no expense to the Town.

Exceptions to the five days notice prior to travel may be made by the Town Manager or designee.

A Travel Voucher form must be completed within ten working days of the return of the business trip.

Note: The Town will pay only for expenses incurred relative to the first examination of any specific certification which is applicable to your position within the Town's organizational structure. If you fail the test on your first attempt, all expenses related to unsuccessful subsequent testing to receive the certification will be your sole

responsibility. *If you are successful in the subsequent testing/certification, you will be reimbursed for the expenses related to that testing.*

#### 4.14 DRESS AND APPEARANCE

~~Employees are expected to dress safely and appropriately for their working assignment. This policy may be adjusted to meet the requirements of individual departments at the discretion of department heads.~~

~~Uniformed personnel will dress in the uniform provided to them as required by the job assignment. Uniforms will be returned to the Town upon termination of employment. At supervisor's and/or department head's discretion, an employee may be sent home to change if their dress is considered inappropriate for their job. Such employee will be required to make up lost time, or substitute with paid leave, to exclude sick leave.~~

#### *Policy*

*All Town employees are expected to wear clothing that is appropriate for their job and work site. Clothing and appearance should be neat, clean, in good business taste, and shall not constitute a safety hazard. The Town is a professional organization that interfaces with other professional organizations and the business community. The following standards of dress code are established to provide direction for employees in order to maintain the professionalism that the Town advocates.*

#### *Procedure*

*Employees shall practice good personal hygiene, select attire that is clean and in good repair, and presents a professional image. Management may make exceptions for special occasions, and will determine whether attire is unprofessional on a case-by-case basis.*

*Examples of professional attire include, but are not limited to:*

1. *Business suits, blouses, shirts, skirts, pants, ties, dresses;*
2. *All shirts with collars, including casual shirts and blouses, golf and polo shirts;*
3. *Slacks and trousers; dressy jeans, if allowed by supervisor/department head;*
4. *Sports jackets;*
5. *Footwear designed for business purposes;*
6. *Appropriately fitted clothing for body type.*

*Examples of unprofessional attire include but are not limited to:*

1. *Clothing with a printed message, slogan, political message, picture or art depicting drugs, alcohol, smoking, sex, weapons, violence, or that is obscene or disrespectful;*
2. *Dresses or blouses that are backless, strapless, or have spaghetti straps, unless such garments are covered by another article of clothing (e.g. a sweater or jacket);*
3. *Tank or muscle tops, unless such garments are covered by another article of clothing (e.g., a sweater or jacket);*
4. *Sheer or mesh clothing that exposes undergarments or midriffs;*
5. *Overpowering fragrances;*
6. *Excessive visible body piercings;*
7. *Offensive tattoos;*
8. *Camouflage apparel;*
9. *Mini skirts;*
10. *Athletic or tennis shoes;*

11. *Flip-flops.*

Safety

*Employees shall not wear clothing that is unsafe. Shoes should be selected for safety and comfort and be otherwise appropriate for work-setting. Accessories such as rings, necklaces, bracelets, and earrings shall not present a potential safety hazard.*

*The Town may institute more stringent dress requirements for reasons of safety.*

Uniforms

*Some employees may be required to wear Town-issued uniforms in the performance of their duties. Uniforms will be returned to the Town upon termination of employment.*

Exceptions

*Non-uniformed employees whose work duties include field work shall wear clothing suitable to their jobs and to their work-site.*

*An exception may also be granted based upon a medical or health condition. The request must be reviewed and approved by the supervisor and department director.*

Casual Attire

*Employees may wear “casual” attire on Fridays of each week, except during the specified periods when casual days will be suspended. “Casual” attire does not mean that employees may look sloppy or unprofessional. All employees shall look professional at all times.*

*Examples of acceptable casual attire include, but are not limited to:*

1. *T-shirts;*
2. *Casual footwear, which may include athletic shoes, depending on the department.*

*Examples of unacceptable casual attire include but are not limited to:*

1. *Jeans with holes, frays, etc.;*
2. *Shirts with inappropriate depictions;*
3. *Tank tops, muscle shirts, and crop tops;*
4. *Shorts above the knee;*
5. *Flip-flops and thong sandals (flat, backless, made of rubber or leather, plain or embellished with beads, etc., consisting of flat sole held loosely on the foot by a Y-shaped strap, like a thing thong that passes between the first (big) and second toes and around either side of the foot.*

*An employee unsure of what is appropriate should check with a supervisor or department head.*

*Supervisors shall provide guidance as to proper attire and grooming. Supervisors must send an employee, who reports to work in violation of the established dress requirements, home with instructions to change into acceptable clothing and return to work. The employee will be required to use annual leave or leave without pay for the period absent from work.*

#### 4.15 CITY VEHICLE USAGE

It is the policy of the Town of Silver City to provide Town vehicles as deemed necessary for the efficient operation of Town business. Town vehicles will not be for personal use except incidental use such as stopping for lunch between two activities on behalf of the Town. Specifically, no employee shall transport any member of his/her family, friends or anyone else, in a Town vehicle, unless that person is an authorized passenger. An authorized person is another Town employee or any other person officially designated by the Town Manager. Most employees who regularly use Town vehicles will be assigned specific vehicles. However, during business hours when the vehicle

is not in use, it should be made available to other Town employees who may require the use of it. Use of Town vehicles after normal working hours is prohibited unless otherwise approved in writing by the Town Manager. Supervisors and/or department heads are responsible for assuring that vehicle usage is not abused. When operating a Town-owned vehicle, you must strictly adhere to posted speed limits and other motor vehicle and traffic regulations. Authorized emergency vehicles operating in compliance with duty are exempted. Vehicles shall be operated in a safe and responsible manner appropriate to road, traffic, and weather conditions. Drive with courtesy. Preventive maintenance and repair of assigned vehicles is the responsibility of the employee to whom the vehicle is assigned. No smoking is allowed in Town vehicles. Abuse of a Town-owned vehicle may cause you to lose the privilege of assignment or operation of the Town-owned vehicle and result in possible disciplinary action. Employees must possess a valid New Mexico driver's license to operate Town vehicles.

All occupants of Town vehicles must comply with Chapter 131 of New Mexico 1985 Session laws, the "Safety Belt Use Act" or as amended.

#### 4.16 EMPLOYEE ABUSE OF DRIVING PRIVILEGE

Safe driving practices are everyone's responsibility. Any employee whose driver's license is suspended or revoked is not eligible to drive Town vehicles. It is your responsibility to notify your supervisor if your driving privilege has been suspended or revoked. Such notification must be made within one working day of the notification of suspension or revocation.

If convicted of driving a Town vehicle while under the influence of alcohol or illegal drugs, you will be terminated immediately. A deferred sentence or assignment to a DWI school will be considered a conviction.

Any traffic citation received while driving a Town vehicle or a personal vehicle while on duty must be reported to the department head within one (1) working day of receiving the citation. Failure to notify in such a case will be considered concealment of fact and grounds for disciplinary action including dismissal. The situation causing an employee to be convicted of any violation while driving a Town vehicle will be reviewed by the department head for recommendation of appropriate action.

Any employee whose driver's license is suspended or revoked due to a DWI conviction will be recommended for:

A. a 20-day suspension without pay; ***or termination for safety-sensitive and CDL employees;***

B. ~~the SASSI/alcohol & drug screening test administered by Border Area Mental Health (BAMH), and completion of whatever program is recommended by BAMH, at the employee's expense;~~

***B. Assessment using screening tool approved by NM Department of Finance and Administration (DFA);***

C. a six-month probationary period; and

D. reduction of pay commensurate with any reassignment of position which may be necessitated by the fact that a driver's license is required to carry out requirements of your present position. Reassignment of position is contingent on availability of vacant position.

Suspension or revocation of license due to a DWI conviction, must be reported immediately (at the latest, within one working day) to your supervisor and department head. The department head will send written notice to the Town Manager of your suspension or revocation of driver's

license, no later than 5:00 p.m. on the day the incident is reported.

The Town Manager will notify you, in writing, of the recommended discipline, as outlined above; the members appointed to the hearing panel; and when and where the hearing panel will meet to consider the case. (Refer to Section 10.1, Disciplinary Action: Investigation and Hearing, for procedures to follow thereafter.)

~~Any DWI convictions received prior to March of 1999 will be counted as one DWI, and if the employee receives one more DWI after March of 1999, it will result in that employee becoming uninsurable and unemployable by the Town. If the employee has no DWI convictions prior to March of 1999, but gets two after that date, it will result in that employee becoming uninsurable and unemployable by the Town.~~

*Any employee convicted of a second or subsequent DUI offense within 5 years of the beginning of the current fiscal year will be uninsurable, and thereby, unemployable by the Town. Employees hired after the beginning of the fiscal year will become uninsurable and unemployable if they have a second or subsequent DUI conviction within 5 years of the date of hire. (Safety-sensitive and CDL employees are excluded as driving records are more stringent for these assignments.)*

#### 4.17 MOTOR VEHICLE RECORDS CHECK

A. The purpose of the Motor Vehicle Records (MVR) check is to help control the vehicle accident exposures created by employees who have excessive traffic violations and/or accidents on their driving record. Employees in these categories are considered high risk drivers. Their poor driving habits create unnecessary liability for the Town of Silver City.

B. The MVR check program applies to all employees and prospective employees who

drive, or may be required to drive Town and/or private vehicles as part of their employment.

C. The MVRs of all Town employees who drive Town and/or private vehicles as part of their employment may be reviewed on a monthly basis.

D. Potential job applicants with a major moving violation within the last three (3) years, such as driving while intoxicated, hit and run, or felony or manslaughter involving the use of a motor vehicle, will be ineligible for a driving position with the Town. ~~If the potential job applicant had DWI convictions prior to March of 1999, and after March of 1999; or if they have more than one after March of 1999, they will be ineligible for any position with the Town.~~ ***If the potential job applicant had more than one DUI within the last 5 years, he/she will be ineligible for any position with the Town, excluding applicants for safety-sensitive and CDL positions whose driving record requirements are stricter.***

E. If an employee's driving privilege is revoked and the employee is placed on probation because of failure to meet Town's driving standards, a non-driving position will be offered, if one is available. If no non-driving positions are available, the employee will be terminated.

F. Drivers, other than Police or Fire Department personnel, who operate equipment meeting the requirements under the Department of Transportation for Commercial Licensing will be required to have a Commercial Drivers License. As such, these employees must comply with the established regulations pertaining to these licenses. Where this policy may be in conflict with State and/or Federal regulations, the State and/or Federal regulations will supersede.

#### 4.18 TOWN RULES AND REGULATIONS

The following are some infractions that may subject an employee to discipline, up to and including termination:

A. Discussing confidential matters with anyone outside the Town or with unauthorized Town employees.

B. Deliberately or willfully violating the Town's equal employment opportunity program.

C. Stealing or attempting to steal property of the Town or of other employees of the Town. Any use of Town property for other than Town purposes, or removal of Town property from its usual location, without the written approval of the department head or Town Manager shall be considered stealing.

D. Intentionally destroying or conspiring to destroy Town property.

E. Carrying or concealing firearms on Town property and during the course of duty, *except for law enforcement personnel and*, in accordance with state law.

F. Bringing or consuming intoxicants or drugs (other than drugs prescribed by a physician) on Town premises, or reporting to work under the influence of intoxicants or drugs. (See Section 11.0, Drug and Alcohol Policy).

G. Intentionally reporting hours not worked.

H. Insubordination or failing to carry out any reasonable directive of a supervisor.

I. Smoking in Town buildings, vehicles and equipment.

J. Using the Town's postage meter or postage stamps for personal reasons.

K. Using Town stationery for personal letters.

#### 4.19 ~~RACIAL/SEXUAL HARASSMENT~~

A. ***Policy: The Town of Silver City does not tolerate any form of unlawful***

*discrimination or harassment on the basis of race, color, religion, sex, ethnicity, disability, national origin, age, or sexual orientation.*

*All forms of harassment, including racial and sexual harassment, are expressly prohibited. Such prohibition includes foul language or jokes of a racial or sexual nature, regardless of whether or not the language or jokes are welcome or unwelcome or intended or not intended to offend or intimidate; unnecessary touching, patting, or other forms of fondling; making sexually-oriented comments on appearance including dress or physical features; displaying posters, calendars, jokes or other printed materials of a sexual or racial nature in the workplace.*

*If you believe you are being harassed, you should promptly tell the offender to cease such conduct.*

*The Town of Silver City encourages employees to report harassment from non-Town employees. In this event, the department head of the complainant will take the necessary action to eliminate the harassment.*

**B. Applicability:** This policy applies to all employees of the Town of Silver City including, but not limited to, full-time and part-time employees, seasonal and temporary employees, probationary employees or trainees, co-op and contract employees.

**C. Definitions:** Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature. The following constitute sexual harassment:

1. When submission to such conduct is made explicitly or implicitly as a term or condition of an individual's employment;

2. When submission to, or rejection of, such conduct by an individual is used as a basis for employment decisions affecting such individuals; or,

3. When such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Racial harassment is defined as verbal or physical conduct that denigrates or shows hostility or aversion toward an individual because of his or her race, and may take the form of epithets, slurs or negative stereotyping relating to race. The following constitute racial harassment:

1. When such conduct has the purpose or effect of creating an intimidating, hostile or offensive working environment;

2. When such conduct has the purpose or effect of unreasonably interfering with an individual's work performance; or,

3. When such conduct otherwise adversely affects an individual's employment opportunities.

C. ~~Policy: The Town of Silver City does not tolerate any form of unlawful discrimination or harassment on the basis of race, color, religion, sex, ethnicity, disability, national origin, or age.~~

~~All forms of harassment, including racial and sexual harassment, are expressly prohibited. Such prohibition includes foul language or jokes of a racial or sexual nature, regardless of whether or not the language or jokes are welcome or unwelcome or intended or not intended to offend or intimidate; unnecessary touching, patting, or other forms of fondling; making sexually oriented comments on appearance including dress or physical features; displaying posters, calendars,~~

~~jokes or other printed materials of a sexual or racial nature in the workplace.~~

~~If you believe you are being sexually or racially harassed, you should promptly tell the offender to cease such conduct.~~

~~The Town of Silver City encourages employees to report sexual harassment from non-Town employees. In this event, the department head of the complainant will take the necessary action to eliminate the harassment.~~

D. Procedure to Report Harassment: Management recognizes that in some instances, efforts at informal settlement may bring about the desired results in curtailing offensive behavior. Management also recognizes that position inequities between the alleged perpetrator and victim may make confrontation difficult.

If you believe you are a victim of discrimination or harassment in the work place, you have a duty to report such conduct immediately or within ten (10) working days of the incident . At your discretion, such conduct should be reported to:

1. The employee's immediate supervisor, department head, or
2. The personnel officer, or
3. The Town Manager.

You may circumvent the Chain of Command Policy in determining whom to contact concerning a complaint of harassment.

E. Investigation: All complaints will be taken seriously and thoroughly investigated in a timely manner. Such complaints and investigation will be treated confidentially to the extent possible. Information regarding the investigation will be disseminated only to those with a "need to know".

Upon completion of the investigation, the findings will be submitted to the Town Manager for action. The complainant will be notified of the results of the investigation within five working days.

F. Corrective or Disciplinary Action: The Town will take the appropriate corrective or disciplinary action based on the findings of such investigation. An employee whose behavior is determined to constitute ~~racial or sexual~~ harassment is subject to disciplinary action up to and including termination.

Managers or supervisors who are aware of, or should have been aware of, such conduct, and who can be shown to have failed to take appropriate action to eliminate the conduct will be subject to disciplinary action up to and including termination.

#### 4.20 NON-RETALIATION REQUIREMENT

As per Section 704 (a) of the Civil Rights Act of 1964, as amended, and Section 4 (d) of the Age Discrimination in Employment Act of 1967, as amended, it is unlawful for an employer to discriminate against any individual, or for a labor organization to discriminate against any member thereof or applicant for membership, because that individual has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this title.

#### 4.21 VIOLENCE IN THE WORKPLACE POLICY

##### A) Policy

Workplace violence by employees is prohibited by the Town of Silver City. Furthermore, violent behavior directed toward a Town employee by a member of the general public will not be tolerated.

Prohibited workplace behavior includes intimidation; verbal threats; physical assault;

vandalism; arson; sabotage; the unauthorized display, possession or use of weapons on Town property; jokes or comments regarding violent acts which are reasonably perceived to be a threat; or any other behavior reasonably perceived to be a threat of imminent harm against an employee or member of the general public.

It is the responsibility of all employees who witness or are the subject of the behaviors prohibited by this policy to report the incident(s) to their immediate supervisor unless the supervisor is the one exhibiting the prohibited behavior, in which case the employee must report the behavior to the next highest person within the organization.

It is the responsibility of the supervisor receiving the complaint to conduct an investigation of the incident(s) and to initiate appropriate action to abate the prohibited behavior. The supervisor will prepare a written response to the employee(s) reporting the incident(s). This response will include acknowledgment of the employee(s) complaint; a description of the investigation conducted; and, the action that was initiated to abate the prohibited behavior.

Employees engaging in any behavior prohibited by this policy may be subject to mandatory referral for psychological/psychiatric evaluation, counseling or mediation at their own cost with the understanding that insurance may be used to the extent that there's coverage; as well as arrest and prosecution; and/or disciplinary action up to and including termination from Town employment.

B. Implementation Guidance

Upon occasion, employees may encounter situations in which the threat of immediate harm from another employee or the general public may occur. In the vast majority of these situations, employees can de-escalate the situation. Appropriate de-escalation includes but is not

limited to:

- 1) Offering to transfer an irate caller on the telephone to a supervisor.
- 2) Requesting the intervention of a supervisor.
- 3) Walking away from the situation.
- 4) Staying in control of speech and behavior; not retaliating or responding in kind.
- 5) Contacting the Police Department to have the offender removed from the premises.

Appropriate action which could be initiated by the supervisor to abate threatening behavior by an employee might include:

- 1) Referral of employee to the Personnel Office for information on the Employees' Assistance Program.
- 2) Recommending disciplinary action up to and including termination from Town employment.
- 3) Offering assistance and cooperation in filing criminal complaint against the offender.

Appropriate action which could be initiated by the supervisor to abate prohibited behavior directed at a Town employee by the general public includes but is not limited to:

- 1) Notifying the individual that a complaint has been filed by the employee. The specific prohibited behavior should be stated and the individual advised that this behavior violates this policy and will not be tolerated.
- 2) If possible, eliminating or reducing the opportunity for future contact

between the employee and the individual.

- 3) Assisting in filing a criminal complaint against the offender.

D. Domestic Violence/Civil Protection Orders

It is the intent of this policy to encourage employees to self-disclose situations relating to domestic violence. Assistance with this problem is available. For information contact the Personnel Office.

Employees must notify their supervisors when a Town worksite has been included (or is requested to be included) in a civil protection order and to provide a copy of the civil protection order to their supervisor.

Supervisors have the responsibility to take reasonable steps to honor the civil protection order; to expedite a request for leave of absence; and to facilitate contact between an assistance program and the impacted employee. Supervisors should maintain respect for individual privacy within the context of protecting the worksite, co-workers, the general public and the individual employee.

4.22 EMPLOYEE ETHICS POLICY

You may not use your position for personal gain or to give unwarranted benefit or treatment to any person.

A. Misuse of Official Position. You may not use your official position to:

1. secure employment or obtain contracts from other organizations;
2. accept pay from anyone other than the Town for the performance of your official duties;
3. take or withhold official action on a matter in which you have an outside

personal or financial interest;

4. use Town time, equipment, property or facilities for personal and/or financial benefit;

5. coerce subordinates in any manner that will result in financial benefit to the supervisor.

B. Improper Gifts. You may not solicit or accept gifts of any value that benefit your personal or financial interest if it can be reasonably inferred that the gift is intended to influence your actions or judgement. Any gift of a value greater than \$10 received by an employee whose action can affect the giver, must be reported to the employee's supervisor immediately. Any gift of a greater value than \$10 must be returned or donated to the Town. "Gifts" include: money, items of value, services, loans, travel, entertainment, hospitality, and employment.

C. Improper Use or Disclosure of Information. You may not use or disclose any information gained from Town employment if the use or disclosure could result in a financial or personal benefit to you (or to a family or household member), unless that information has already become public. You may not use or disclose confidential information acquired during employment.

D. Improper Influence in Grants, Contracts, Leases or Loans. You may not apply for, be a party to, or have an interest in a Town grant, contract or loan if your action or inaction (or that of an immediate family or household member) can affect the award or administration of a Town grant, contract or loan.

E. Improper Representation. You may not accept outside payment or financial benefit to represent, advise, or assist an individual in any matter being handled by your administrative unit.

F. Outside Employment. You may not work outside of Town employment if that work

is incompatible or in conflict with the proper discharge of official duties. You must obtain prior approval for outside employment or services for which you are paid. Changes in paid outside employment or services must also be reported and approved as they occur (see Sec. 4.5).

G. Conflicting Financial Interests. If you have substantial direct or indirect financial interests (or acquire such financial interests), in any corporation, firm, or person who contracts with the Town, you must disclose that interest in writing to the Town Manager at the time of employment or when the interest is established.

H. Aiding a Violation of Employee Ethics Policy. Aiding another Town employee to violate this policy is prohibited.

~~I. Ethics Policy Review Committee. The Ethics Policy Review Committee shall consist of the Finance Director, the Town Attorney and the Manager's Executive Assistant. The Committee will review in a timely manner questions of ethics violations that are forwarded by department personnel on a case-by-case basis, with the goal of providing recommendations that are consistent with the spirit of the Employee Ethics Policy.~~

~~J. Procedure.~~

~~1. When you are involved in a situation which may be in violation of the Employee Ethics Policy, you must not take official action related that situation and must immediately disclose the matter in writing to the supervisor. The supervisor will provide a written determination of whether a violation exists or will exist. The supervisor may then reassign duties to avoid the violation, direct you to remove the conflicting personal or financial interest, ask the Ethics Policy Review Committee to evaluate the issue, or find another solution. The notification form and supervisor response are then reviewed by the chain of command.~~

**DEFINITIONS:**

A. **Benefit:** *Anything that furthers a person's financial interest or from which a person hopes to gain in any way.*

B. **Confidential Information:** *Information which by law or practice is not available to the public.*

C. **Financial Interest:** *Any property ownership, management, professional, or private interest from which the employee (or family or household member) receives a financial benefit.*

D. **Official Position:** *An office or post of authority in the municipal government for which one has been hired.*

E. **Person:** *Any man or woman and is extended to include any firm, association, corporation or partnership.*

~~K. **Complaints of Potential Ethical Violations:**~~

**PROCEDURE:**

~~1.A.~~ Complaints about the ethical conduct of a current town employee shall be filed with the Personnel Office.

~~2.B.~~ The Town Manager will forward a copy of the complaint to the employee's supervisor, through the chain of command, who will investigate the reported incident to determine whether a violation exists. ~~The supervisor must forward the complaint to the Ethics Policy Review Committee and submit a response with recommendation to the Personnel Office in writing within five working days.~~

~~3.~~ ~~All complaints and investigations prior to a formal hearing must be kept~~

confidential.

*C. The supervisor will report his findings, in writing, to the department head who in turn will submit it to the Town Manager with a recommendation for discipline if the allegation is substantiated.*

*D. If the recommended discipline is demotion, suspension without pay, or discharge, the process in Section 10.1, Disciplinary Action: Investigation and Hearing will be followed.*

*E. All complaints and investigations prior to a formal hearing must be kept confidential.*

~~L. Discipline. Violation of this policy will result in discipline up to and including termination. Employee discipline will be administered in accordance with this manual.~~

~~M. Definitions:~~

~~1. Benefit: Anything that furthers a person's financial interest or from which a person hopes to gain in any way.~~

~~2. Confidential Information: Information which by law or practice is not available to the public.~~

~~3. Financial Interest: Any property ownership, management, professional, or private interest from which the employee (or family or household member) receives a financial benefit.~~

~~4. Official Position: An office or post of authority in the municipal government for which one has been hired.~~

~~5. Person: Any man or woman and is extended to include any firm, association,~~

~~corporation or partnership.~~

#### 4.23 WORK SAFETY

It is Town policy that safety takes precedence over any other concern. To regulate this policy, the Town of Silver City has adopted a Safety Manual, a copy of which has been provided to all current employees. *The Safety Manual and related policies will be updated as needed, and updates will be approved by the Town Manager.* You are required to sign a certificate acknowledging receipt and review of the manual.

Disciplinary action resulting from on-the-job accidents will be handled in accordance with the Safety Manual.

The Town Safety Committee is responsible for establishing a general safety program which applies to all employees. In addition, each department, in cooperation with the Safety Committee, will develop rules and regulations unique to its operations concerning safe work practices.

#### 4.24 NO SMOKING POLICY

In conformance with Chapter 85 of the 1985 Session Laws, the "Clean Indoor Air Act," the Town of Silver City recognizes that the smoking of tobacco poses a danger to health and is a health hazard to those who are present in enclosed spaces. Smoking is prohibited in all Town buildings and vehicles ( Resolution No. 94-33).

#### 4.25 OTHER RULE INFRACTIONS

It is recognized that other infractions or misconduct may occur that have not been specifically covered in the preceding list. Any infraction or violation will be dealt with according to the Town's policy of fair and just administration of the rules and regulations including, but not limited to probation, demotion with commensurate reduction in pay for specified periods, suspension

without pay, or discharge.

#### 4.26 PERSONNEL RECORDS

Personnel records for each employee of the Town will be maintained in the Personnel Office. Such records include a copy of the employee's application/s, change of status, leave forms, ~~resume~~ ~~of accomplishments~~, *performance appraisal forms*, records of disciplinary action, records of achievement, and any other pertinent information. You may inspect your personnel file by scheduling a time for review during office hours with the Personnel Office.

You must promptly notify the department and personnel office of any change of address, telephone number, and any other change in information contained in the permanent personnel file.

Access to the personnel records is restricted to the following persons: 1) employees to their own files; 2) Personnel Department staff; 3) the employee's supervisor and department head; and the Town Manager. Personnel records may not be removed from the Personnel Office.

#### 4.27 INCLEMENT WEATHER

Inclement weather conditions that prevent employees from reporting to work are conditions over which the Town has no control. Therefore, in the event of inclement weather, the following apply:

A. In fairness to all, only those who report to work during inclement conditions will be paid. The pay will be equal to the actual hours worked, unless 4.27 C applies. Anyone who does not report to work will not be paid.

B. If you are allowed to go home early during inclement conditions, you will be paid only for the hours worked.

C. If all employees are sent home by the Town, you will be paid for all hours you were

scheduled to work for that day.

D. If Town operations are closed because of inclement conditions, all employees will be paid for the hours they were scheduled to work. However, this fringe benefit is limited to no more than three (3) such days per year. If the Town operations are closed because of such conditions for more than three days in one calendar year, the additional days will be without pay.

## 5.0 EVALUATION AND COMPENSATION POLICIES

### 5.1 EMPLOYEE EVALUATION

The work of all employees is appraised informally on a continual basis. Your immediate supervisor may suggest ways in which you can improve the quality of your work or qualify for a promotion.

All Town employees will be formally evaluated at least once annually by their immediate supervisor who will review your performance with you, and submit comments with your performance appraisal to the department head. ***Probationary employees will be evaluated at least once during their probation period. The evaluation will be submitted with recommendation for successful or non-successful completion of probation period.*** The performance appraisals will be submitted to the Town Manager for review/comments and forwarded to the Personnel Office to be filed in your personnel file. Depending on needs of individual departments, more structured evaluations may be put in place.

### 5.2 PAYDAY

You will be paid every two weeks on the ~~Tuesday~~ ***Wednesday*** following the end of the pay period. The payroll period will consist of two consecutive work weeks. (The designated work period for the Fire Department shift personnel is nine days.) ***Employees are required to sign their time***

*sheet. If the employee will not be working on the day the time sheets are due, he/she must review, sign and date prior to the time sheet deadline. If the employee is out due to an unplanned circumstance, the employee, upon his/her return, must make arrangements with Payroll staff and review and sign time sheet/s.* You will be paid by a Town check, which will have an attached statement listing your gross pay and itemized deductions.

### 5.3 PAYROLL DEDUCTIONS

The Town is required by Federal and State Law to make payroll deductions for income tax purposes. These deductions are carried under the "pay as you go" plan on the basis of the number of dependents that were declared when you came to work for the Town or updated information provided to the Town during your employment. To get the full benefit of your exemptions and to avoid problems when income tax payments are due, promptly report any changes in your family status to the Payroll ~~Department~~ *Division*.

Deductions include: Social Security, Medicare, Federal Withholding, State Withholding, Public Employees Retirement Association (PERA), and Retiree Health Care Authority. Other deductions such as union payments, savings bonds, and health and life insurance premiums may be made if approved by you and the Finance Director *or designee*. Additional deductions may be made if required by an official order of the court.

### 5.4 METHOD OF PAY

Each regular, full-time employee is employed on the basis of a monthly base rate. All non-exempt employees will be paid according to the following:

- A. Your salary is based upon forty (40) hours worked per seven (7) day period.
- B. All hours worked over forty (40) in one seven (7) day period (for non-fire personnel)

will be paid at one and one-half (1½) times your regular rate, or when employee chooses, compensatory time off will be given. Maximum accrual of comptime is 240 hours for non-emergency personnel and 320 hours for emergency personnel. Fire Department shift personnel threshold for overtime is 72 hours per 9 day period.

C. All overtime must be scheduled and approved by your supervisor.

D. Part-time employees will be paid an hourly wage for all hours worked per seven (7) day period.

#### 5.5 EXEMPT OR NON-EXEMPT STATUS

Exempt or non-exempt status classification is determined by each position's requirements and responsibilities as measured by a specific formula established by the Fair Labor Standards Act (FLSA).

Generally speaking, exempt means that positions assigned to that class are not subject to FLSA overtime provisions. Non-exempt positions are subject to overtime provisions cited in FLSA regulations.

#### 5.6 WORK WEEK/HOURS

The Town's average work week for non-exempt employees, other than public safety, is forty (40) hours per seven (7) day period. However, the actual hours of work may vary during the month, depending on the requirements of the department to which you are assigned. The Town's work week begins at 12:01 a.m. Sunday and runs to 12:00 p.m. Saturday. You should not work more than your scheduled hours unless you received permission from your immediate supervisor. Maximum accrual of comptime is 240 hours for non-emergency personnel and 320 hours for emergency personnel.

A. Non-Exempt Employees

No non-exempt employee will be paid less than the statutory minimum wage.

No non-exempt employee (excluding fire personnel) will be employed for a work week of more than 40 hours per 7 day period. You will receive compensation for any work in excess of 40 hours weekly at a rate of not less than one and one-half (1½) times your regular rate at which you are employed. Fire Department shift personnel work 72 hours in a nine-day period, and will receive overtime for hours worked in excess of 72 hours during that period. When you choose, compensatory time may be given in lieu of overtime pay.

B. Exempt Employees

Department heads and others exempt from the overtime requirements of the Fair Labor Standards Act as "executive, administrative, or professional" employees are considered by the Town to be paid for the work done rather than the time spent in doing it. The employer, though, has the authority to set the hours that an exempt employee is expected to work. It is Town policy that such exempt employees shall not, in any case, receive additional pay for working longer hours than the standard for non-exempt employees. However, since workload is one factor in establishing salaries for exempt positions, exempt employees should report all hours actually worked on the Payroll Time Sheet each pay period. The Payroll Clerk will report exempt employee hours by department to the Town Manager at the close of each pay period. The Town Manager may opt to allow such employee straight time off with pay not to exceed thirty-two (32) hours per pay period and ten (10) days a year. Accumulated straight-time hours will not be paid when exempt employees leave the employment of the Town.

5.7 DONATED TIME

Donating time to the Town is against both Town policy and the provisions of the Wage Hour

Law for non-exempt employees.

5.8 RECORDING OF HOURS WORKED

The Town is required to keep an accurate record of the hours worked by each of its non-exempt employees. The law permits the use of either time clocks or time sheets to record these hours.

You will record your time on a time sheet provided by the Payroll ~~Department~~ **Division**. Time sheets will be signed by you and confirmed by your immediate supervisor and signed by the department head *or designee (refer to Section 5.2)*.

5.9 OFF SHIFT RESPONSE PAY

Fire shift personnel who are not scheduled to work will be paid at one and one-half (1½) times their regular hourly rate when they report as off shift response. They will receive a minimum payment of one (1) hour at time and a half (1 ½) for any response from five (5) minutes to sixty (60) minutes.

5.10 HOLIDAY PAY

In order to receive pay for an observed holiday, you must not have had an unexcused absence on the work day immediately preceding or immediately following the holiday. If absent from work the day immediately preceding or following an observed holiday on an authorized absence with or without pay, you are entitled to pay for that holiday. No employee on unpaid leave will be paid holiday pay. An employee calling in sick the day before or the day after a holiday will be required to submit a doctor's verification in order to be eligible for holiday pay.

Non-exempt supervisors who work a holiday may choose to be paid double time or substitute another day for the holiday. Exempt employees who work on a holiday may substitute another day for the holiday.

## 5.11 WAGE AND SALARY

It is the Town's objective to provide you with compensation that is equitable and consistent within the organization. It is also the Town's objective to acknowledge and reward superior performance.

The Town has a formal salary administration policy and program to establish and maintain proper internal relationships between all jobs in the organization.

The components of this program are: current job descriptions, organizational charts, salary structures based on job-market information, evaluations as required of job content, ~~resume of accomplishments,~~ *employee performance evaluations*, ~~scheduled salary reviews,~~ and an internal promotion program.

All regular, full-time and regular, part-time employees are hired in a specified grade determined by job description. This is a monthly salary within a salary grade and is referred to as monthly base rate. All persons shall be appointed to the entry level of an appropriate grade. The Town Manager may make an exception to this policy based on education and experience.

Raises in pay are determined by specific job-related criteria and the degree of success you have in reaching or exceeding standards established for this job-related criteria.

Merit pay increases will be considered when you have added value to the organization, i.e., made money for the Town, saved money for the Town. Merit increases are subject to the availability of funds.

Each job has been defined in a current job description, evaluated and assigned to a salary grade. This evaluation has established internal relationships between all the jobs in the organization. You will be given a copy of your job description.

~~Each salary grade carries a step range which has a minimum salary and a maximum salary. You will progress within a salary range based on your productivity and performance on the job. The current salary schedule is a 3x10 model, i.e., 3 percent between steps and 10 percent between salary grades.~~

~~The salary structure is reviewed periodically in an effort to keep Town salaries competitive in the local labor market at which time it is presented to the Town Council for approval.~~

## 6.0 EMPLOYEE BENEFITS

### 6.1 VACATION

A. Regular, full-time, non-Fire Department employees will accrue vacation as follows:

1. One (1) to nine (9) years of service - 10 days vacation per year. (Accrual of 6 hours and 40 minutes per month will be allowed only the during the first year of service.)
2. Ten (10) to fifteen (15) years of service - 15 days vacation per year
3. Sixteen (16) or more years of service - 20 days vacation per year.

B. Vacation schedule for all Fire Department personnel who are on shift work schedule is as follows:

1. One (1) to nine (9) years of service - six (6) days of vacation
2. Ten (10) to nineteen (19) years of service - seven (7) days vacation
3. Twenty (20) years or more of service - nine (9) days vacation

C. Regular, part-time employees will be eligible for vacation benefits on a pro-rata basis. Part-time employees who are hired to work for twenty (20) to thirty-one (31) hours per week are eligible for employee benefits on a pro-rata basis of fifty percent (50%). Employees who are hired to work more than thirty-one (31) hours will be treated as full-time employees for the purpose of

employee benefits administration. Employees who are hired to work less than twenty (20) hours per week are not eligible for employees benefits.

D. Seasonal and temporary employees are not eligible for regular employees benefits offered by the Town.

E. In order to maintain a required number of trained employees on the job, department heads will schedule vacations well in advance. Employees with the most seniority (continuous employment) will have a date priority. Your seniority will be determined within your division, on the basis of length of continuous service with the Town for each person in your division.

F. Supervisors will encourage their employees to take their vacation within their anniversary year. Carry-over of vacation shall be approved by the supervisor, department head and Town Manager. No carry-over of vacation in excess of two (2) years' worth will be approved.

G. If you have earned more than two (2) work weeks or six (6) 24-hour shifts of vacation, you will be given preference, based on your seniority. Time earned in excess of this will be scheduled after scheduling of the basic vacations earned by less senior staff. (Note: All vacation scheduling must also take into account the staffing needs of the Town.)

H. It is against the Town's policy for employees to receive a cash payment in lieu of vacation time.

I. If a holiday observed by the Town occurs during your vacation, you will be granted another day of vacation at another time consistent with your department's work schedule.

J. A vacation day for fire shift personnel shall consist of one full shift; for all other regular, full-time employees, it will consist of eight hours. A vacation day for regular, part-time employees will be equal to the number of hours in the employee's average work day.

K. A vacation week for paying purposes for most regular, full-time employees will consist of forty hours; for fire shift personnel, it will consist of sixty-eight hours. A vacation week for paying purposes for regular part-time employees will equal the number of hours in the employee's regular work week.

L. Vacation time will not be counted as hours worked when computing overtime premium pay.

M. When you terminate for any reason, you will be paid for the vacation time you have not used since your last anniversary date.

N. Employees may request an audit of vacation used.

## 6.2 SICK LEAVE

A. Employees are responsible for the appropriate use of sick leave. Sick leave abuse occurs when an employee uses sick leave for unauthorized purposes or misrepresents the actual reasons for charging absences to sick leave. Abuse may also occur when an employee establishes a pattern of sick leave over a period of time such as the day before or after a holiday, on Mondays and Fridays, after paydays, any one specific day, half-days, or continued patterns of maintaining a zero or near zero sick leave account balance. Employees taking sick leave for a doctor's appointment will be expected to return to work after the appointment, unless the appointment is two or more hours from town and/or the employee is seriously ill. A doctor's verification may be required. Employees who engage in sick leave abuse, and/or show a pattern of failing to notify their supervisor of absences, may be subject to disciplinary action, up to and including termination of employment.

B. As regular, full-time and regular, part-time employees, you are entitled to accrue one day of paid sick leave per month. (Refer to Section 2.10 for probationary employees.)

1. A day of sick leave for regular, full-time employees is equal to eight hours. (A sick leave week is 40 hours.)

2. A day of sick leave for regular, part-time employees is equal to the number of hours you were scheduled to work on that day. (A sick leave week is equal to the number of hours the employee normally works in a week.)

3. A day of sick leave for fire shift personnel is equal to one full shift. (A sick leave week for fire shift personnel is sixty-eight hours.)

C. Sick leave days taken will be subtracted from your total accumulated, unused sick leave account.

D. As regular, full time and regular, part-time employees:

1. You will be granted sick leave for personal illness or temporary disability; for care of members of your immediate family (spouse, son, daughter, stepson or daughter, mother, father, brother, sister, grandparents, grandchildren, or the in-law counterpart of all listed herein); when you have been exposed to a contagious disease and may jeopardize the health of others; or for medical, dental or optical appointments. ***Note: regular contact with your supervisor, on a weekly basis, is required.***

2. You may be requested to submit a doctor's statement to verify the needs for the absence taken as sick leave (with or without pay).

3. In the case of prolonged sick leave (with or without pay) - thirty days or more - the Town reserves the right to request progress reports from your doctor (or to have evaluation made by a Town-selected doctor), as to when you will be able to return to work.

4. If you are on temporary disability or prolonged sick leave, you are requested to

return to work as soon as medically feasible. Upon returning to work after such a leave, you will be requested to supply the Town with a doctor's statement certifying that you are able to return to your normal duties.

5. In the case of an illness or temporary disability where you desire to keep working until some future date when medical assistance or surgery is available or timely, the Town reserves the right to periodically request statements from your doctor (or to have such an evaluation made by a Town-selected doctor) to certify that continued work will not have an adverse effect on your health. If you continue to work during illness or temporary disability, you will be required to discontinue working at any time as so advised by your doctor or a doctor chosen by the Town. (Refer to Section 6.4, FMLA Leave, for more information on prolonged sick leave or temporary disability.)

6. Termination (voluntary or involuntary) will cancel your sick leave eligibility. The sick leave plan is to help protect employees from loss of income resulting from absences caused by illness or temporary disability. This benefit will be terminated upon separation from employment with the Town, and no cash settlement will be made as a result of accumulated sick leave time, unless Section 6.12, Early Retirement, applies.

7. Under no condition will you be granted permission to draw on future unearned sick leave benefits.

8. No extra pay will be granted for a legal holiday that falls within your approved sick leave (paid or unpaid).

9. All fringe benefits (including seniority) will be continued during an approved sick leave (up to 12 weeks) under the same terms and conditions (of payment, etc.) as if you were at work. Leaves of more than 12 weeks will be considered on an individual basis.

10. Falsification of medical or insurance reports to obtain benefits (including paid or unpaid sick leave benefits) will be considered the same as any other theft from the Town and is grounds for disciplinary action up to and including termination of employment.

11. For purposes of computing sick leave eligibility, your month of employment will be considered to begin on the first day of the month in which you were hired.

12. Sick leave will not be considered in computing overtime premium pay.

13. When an employee is injured on the job and is unable to work because of this injury, the Town will pay the employee for the first five working days, ***only if the employee has accumulated sick leave***. This time will be deducted from the employee's sick leave account. If the employee is off more than seven calendar days, the Town's Workers' Compensation insurance may pay two-thirds of his regular salary until the employee returns to work or reaches maximum medical improvement (MMI).

***14. Restricted duty will be considered if available and re-evaluated every 30 days.***

### 6.3 SICK LEAVE MAXIMUM ACCRUAL ALLOWANCE

There is no limit on the number of sick leave hours that you may accumulate and carry forward from one anniversary year to a subsequent anniversary year.

### 6.4 FAMILY MEDICAL LEAVE

A. Eligible employees may take up to 12 weeks of unpaid, job protected leave for certain family and medical reasons as hereinafter provided. An eligible employee is an employee who must have been employed by the Town for at least 12 months, and for at least 1,250 hours during the 12-month period immediately preceding the commencement of leave.

***B. Military Caregiver Leave: A combined total of 26 weeks of unpaid FMLA leave in a***

*single 12-month period will be granted to employees who are spouse, son, daughter, parent or next of kin of a covered service member who has sustained a serious injury or illness while on active duty so that the employee can care for the service member.*

*A covered service member is defined as: 1) a 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 five years preceding the date the employee first takes military caregiver leave to care for the veteran.*

**B.C.** As long as certification is provided, unpaid leave must be granted for any of the following reasons:

1. to care for the employee's child after birth, or placement for adoption or foster care;
2. to care for the employee's spouse, son or daughter, or parent, who has a serious health condition; or
3. for a serious health condition that makes the employee unable to perform the employee's job.
4. *for any qualifying exigency arising out of the fact that the employee has a spouse, son, daughter, or parent who is on covered active duty requiring deployment to a foreign country. Qualifying exigencies are defined as:*

*a. Short-notice deployment. When the notice of an impending call or order to*

*covered active duty is seven calendar days or fewer prior to the date of deployment.*

*b. Military events and related activities. To attend any official ceremony, program, or event sponsored by the military, or to attend family support and assistance programs and informational briefings sponsored or promoted by the military, military service organizations, or the American Red Cross that are related to the covered active duty of a covered military member.*

*c. Childcare and school activities. To arrange childcare or attend certain school activities for a son or daughter when the need arises due to covered active duty. This leave is limited to a military member's biological, adopted, or foster child, stepchild, legal ward, or child for whom the military member stands in loco parentis who is either under 18 years of age or older and incapable of self-care because of a mental or physical disability at the time that FMLA leave is to commence. The military member must be the spouse, son, daughter or parent of the employee requesting qualifying exigency leave. The child for whom leave is sought need not be a child of the employee requesting leave.*

*d. Financial and legal arrangements. To make or update financial or legal arrangements to address the covered military member's absence.*

*e. Counseling. To attend counseling for the covered military member or their son or daughter when the need for counseling arises from the covered active duty of the covered military member. This provision is intended to cover counseling that is not already covered by the FMLA, such as counseling provided by a military chaplain, who does not meet the FMLA's definition of health care provider.*

*f. Rest and recuperation. To spend time with a covered military member who is on short-term, temporary rest and recuperation leave during the period of deployment. Eligible*

*employees may take up to 15 days of leave for each instance of rest and recuperation.*

*g. Post-deployment activities. To attend arrival ceremonies, reintegration briefings and events, and any other official ceremony or program sponsored by the military for a period of 90 days following the termination of covered active duty, and to address issues arising from the death of the covered military member while on covered active duty status.*

*h. Additional activities. The employer and employee can agree on other events that qualify for leave, and the timing and duration of such leave. For purposes of qualifying exigency leave, covered active duty is defined to mean:*

- duty during deployment of the member with the Armed Forces to a foreign country, in the case of a member of the regular component of the Armed Forces; and*
- duty during the deployment of the member with the Armed Forces to a foreign country under a call or order to active duty, in the case of a member of a reserve component of the Armed Forces.*

*i. Parental care leave. Eligible employees may take leave to care for a military member's parent who is incapable of self-care when the care is necessitated by the member's covered active duty. Care may include arranging for alternative care, providing care on an immediate-need basis, admitting or transferring the parent to a care facility, or attending meetings with staff at a care facility. The employee taking qualifying exigency leave for parental care does not need to be related to the military member's parent. However, the military member must be the spouse, parent, son or daughter of the employee taking leave.*

**C.D.** Certification of the family member's or the employee's own serious health condition

shall be provided by a health care provider. The certification must contain:

1. the date the serious health condition began;
2. the probable duration of the condition;
3. the appropriate medical facts regarding the condition;
4. if the leave is based on care of a spouse, child, or parent, a statement that the employee is needed to provide the care and an estimate of the amount of time that need will continue;
5. if the leave is based on the employee's own serious health condition, a statement that the employee is unable to perform the functions of his/her job; and
6. in the case of intermittent leave or leave on a reduced schedule for planned medical treatment, the dates the treatment is expected to be given and the duration of the treatment.

The Town may require second or third opinions at its own expense and a fitness for duty report.

**D.E.** Where the necessity for leave is foreseeable, the employee must provide at least 30 days' notice of intention to take leave. Where the necessity for leave is not foreseeable, the employee must provide such notice as is practicable and make reasonable effort to schedule treatment so as not to unduly disrupt the operations of the employer, subject to the approval of the health care provider.

**E.F.** The employee's available accrued paid vacation, personal, sick, or other leave may be substituted for any part of the 12-week leave period. Once any paid leave is used up, the remainder of the 12 weeks of leave will be unpaid.

**F.G.** For the duration of FMLA leave, the employer must maintain the employee's health coverage under any "group health plan"; the employee must make arrangements to pay his/her portion of the monthly premium. Upon return from FMLA leave, the employer must restore the employee to

their original or equivalent position with equivalent pay, benefits and other employment terms. The use of FMLA leave cannot result in the loss of any employee benefits that accrued prior to the start of an employee's leave.

~~G.H.~~ FMLA makes it unlawful for any employer to interfere with, restrain, or deny the exercise of any right provided under FMLA; discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

~~H.I.~~ The US Department of Labor is authorized to investigate and resolve complaints of violations. An eligible employee may bring a civil action against an employer for violations. FMLA does not affect any federal or state law prohibiting discrimination, or supersede any state or local law or collective bargaining agreement which provides greater family or medical leave rights.

#### ~~6.5 SICK LEAVE BANK~~

~~A.~~—The intent of the Sick Leave Bank is to provide an employee additional sick leave when a prolonged or extended "catastrophic" illness or disability requiring extended hospitalization or home confinement has occurred.

~~1.~~—"Catastrophic" has been defined as an illness or disability that occurs requiring extended hospitalization or home confinement, and for which no Workman's Compensation or disability benefits are available. The Sick Leave Bank is not intended to substitute for the long term disability program.

~~2.~~—The Sick Leave Bank Committee will consist of the Director of Finance, the President of the Social Committee and the Manager's Executive Assistant, who all must be current participants in the Sick Leave Bank.

a. — If any of these three are not current participants, the Town Manager shall appoint a Town employee who is a current participant to be a member of the Sick Leave Bank Committee.

b. — Vacancies will be filled by the Town Manager.

3. — Membership

a. — Participation is voluntary and is open to all employees who earn sick leave.

b. — Employees must contribute a minimum of two (2) days of sick leave to participate. This contribution will be made by completing a "Contribution of Sick Leave Bank" form.

c. — Employees must sign up for membership within thirty (30) days after adoption of this amended policy. New employees must sign up for membership by the end of their probationary period.

d. — Contribution of days are not refundable.

e. — Membership may be terminated by notifying the Sick Leave Bank Committee in writing.

f. — Membership will be opened up annually during the month of January.

4. — Donations

a. — Employees may donate any unused sick days to the Bank upon departure of employment with the Town by notifying the Sick Leave Bank Committee in writing.

B. — Requests to withdraw days from the Bank must be made on "Request for Use of Sick Leave Bank" form and submitted to Personnel Office staff.

1. — Dispensation of sick leave by the Sick Leave Committee will be judicial to

~~insure that sick leave is available when needed by employees who have catastrophic illnesses or injuries.~~

~~2. All accrued sick leave, annual leave, and personal leave must be used prior to being eligible.~~

~~3. An employee may not draw on the sick leave bank if eligible for workers' compensation, long term or short term disability, or has another source of income (to exclude a spouse's income).~~

~~4. Employee must be more than five (5) days in arrears to be eligible; however, if the employee accumulated twenty (20) or more days due to the same condition, application for the total number of days to include those in arrears may be made.~~

~~5. Maximum withdrawal will be sixty (60) days at one time. At the end of thirty (30) days, the Committee will request a doctor's re-evaluation, and the Committee will determine whether the additional 30 days should be granted.~~

~~6. At the discretion of the Committee, sick leave withdrawal, not to exceed twenty (20) days, may be granted to an employee to care for a spouse or child that has suffered a catastrophic illness or injury.~~

~~7. Withdrawals will be made at the employee's current hourly rate less regular withholdings to include health and life insurance premiums.~~

~~8. Updated doctor's reports must be submitted monthly to the Committee during the time that the employee is under the Sick Leave Bank Plan.~~

~~9. If the total number of Leave Bank days is reduced to 180 days, based on the average hourly rate, the Bank Committee will request members to donate an additional day to the~~

~~Bank. All members shall be given written notice of the need for additional donations. Members must authorize donations to continue membership.~~

~~C. Reimbursement will be made by any employee who uses the Bank at the rate of at least four (4) days sick leave plus one (1) day annual leave per year until the loan is paid, by completing the Authorization to Deduct form. Upon termination, repayment will be made in full or arrangements made to repay loan.~~

~~D. If at any point it should be determined that the Sick Leave Bank days were fraudulently applied for or used, the Sick Leave Bank Committee will require immediate termination of the employee's plan and immediate and full repayment, and possibly reduction of future paychecks.~~

~~E. In case of extenuating circumstances where a request of more than sixty (60) days is made, the Committee will consider the request and make a final decision regarding the extent of leave and terms of reimbursement.~~

## **6.5 LEAVE DONATION POLICY**

***A. Policy. The intent of the Leave Donation Policy is to establish guidelines for the request, approval and administration of donated annual leave to eligible employees. The purpose of the leave is for a “catastrophic” illness or disability requiring extended hospitalization or home confinement affecting the employee or his/her spouse.***

***“Catastrophic” has been defined as an illness or disability that occurs requiring extended hospitalization or home confinement, and for which no Worker’s Compensation or disability benefits are available. The Leave Donation Policy is not intended to substitute for the short-term or long-term disability program. The employee shall first use all accrued leave before requesting donated leave.***

*An “eligible employee” is a regular, full-time or regular, part-time employee who has worked a minimum of five (5) years for the Town, and has no other source of income (to exclude spouse’s income). The eligible employee may receive the amount needed, but not more than 160 donated hours per request. Donation requests from regular, part-time employees will be prorated. Requests are limited to a total of two (2) during a 12-month period, if approved by the Leave Donation Committee.*

*The Town may send an employee requesting donated leave to a health care provider of the Town’s choice, at the Town’s expense, for a second opinion.*

*The transfer of donated annual leave is strictly a voluntary donation of annual leave from Town employees. Note: An employee must maintain a minimum of 80 hours of annual leave, and may make a donation of leave in excess of that amount.*

*B. Application and Approval Process. The employee in need of donated leave will be required to complete an application for request of donated leave (“application”). The employee must submit a certified document by a health care provider that describes the nature, severity and anticipated duration of the emergency medical condition of the recipient, and a statement that the recipient is unable to work all or portion of the recipient’s work hours. Updated doctor’s reports must be submitted monthly to the Personnel staff.*

*The application will be reviewed by the Leave Donation Committee (Committee) who will ensure that all requirements are met, and that the employee is eligible for donated leave. The Committee will consist of the Deputy Finance Director, the employee’s department director, and the Personnel Officer.*

*Once the application for donated leave is approved by the Committee, a notice to*

*employees requesting donated annual leave will be sent to all Town departments with a donation of leave form. The completed donation of leave forms will be forwarded to the Payroll Accounts Technician who will do a conversion of the value of the doner's donated leave based on the doner's hourly rate of pay to hours of leave for the recipient based on the recipient's hourly rate of pay. This conversion will be documented in a donated leave conversion form and forwarded to the Town Manager for final approval.*

*The recipient employee will be notified in writing of the amount of leave that has been donated to him/her. Payroll and Personnel staff will track use of donated leave bi-weekly, and notify the recipient monthly of the remaining balance.*

*The recipient employee will be responsible for immediately notifying the Personnel Office staff when the serious health condition requiring the leave ends.*

*All donated leave not used within 6 months shall be reverted to the doner/s on a prorated basis.*

## 6.6 JURY DUTY

A. Regular, full-time and regular, part-time employees will receive full pay while absent from the Town to serve on jury duty. (Regular, part-time employees will receive pay only for actual hours they were scheduled to work for the Town.)

1. Hours (less than a full day) spent serving on jury duty that occur during normal business hours of the Town will be considered for paying purposes as hours worked for the Town. These hours will not be considered as hours worked when computing overtime pay.

2. For fire department personnel, hours spent on jury duty during a regular work shift (24 hours) will be considered, for payroll purposes, as hours worked for the Town. These hours

will not be considered as hours worked when computing overtime pay.

3. For regular, full-time employees, a full work day spent on jury duty will be considered, for payroll purposes, as eight (8) hours of work for the Town. These eight (8) hours will not be considered as hours worked when computing overtime premium pay.

4. For regular, full-time employees, for payroll purposes, a full week (Monday through Friday) spent on jury duty will be considered forty (40) hours worked for the Town. These forty (40) hours will not, however, be considered as hours worked for the Town for the purpose of computing overtime premium pay if you, in addition to serving forty (40) hours on jury duty, also do some work for the Town in the same work week.

B. The summons of the court must be shown to your immediate supervisor for verification, and a copy of summons attached to the leave request form.

C. You are expected to report to your immediate supervisor for any hours of your shift before and after jury duty.

D. You will keep your compensation for serving on the jury in addition to your pay from the Town.

## 6.7 MILITARY LEAVE

(New Mexico Statutes Annotated, Section 20-4-7, 1978 Compilation. Military Leave for national guard and reserves).

“All state, county, municipal, school district and other public employees who are members of organized units of the army or air national guard or army, air force, navy, marine or coast guard reserves shall be given not to exceed fifteen (15) working days’ military leave with pay per federal fiscal year (*October 1st to September 30th*) when they are ordered to duty for training, such leave to

be in addition to other leave or vacation time with pay to which such employees are otherwise entitled.

The governor may grant any member of the national guard or reserves who is a municipal employee additional military leave with pay in excess of that allowed above, not to exceed fifteen (15) working days per federal fiscal year, for periods of active duty for training when he deems that such training will benefit the state by enabling that employee to better perform the duties required in his municipal occupation.”

#### 6.8 LEAVES OF PERSONAL NECESSITY

##### A. Leaves of Personal Necessity - With Pay

1. As regular, full-time and regular, part-time employees, you may take the equivalent of two (2) days off with pay each calendar year. ***Employees hired between July 1 and September 30 will receive one (1) day.***

a. The time-off may be taken for any reason, e.g., extra sick leave, death of a non-family member, school appointment, doctor appointment, etc.

b. The absence must be approved in advance by your immediate supervisor.

2. For paying purposes, a work day (Sunday through Saturday) spent on leave of personal necessity will be considered:

a. For regular, full-time employees as an eight-hour work day. (A half-day will be considered as four hours for paying purposes.)

b. For regular, part-time employees as the hours you normally would have worked on that day. (A half day will be considered for paying purposes as half the number of hours you normally would have worked on that day.)

B. Leave Without Pay

1. To request an extended leave without pay (more than 30 days), you must be a regular, full-time or regular, part-time employee and have completed a minimum of one (1) year of service with the Town to be eligible to request leave without pay. (Refer to Section 6.4 if leave qualifies under FMLA.)

2. Since the Town provides two (2) days with pay for personal necessity, additional time off will be granted only under very compelling circumstances and only after all applicable leave days with pay have been used, unless the leave is eligible under the FMLA (refer to Section 6.4) Requests for leave without pay must be for health-related or education-related reasons.

3. Requests for leave without pay must be approved, in writing, in advance by the Town Manager, your department head and your immediate supervisor.

4. Requests for leave without pay should be made in writing far enough in advance to allow your immediate supervisor sufficient time to process the request through proper channels.

5. No leave for any reason may exceed six (6) months, *unless covered by any other federal law.*

6. You must return to work on the scheduled date of return or you will be considered to have voluntarily resigned from the employ of the Town.

7. If your leave without pay exceeds thirty (30) days, the time in excess of thirty (30) days will be deducted from your length of service time as it pertains to Town benefits (unless the leave is allowed under the FMLA).

8. You will not accumulate paid leave or receive holiday pay while on unpaid leave status.

9. Only when it is practical and reasonable to do so, will the Town grant the leave, taking into consideration such factors as length of service, work performance, needs of the department and the needs of the Town as determined by Management. *Use of leave without pay without prior authorization will be subject to the disciplinary process as outlined on Section 10.0.* (Leave allowed under the FMLA, *or other federal law*, is excluded from these requirements. Refer to Section 6.4)

#### 6.9 FUNERAL LEAVE

You will be granted time off from work with pay in the case of the death of a member of your immediate family. Immediate family is defined as spouse, son or daughter, stepson or daughter, mother or father, brother or sister, grandparents, grandchildren, and the in-law counterpart of all listed herein.

A leave of absence with pay for up to five (5) days duration will be granted in the case of the death of a spouse or child.

A leave of absence with pay, for up to three (3) days duration, will be granted in the case of death of a parent, brother or sister.

A leave of absence with pay for two (2) days will be granted in the case of death of other family members who are parents-in-law, or brothers or sisters-in-law, grandparents or grandchildren.

Fire shift personnel will be granted ~~two (2)~~ **three (3)** full shifts for death of a spouse or child ~~and; one (1)~~ **two (2)** full shifts for death of a parent, brother or sister **one (1) full shift for other family members who are parents-in-law, brothers or sisters-in-law, grandparents, or grandchildren.**

If the funeral for a member of the immediate family, as outlined above, is held out of town, you will be granted additional time as follows, provided you attend the funeral: if the destination is 300 miles from the town, one additional day with pay, [**one (1) additional shift for fire shift personnel**]; if the destination is more than 600 miles from the town, two additional days with pay [**two (2) additional**

*shifts for fire shift personnel].*

The employee must note the relationship of the deceased and mileage to funeral on the leave request form.

#### 6.10 EDUCATION

A. As regular, full-time and regular, part-time employees, you will be granted time off with pay to attend workshops, seminars, or training programs if attendance is at the request of and for the benefit of the Town. (A temporary employee is not eligible for out-of-town travel unless approved by the Town Manager.) This will include payment of per diem, mileage (if approved by Manager) and all necessary out-of-pocket expenses. Note: The Town will pay only for expenses incurred relative to the first examination of any specific certification which is applicable to the employee's position within the Town's organizational structure. If the employee fails the test on his/her first attempt, all expenses related to unsuccessful subsequent testing to receive the certification will be the sole responsibility of the employee.

B. In order to institute a vigorous program of education and self-improvement, the Town may authorize and fund an employee's pursuit of higher education by taking classes from an accredited institution of higher education. The supervisor and/or department head may authorize an employee to attend classes during working hours, with approval based on budgetary and scheduling requirements. Employees should identify requirements for education by March 31st each year. The Town will authorize up to two (2) hours of class time per week. Any lost time in excess of two (2) hours per week must be made up after hours by the employee. Long-term education classes are not limited to being "work-related." This follows the belief that all education is a benefit to the employee's self worth and improvement and thus to the Town. ~~"The only thing worse than training employees and losing them, is~~

~~not training them and keeping them.”—Author Zig Ziglar.~~

### Procedure

The Town will enter into a contract with the employee. The contract will apply to ~~all~~ ~~future~~-classes taken by the employee for the current semester. The Town will pay tuition costs not exceeding four (4) credit hours per semester. An employee receiving a grade lower than a “C” will agree to have the tuition cost deducted from his/her pay. Costs for long-term education will come out of the training and travel line items as established by budget. Books and/or materials will also be purchased by the Town, if they are to remain Town property at the conclusion of the course. Books and/or materials for courses not related to Town functions must be purchased by the employee/student. The employee will agree to continue employment with the Town after completion of Town-paid education as follows: one year of continued employment for each 12 hours or semester. If the employee chooses to discontinue employment with the Town prior to completion of employment terms per education contract, the employee will reimburse the Town any tuition costs towards his/her education.

#### 6.11 HOLIDAYS

A. When a legal holiday observed by the Town falls on a weekday (Monday through Friday), as regular, full-time employees, you will receive credit for eight (8) hours of work. As regular, part-time employees, you will be paid for the hours you would have normally worked on that day of the week. These hours will not be counted as hours worked when computing overtime premium pay.

B. The Town will observe the following holidays: New Year’s Day, Martin Luther King’s Day, President’s Day, Good Friday, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day, the day after Thanksgiving, Christmas Eve Day, and Christmas Day.

C. Holidays which fall on a Saturday will be recognized on the preceding Friday. Holidays which fall on Sunday shall be observed the following Monday.

D. To qualify for holiday pay, you must work your last scheduled work day before and your first scheduled day following the holiday. An employee calling in sick the day prior or the day after a holiday will be required to submit a doctor's verification in order to be eligible for holiday pay.

E. Should a regularly scheduled holiday for which you would normally be paid fall within your scheduled vacation period, you shall have one day added to your vacation time or you may use such a day as an additional leave of personal necessity.

F. When your regular work shift encompasses a recognized holiday, you will be granted a substitute day off as a holiday within ten (10) working days of the holiday. If the substitute day cannot be scheduled, you will be paid for hours worked at your regular salary.

G. If you are required to work on a holiday (outside of your regular shift), you will be paid double your base rate for all hours worked.

H. No one on an unpaid leave of absence will be paid holiday pay.

#### 6.12 EARLY RETIREMENT LEAVE

Employees may convert a maximum of 240 hours of unused, accumulated sick leave hours toward early retirement. This leave is to be taken immediately prior to the retirement date as approved by PERA criteria.

#### 6.13 SAFETY LEAVE

Safety leave will be granted to all Town employees as determined by the Manager.

#### 6.14 EMPLOYEE WELLNESS BENEFIT

The Town will reimburse regular, full-time and regular, part-time employees, not covered by a

wellness program under a union contract, up to ~~\$10~~ **\$30** per month for membership dues paid to a local fitness center/gym. The employee must submit, *on a quarterly basis*, proof of membership dues paid each month to Personnel Office staff in order to receive reimbursement.

6.15 CDL CERTIFICATION PAY

The Town agrees to pay \$100 per quarter to employees with CDL certification which is required by their job. Payment will be made the last pay period of each quarter.

6.16 LONGEVITY PAY

*Per Resolution 2013-23, the Town agrees to award regular, full-time and regular, part-time employees longevity pay on the first pay period of July, October, January and April as follows:*

<i>5-9 years of consecutive service</i>	<i>\$100/Quarter</i>
<i>10-14 years of consecutive service</i>	<i>\$200/Quarter</i>
<i>15 years or more of consecutive service</i>	<i>\$300/Quarter</i>

*Payments will be pro-rated for regular, part-time employees.*

7.0 ADDITIONAL BENEFITS

7.1 GROUP MEDICAL INSURANCE

The Town's group medical insurance plan is carried with a major insurance company. This is a comprehensive plan which provides protection to you as an employee of the Town and also provides protection to your spouse and children. The plan includes the following major areas of coverage: medical, dental and life insurance for you and your dependents as well as accidental death and dismemberment insurance for you. The group-insurance package, as you will note in examining your insurance booklet, is very complete and gives you a very comprehensive health insurance program.

For more specific details about the plan, eligibility and enrollment, contact the Personnel Office.

The cost of the plan will be shared by you and the Town. If on extended leave of absence without pay, you are required to pay your share of the monthly premiums to keep your coverage current.

#### 7.2 LONG-TERM DISABILITY INSURANCE

For information on long-term disability insurance coverage, contact your PERA and/or AFLAC representative, *and the Social Security Administration*.

#### 7.3 RETIREMENT PLAN

As a municipal employee, you are a member of the state-wide Public Employees Retirement Association. This membership is in addition to your participation in the Federal Social Security Program.

The Town makes a contribution to PERA for each employee and also pays 75 percent of the employee's contribution. An employee is vested in the PERA membership after five years. *Effective July 1, 2013, general members will be vested after eight years, and public safety members will be vested after six years.* You may withdraw the monies you have contributed to the plan at the time you terminate your employment with the Town. For additional information concerning PERA, refer to the PERA pamphlet or contact the Personnel Office.

#### 7.4 WORKERS' COMPENSATION

The Town carries Workers' Compensation Insurance in compliance with State law. This insurance provides compensation for lost time, medical expenses, surgical expenses, and loss of life or dismemberment from injury arising out of or in the course of your job assignment with the Town. In case of an injury or illness that you consider work-related, please be guided by the following:

- A. You must report your injury and complete the "Notice to Employer" immediately and

submit to your supervisor.

B. If in need of medical assistance, your supervisor, or designee, will transport you to ~~the Town's designated~~ **your designated** medical provider unless the injury necessitates that you be transported to the Emergency Room at GRMC. Immediate arrangements will be made for a drug and alcohol test, as per the Town's Drug and Alcohol policy.

C. Your supervisor will complete a "Supervisor's Report of Injury" and submit this and the "Notice to Employer" to the Personnel Office. The Personnel Office will be contacted immediately and advised of the accident.

D. Supervisor and/or employee will keep staff at Personnel Office informed of the status of the injured employee.

E. Medical bills will be forwarded to the Personnel Office where they will be processed for payment or forwarded to the Workers' Compensation Insurance Carrier.

F. You must submit orders from the medical provider requiring restricted duty or days off work to your supervisor and staff at the Personnel Office. ***If restricted duty is available, it will be approved for 30 days, and the availability of the restricted duty will be re-evaluated after 30 days.***

G. If an you get hurt on the job and are off work because of this injury, the Town will pay you for the first five (5) days ***if you have that amount of time accumulated in your sick leave account.*** ~~This time will be deducted from the your sick leave account.~~ If you are off more than seven (7) days, the Workers' Compensation Insurance may pay two-thirds (2/3) of your salary, ***after the 7<sup>th</sup> day***, as temporary total disability benefits, until you return to work or reach maximum medical improvement (MMI).

H. Questions pertaining to Workers' Compensation should be directed to the Personnel

Office.

Note: If you should be injured while employed by someone other than the Town, you will receive your compensation benefits from the other employer. While you are disabled, all sick leave benefits will be suspended until you are able to return to your normal duties with the Town.

#### 7.5 SOCIAL SECURITY

Old Age and Survivor's Insurance is provided for wage earners in the Social Security Act. The original Act, passed by Congress in 1935, provided only for old age insurance. Amendments in 1939 expanded the old age insurance system to provide benefits for members of the wage earner's family, after the wage earner's retirement or death. Under present Social Security legislation, a percentage of your pay is deducted, with a matching amount credited to you in payment by the Town.

#### 7.6 UNEMPLOYMENT COMPENSATION

If you become unemployed or are laid off through no fault of your own, you may be eligible to draw unemployment compensation. Contact the New Mexico Department of ~~Labor/Employment Security Division~~ *Workforce Solutions*.

#### 7.7 OTHER

There are other programs. For information, contact Personnel or Payroll staff.

#### 8.0 GRIEVANCE PROCEDURE

When a group of people work together, personal problems and complaints are apt to arise occasionally. Whatever the problem may be, we are anxious that the persons concerned be given a fair and thorough opportunity to bring the problem out in the open. The procedure listed below shall constitute the exclusive remedy for resolving problems or grievances between employees or between

employees and supervisors except for proposed demotion, suspension or discharge, which are subject to the investigation and hearing procedure in Section 10.1.

Should you have a complaint or a problem, the first step is a frank and sincere talk with your immediate supervisor. If your immediate supervisor is not able to resolve your complaint, the Town provides assistance to ensure every regular employee a hearing by top management.

A. Method of processing a complaint or grievance.

1. If you have a complaint, you should discuss the matter with your immediate supervisor, who will give you a response within three (3) working days.

2. If your immediate supervisor's response is not satisfactory to you, you may, within five (5) working days of receiving the answer, request an opportunity to discuss the matter with your department head. (If your immediate supervisor is your department head, this step can be eliminated.) Your request for a meeting with your department head will be made through your immediate supervisor (refer to chain of command policy, Section 4.11).

3. If your department head's response is not satisfactory to you, or if your immediate supervisor is the department head, you may appeal the matter (in writing) to the Town Manager. The Town Manager will in turn review the case, interview all parties concerned, and submit a decision to you within five (5) working days of receiving your written appeal. The decision of the Town Manager will be final.

B. Special consideration. If the grievance involves any form of unlawful discrimination, you may dispense with the normal grievance procedure and request an immediate audience with the Town Manager.

9.0 REDUCTION IN FORCE

In the normal course of events, we look at your employment as being on a long-term basis and without need for a reduction in force. However, in the event of unforeseen circumstances which may result in the need for layoffs and suspensions for budgetary reasons, or reduction in work loads, lay-offs shall take place in accordance with the following procedure:

A. A determination will be made of how great and in what departments and divisions a reduction in force is required.

B. Employees who are to be affected will be laid off in reverse order of seniority in the pay grade within the division being cut back.

C. If you are laid off as a result of a reduction in force, you will be given as much notice as possible.

D. You shall be given first consideration based upon your seniority for any vacancy in any department of the Town that you are qualified to fill.

#### Recall Rights

A. You will retain recall rights for the position held at the time of any layoff based upon your seniority in that position for twelve (12) months after the date of your layoff.

B. If you fail to return to the position as requested 14 days after receiving notice of recall by certified mail, return receipt requested to the last mailing address you provided the Town, your recall rights are thereby waived.

C. If your layoff exceeds thirty (30) days, the time in excess thereof will be deducted from your length of service time as it pertains to seniority benefit programs.

#### 10.0 DISCIPLINARY PROCEDURES

The Town subscribes to the philosophy that discipline should be corrective rather than punitive.

However, there are rule infractions that by their very nature are serious enough to warrant termination without any previous warnings.

The number of allowable warnings prior to any recommended termination is as follows:

A. Verbal Warning

This is generally used for minor infractions. Your supervisor will discuss the infraction with you and outline the expected corrective action. This will be recorded by your supervisor and made part of your personnel file.

B. Written Reprimand

This may follow a repeat of a first offense, a second offense of similar magnitude, or a first offense of a more serious nature, which, in your supervisor's opinion, requires a more formal action than a verbal reprimand. If the offense is a repeat of the first, your supervisor will summarize instructions given the first time and warn you that future similar incidents could result in a suspension, dismissal, or other appropriate discipline. The warning will be recorded on a disciplinary form and filed in your personnel file. Additionally, a counseling statement delineating the conduct needing correction ~~will~~ *may* be filled out by your supervisor. This statement will also outline the standards that will be expected of you in the future. This form will be signed by you and placed in your personnel file.

C. Suspension or Dismissal

Suspension is used when strong disciplinary action is indicated. You may be suspended without pay for a period not to exceed twenty (20) working days for repeated offenses or different offenses of a similar magnitude. Suspension may also be warranted if the first offense is a serious one.

The department head must consult with the Town Manager prior to any suspension

action, except in cases of emergency. This action will be recorded on a disciplinary form and filed in the employee's personnel file. In addition, a payroll change notice must be submitted by the department head reflecting the number of days of suspension imposed. If suspension is warranted, it must be administered within five (5) working days, to exclude weekends, from the time that the Manager's decision is made.

To help insure that all necessary disciplinary action is taken without unlawful prejudice or favoritism, the Town's warning system allows you to know when you have violated a Town rule/regulation and what you may expect if your conduct continues.

An employee under disciplinary probation is not eligible for promotion, transfer or pay increases.

#### 10.1 DISCIPLINARY ACTION: INVESTIGATION AND HEARING

If you have completed your probationary period and are recommended for demotion, suspension without pay or discharge, a complete investigation of the case will be made at the request of the Town Manager to determine whether the recommendation should be carried out. The investigation protects you in two ways: (1) it allows time for others to evaluate the facts before your job or pay is affected; and (2) it allows for disciplinary action short of discharge if that is believed to be in the Town's and your best interest. If the investigation finds the charge to be without just cause, you will be completely exonerated.

##### **Investigation Process for Equal Employment Opportunity Complaints (Title VII):**

**A. The complaint will be investigated by the Personnel Officer, who will summarize the investigation in a written report.**

**B. The Assistant Manager will review the investigation report and substantiate or not**

*substantiate the allegations.*

*C. If the allegations are substantiated, the Department Director will submit a recommendation for discipline to the Town Manager.*

If the investigation finds sufficient cause for discipline, as noted in the preceding paragraph, the Town Manager will appoint a hearing panel composed of three supervisory employees, none of whom shall be your department head or your relative or a relative of any other party to your case. It will be the duty of the hearing panel to hold a hearing within ten (10) calendar days after appointment to determine whether probation, demotion, suspension or discharge should be recommended.

You will be notified immediately, in writing, of the alleged cause for discipline, the facts upon which the Town relies in support of the charges, to include all reports and statements, the recommended discipline, the members appointed to the hearing panel, and the time and location of the employee hearing. At least five days (calendar) notice will be provided prior to the hearing.

You will be expected to attend the hearing to present your side of the story. If you fail to appear, you will be deemed to have waived your right to a hearing. You may represent yourself at the hearing or you may choose to be represented by another person of your choice and at your own expense, if any. If you choose to be represented by an attorney at your own expense, you must inform the Town Manager at least twenty-four (24) hours before the time set for the hearing so that the Town's legal counsel can also be present. You may call witnesses and submit records to present your side of the case, and you may cross-examine witnesses for the other side.

The hearing panel will select one of its members to chair the hearing. The panel will hear the charges and your responses to them and may request such files or other documents, and call such witnesses as are germane to the charges. The panel will not be bound by formal rules of evidence, but

should use such rules as a guide. The panel will provide equal opportunity for all parties to the case to present testimony, official records and other documents which have a direct bearing on the charges and the proposed discipline. However, the panel will have the discretion to limit what is determined to be cumulative testimony or evidence.

Upon completion of the hearing, the hearing panel will make its findings and recommendations by simple majority vote. Within three (3) working days following the hearing, the panel will present its findings and recommendation for action, in writing, to you and to the Town Manager.

Within three (3) working days following the receipt of the hearing panel's recommendations, the Town Manager will notify you in writing of his decision concerning the proposed disciplinary action. The Town Manager may dismiss, execute or modify the proposed disciplinary action, but in the event of disciplinary action will designate the effective date of demotion or dismissal and the effective start and end of any suspension without pay or disciplinary probation. The decision of the Town Manager will be final.

## 10.2 INVOLUNTARY TERMINATION/DISCHARGE

A discharge is termination which is not voluntary on your part.

If you have completed your probationary period, you may be discharged only for cause, such as a serious rule infraction or failure to respond to progressive disciplinary procedures. Your recommended discharge will be investigated and a pre-termination hearing will be held in accordance with Section 10.1.

If you have not completed your probationary period, you have no rights under this section.

## 10.3 VOLUNTARY TERMINATION

A. If you choose to terminate your employment with the Town, you are expected to provide

the Town with written notification of the intended date prior to your actual termination. When you submit written notice of termination or retirement, employment will terminate on that date, unless the Town Manager agrees to a change.

B. Most of your benefits end with termination of employment. Therefore, you should consult the Personnel Department at least two weeks in advance of your termination regarding conversion privileges associated with medical and life insurance programs.

C. If you fail to return to work upon the expiration of a leave of personal necessity, military leave, jury duty leave, sick leave, FMLA leave or other authorized leave (unless medical or other evidence has been submitted to the Town along with a request for an extension of the leave, and if this extension has been approved, in writing, by the Town Manager), it will be recorded as a voluntary termination without notice.

D. If you fail to call in or report to work for three (3) consecutive days, unless covered by leave, vacation, or other approved absence, you will be released from the payroll as an automatic resignation, unless you can prove to the satisfaction of the Town Manager that it was impossible to notify the Town.

E. Termination (voluntary or involuntary) will cancel your sick leave eligibility. The purpose of the paid sick leave plan is to protect you from loss of income resulting from temporary illness or disability. This benefit will be terminated upon separation from the employ of the Town and no cash settlement will be made as a result of accumulated, unused sick leave.

F. When you terminate your services with the Town, voluntarily or involuntarily, you will receive all the monies you have earned since your last regular payday on your next regular paycheck. This final check will also include any vacation time that you have accumulated since your last

anniversary date and which you have not used.

G. Upon termination, an exit interview ~~must be scheduled by your department head with the Personnel Officer~~ ***will be conducted by your department head, and you may schedule an appointment with the Personnel Officer*** so that the Town may obtain information about circumstances leading to your leaving and to insure that you receive all benefits and compensation due you.

H. All Town property in your possession must be returned upon termination. Your final paycheck will be withheld until you return those items to your supervisor, have made arrangements for reimbursement for monies owed if a long-term education contract is in effect per Section 6.10, and a Clearance Form is completed.

#### 11.0 DRUG AND ALCOHOL POLICY

The Town of Silver City (Town) is a drug-free workplace in compliance with the Drug-Free Workplace Act. As such, the Town recognizes its obligation to provide a safe, healthful and efficient working environment for its employees. Furthermore, all Town employees have an obligation to the citizens of Silver City to provide governmental services in the safest, most efficient and most courteous manner possible. Being under the influence of drugs or alcohol on the job, or being under the influence of drugs or alcohol through the use of drugs or alcohol off the job, may detrimentally affect your ability to perform your job in a manner consistent with your obligations to the Town, fellow employees and the public. The possession, use or sale of illegal drugs on or off the job and the use of alcohol during working hours poses unacceptable risks to safe and efficient performance of job duties and undermines public confidence in Town Government. Therefore, being under the influence of drugs or alcohol on the job is prohibited and will constitute grounds for termination.

The Town recognizes that its ability to provide vital services to the citizens of Silver City

depends upon the physical and psychological health and well-being of all Town employees. Accordingly, the Town of Silver City will continue its efforts to ensure that use of illegal drugs or alcohol does not interfere with the duties of Town employees and public confidence in Town government.

The Town will assist in making referrals to an Employee Assistance Program designed to help employees who seek counseling or other assistance for problems with drug or alcohol use or other personal problems.

In accordance with these general principles, the Town will maintain the following policy concerning the use, possession or sale of alcohol or drugs by Town employees.

#### 11.1 Definitions

- a.. "Accident" - an unintended happening in which a Town employee is involved while on duty which results in injury or death to any person and/or in property damage.
- b. "Alcohol" - the intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular alcohol, including but not limited to, methyl or isopropyl alcohol, spirits, wine, malt beverages, intoxicating liquors and all consumable non-prescription substances which contain alcohol.
- c. "Alcohol concentration (or contents)" - the alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test or the equivalent as indicated by an evidential blood test.
- d. "Alcohol or Drug Use Problem" - use of illegal drugs or alcohol by any Town employee on the job or a deterioration in job performance caused by the

employee's use of drugs or alcohol off the job, or testing positive for illegal drugs or alcohol.

- e. "Alcohol test"- an analytical procedure used to determine whether an employee may have a prohibited concentration of alcohol in his or her system. The type of test used shall be solely determined by the Town.
- f. "Alcoholic Beverage" - any beverage that contains alcohol.
- g. "DOT regulations" - the Federal Motor Carrier's Safety Regulations of the U. S. Department of Transportation, including but not limited to, the portion of the regulations related to Drug and Alcohol Testing - Parts 40, 382, 391 and Title 49 of the Code of Federal Regulations as may be amended from time to time.
- h. "Drugs" - marijuana metabolite, cocaine metabolite, opiates, morphine, codine, phencyclidine, amphetamines, methamphetamine, alcohol, ethanol
- i. "Employee Medical Examiner" - a qualified physician who shall act as the Medical Review Officer.
- j. "Illegal Drugs" - any drug which (1) is not legally obtainable; (2) is legally obtainable but which has not been legally obtained; or (3) has been legally obtained but which is being used for other than the purpose for which it was prescribed.
- k. "Involved in an Accident" - directly or indirectly participating in any aspect of the job function during which the accident occurred, or being a victim.
- l. "Legal Drugs" - prescribed drugs and over-the-counter drugs which are being used for the purposes for which they were prescribed or manufactured.

- m. "Post-Accident Testing" - substance and/or alcohol abuse screening required when an employee is involved in an accident.
- n. "Reasonable Suspicion" that an employee has an alcohol or drug use problem - any objectively identifiable and/or unexplained deterioration in the quality or quantity of an employee's normal behavior or normal work performance. Objective criteria include, but are not limited to, the following: chronic tardiness, excessive absenteeism, on-the-job accidents, disruptive conduct, deterioration in productivity, deterioration in work quality, excessive health problems, failure to meet work schedules, carelessness in personal appearance or hygiene and drastic mood swings.
- o. "Safety Sensitive" employee - an employee whose job responsibilities expose that employee, his co-workers or the general public to hazardous conditions or which impact upon the safety of the public or which require responsibility for the physical safety of others. Examples of job classifications which fit this category are: police officers, and fire fighters.
- p. "Substance Abuse" - the use of illegal drugs or the misuse of prescribed controlled drugs or alcohol.
- q. "Supervisor" - the person who is the employee's immediate superior in the chain of command.
- r. "Test facility" - independent laboratory used by Town to test for or confirm the presence of drugs.
- s. "Town Employee" or "Employee" - any person employed by the Town in any

capacity and for any period of time, and specifically excludes elected officials, independent contractors and citizens who are appointed by the governing body to serve on Town boards, commissions and committees and the like.

- t. "Town Manager" - the Town Manager of the Town of Silver City or his/her designee.
- u. "Under the Influence" of drugs and alcohol - that the employee is affected to the slightest degree by use of a drug or alcohol in an objectively detectable manner. For purposes of this policy, objective criteria include, but are not limited to, the following: loss of physical coordination, slurred speech, erratic behavior (e.g. unusual belligerence or excitability), impaired judgment and/or a detectable odor of alcohol or drugs on an employee's breath or person. In determining whether an employee is "under the influence" of drugs or alcohol, due consideration will be given to the employee's normal physical and mental characteristics. Any employee using alcoholic beverages or illegal drugs during working hours will be presumed to be "under the influence" of drugs or alcohol irrespective of the presence or absence of other symptoms of being under the influence. An employee testing positive for drugs or alcohol will be considered to be "under the influence".
- v. "Valid Urine Specimen" - it is the employee's own personal specimen and the specific gravity, PH, Creatinine and temperature levels must all fall within standard, drug-testing industry-acceptable ranges as follows:

Specific gravity      1.003 to 1.030

PH	5.0 to 8.0
Creatinine	Above 20
Temperature	90 to 100 Degrees Fahrenheit

11.2. Policy Statement - General Provisions

The following rules represent the Town's policies concerning drug and alcohol use. These rules shall apply and be enforced uniformly with respect to all Town employees. Violation of these policies is grounds for disciplinary action including termination from employment.

a. All Town employees are prohibited from using or being under the influence of alcohol to the slightest degree of alcohol or illegal drugs while on Town property, while operating Town-owned vehicles or equipment and/or during working hours. Employees testing positive for drugs or alcohol will be considered to be under the influence.

b. A Town employee using a legal drug may be required by his or her supervisor to obtain a letter from the employee's physician indicating that the employee's continued presence on the job while using the legal drug does not pose a threat to the employee's safety or the safety of co-employees or members of the public. Such letter shall be deemed confidential. An employee using a legal drug who is unable to safely and efficiently perform his or her job may be required to take sick leave, vacation time or a leave of absence for the duration of the time the employee is using a legal drug.

c. All Town employees are prohibited from abusing prescription drugs or using prescription drugs that have not been prescribed for the employee by a physician.

d. All Town employees are prohibited from possessing, selling, transferring or purchasing alcohol or illegal drugs during working hours, while on Town property or while operating

Town-owned vehicles or equipment. Any activity by Town employees involving possession, sale, transfer or purchase of alcohol or illegal drugs will be reported to appropriate law enforcement officials and will be further reviewed by the Town for any further discipline.

e. The prohibition of consumption of alcohol on Town property shall not apply when such consumption is in connection with approved, Town-sponsored and authorized events during non-working hours. Operation of Town vehicles or equipment, on or off duty, after consumption of alcohol is never acceptable and shall be grounds for termination.

### 11.3. Employee Assistance Program

There is available to Town employees, at their cost, an Employee Assistance Program ("EAP") to provide help to employees who suffer from an alcohol or drug use problem or other problems of a personal nature. It is the sole responsibility of each employee to seek assistance from the EAP before the employee's drug and alcohol use results in discipline or termination from employment, and prior to the employee being sent for a drug and/or alcohol test. Once an employee violates this policy, or tests positive for illegal drugs or alcohol, the employee's voluntary use of the EAP shall not reduce the severity of disciplinary action and will, in fact, have no bearing on the determination of appropriate disciplinary action.

The employee's decision to seek assistance from the EAP shall not be used as the basis for any disciplinary action and shall not be used against the employee in any disciplinary proceeding *if done prior to any recommendation for discipline or prior to any positive drug and alcohol test*. Furthermore, no information voluntarily provided by the employee in seeking assistance from the EAP shall be used against the employee in any disciplinary proceeding. However, a self-referring employee will be subject to two years of random testing after such self-referral in conjunction with an EAP

treatment program.

#### 11.4. Drug and Alcohol Testing

a. Reasonable Suspicion. Whenever there is reasonable suspicion on the part of an employee's supervisor and/or department head that the employee has reported to work, is conducting work, or is representing the Town while under the influence of alcohol or other substances, the employee shall be subjected to mandatory employee drug and/or alcohol testing, depending on whether the impairment is caused by alcohol or other substances or both. An alcohol test shall be administered when there is reasonable suspicion that an employee is under the influence of alcohol. A drug test shall be administered when there is reasonable suspicion that an employee is under the influence of illegal drugs.

If the impacted employee's supervisor and/or department head has reasonable suspicion of the employee being "under the influence", as described in Section 11.1, n and u. of this policy, that supervisor shall first contact the Town Manager, and then, upon approval of the Town Manager, the Town Manager or designee shall notify the laboratory and schedule the employee for testing immediately. The Department Head or his designee shall be responsible for transporting that employee to the testing site. The impacted employee shall be placed on leave with pay status pending the results of the initial screening test and, if necessary, the confirmatory test. The determination of the confirmatory test shall be final. The employee will then be placed on leave without pay status should the Town receive notification of a positive confirmatory test result, and will remain so pending final disciplinary action.

b. Random Testing. All safety sensitive employees (refer to Section 11.1, o) will be required to undergo random testing as often as on a monthly basis. Selection of safety sensitive

employees to take monthly and annual tests will be made by a drug-testing coordinator using a computer generated list. Selected safety sensitive employees shall be tested immediately after notification to report for the test. Selection for the monthly testing will not remove the employee from the possibility of selection for the following month.

c. Pre-Employment Testing. All individuals recommended for regular employment will be subject to mandatory drug and alcohol testing prior to hiring.

d. Post-Accident Testing. All Town employees, including safety sensitive employees, who are involved in an accident that results in injury to a person or damage to property will be subject to drug and alcohol testing.

e. DOT Testing. Employees who are operators of commercial vehicles will be subject to Drug and Alcohol Testing as indicated in the DOT regulations, which testing will include, but is not limited to, pre-employment, random, post-accident, reasonable suspicion, return to work and follow up.

11.5. Administration of Drug and Blood Alcohol Testing

a. Employee drug or alcohol testing shall take place at a test facility chosen by the Town and shall be administered by a certified practitioner according to the test performed. Persons authorized to administer any drug and blood alcohol tests shall require positive photographic identification from each employee to be tested.

b. Upon being notified to report for a drug test, the employee shall take with him or her to the testing facility information and prescription or "over the counter" medication as directed by the supervisor in order to assist the screening personnel in completing the paperwork.

c. It will be the responsibility of the tested employee to provide a valid urine

specimen. If the specimen is not valid (refer to Section 11.1. v.), the technician will notify the employer and request permission to obtain additional specimens until one is obtained that falls within the acceptable range.

In addition, if the collection facility technician observes or otherwise has specific reason to believe that the employee has tampered with the specimen, he/she has the right to request that the employee provide another specimen, under direct observation by a technician of the same sex as the employee. This should be accomplished immediately, while the employee is still at the test-site offices, however, the Town Manager or designee will first be notified of this request before it is carried out.

The test-site technician will stand by for a total of three hours from the time of the first specimen-collection in order to allow up to three hours for the employee to provide additional specimens until a valid one is obtained.

After a three-hour attempt to obtain a valid specimen, no further attempts will be made, and the employee will be considered to be in violation of the testing policy as his/her unsuccessful attempts to provide a valid specimen will be construed as a "refusal" to cooperate with the testing process (refer to Section 11.6, a). In that case, if the employee provides a letter from a medical doctor confirming that he/she is unable to provide a valid urine specimen due to a medical condition, the employee will be deemed to not have refused and/or violated the testing policy.

Employees directed to proceed to the test-site must do so immediately. Test-site staff shall be called and advised of the time to expect the employee. Test-site staff will call the employer if the employee arrives more than 15 minutes late, and such employee will be subject to disciplinary action, up to and including termination unless the employee can prove there was some unforeseen situation.

d. All testing results shall be reported back to the Town Manager or his designee. If the test results are negative, the Town Manager or designee will notify both the employee and the department head, and the employee shall be returned to work.

e. If the initial test is positive, a confirmatory test shall be conducted at the expense of the Town. The impacted employee shall be placed on leave with pay status pending the results of the initial and confirmatory test. If the results of the confirmatory test are positive, the employee will be placed on leave without pay status, and will remain so, pending final disciplinary action. The determination of the confirmatory test shall be final. Positive results of a drug test may only be used by the Town as a part of the decision-making process relating to personnel action and/or as required by DOT regulations. Employees confirming positive for drugs or alcohol will be subject to termination of employment.

f. All records pertaining to department required drug tests shall remain confidential, and shall not be provided to other employers or agencies without the written permission of the affected employee. Drug test results and records shall be stored and retained in compliance with the law.

#### 11.6. Employee Sanctions

a.. For all Town employees, a valid and positive confirmatory test, or refusal to submit to a test, shall result in the termination of the employee or non-hiring of the potential employee, unless there are special circumstances that would support a lesser degree of discipline.

b. Failure to immediately report an accident will be considered an attempt to circumvent this policy and viewed the same as refusal to submit to a drug and alcohol test with the same consequences (refer to Section 11.6, a. above).

c. Any Town employee who pleads no contest to, or is convicted of a criminal offense involving possession, sale, transfer or purchase of illegal drugs during working hours will be subject to termination from employment.

d. Any Town employee who pleads no contest to, or is convicted of operating a motor vehicle under the influence of illegal drugs or alcohol during working hours will be subject to termination from employment.

e. In addition to the personnel actions set forth above, employees who are operators of commercial vehicles shall be subject to sanctions, disqualifications, and penalties as set forth in the DOT regulations.

#### 11.7 Drug and Alcohol Concentrations

Concentrations of an illegal drug or alcohol at or above the following levels (in ng/ml) shall be considered a positive test result when performing a confirmatory GC/MS test:

Marijuana metabolite	15
Cocaine metabolite	150
Opiates:	
Morphine	300
Codeine	300
Phencyclidine	25
Amphetamines:	
Amphetamine	500
Methamphetamine	500
Alcohol/Ethanol (in mg/dl)	

breath alcohol concentration .040\*

\*However, more than two tests in a calendar year demonstrating an alcohol concentration of between .020 and .039 shall be considered a positive test for purposes of discipline.

## 12.0 CHANGES IN THE TOWN'S EMPLOYEES HANDBOOK

Since this employee handbook is based on Town operational policies and procedures, policies and procedures required by Federal and State Statutes, and present employees' fringe, all of which are subject to change, so must the handbook also be subject to change. Management reserves the right to revise by addition, deletion, correction or updating, any part of the material in this handbook. Any changes made in the materials now covered or those that may be covered in the future will be brought to immediate attention of all employees by either:

- A. Employee meetings
- B. Posting of the change (on the employees' bulletin board), or
- C. Corrections in the employees' handbook itself.

## 13. OTHER POLICIES

### 13.1 USE OF TOWN-ISSUED CELL PHONES

Department directors are responsible for assigning phones and other communication devices to employees, and for recovering them when an employee leaves the Town employment. The cell phone should only be used by Town employees in the performance of their official duties. The employee assigned the phone is responsible for the physical security of the cell phone and is responsible for all

charges incurred on that phone, as a result of loss or abuse of the phone.

Employees are authorized to make reasonable, but limited use of Town phones for necessary personal calls that meet the following criteria:

1. The call does not adversely affect the performance of duties by the employee or the employee's organization.
2. It is of reasonable duration and frequency.
3. It reasonably could not have been made at another time.

Cellular telephones will be issued on an as-needed basis with the approval of the department director and the Town Manager's final approval. A list of cell phone users and numbers shall be reviewed annually by the department director to ensure the designated employee continues to demonstrate a need for the cellular phone.

As with desktop telephones, employees are responsible for any personal calls made on their cellular phones and for reimbursing the Town for toll, long distance charges and additional charges as a result of downloading programming not associated with Town functions.

### 13.2 INTERNET AND E-MAIL POLICY

The Town of Silver City provides employees with access to town information systems, Internet and e-mail in order to improve the quality and timeliness of work-related information. No employee should have any expectation of privacy as to his or her Internet and e-mail usage. Management may review Internet and e-mail activity and analyze patterns to ensure it is being used exclusively for Town business, unless otherwise authorized.

All users of the Town's Internet and e-mail system are expected to conduct themselves in a legal, professional, and ethical manner. The Town's Internet and e-mail system shall be used in

accordance with federal, state and Town law and may not be used as a vehicle to harass or intimidate.

Only those employees who are authorized by the Town Manager to speak to the media, analysts or in public gatherings on behalf of the Town may speak/write in the name of the Town to any newsgroup or chat room. Employee releasing confidential information via ~~a newsgroup or chat room~~ *social media* will be subject to disciplinary action.

The Town's electronic system may not be used for commercial activities, religious causes, charitable solicitations, political activity, support for outside organizations, or other activities not related to the direct conduct of Town business.

Access to the Internet and e-mail can enable unauthorized external access to Town data and networks if employees do not apply appropriate security discipline. Any employee who attempts to disable, defeat or circumvent any Town security mechanism will be subject to immediate termination.

The intentional display of sexually explicit material or reproduction of sexually explicit sounds on any Town system is prohibited. Any software or files downloaded via the Internet onto Town computers becomes the property of the Town. No employee may use Town equipment to download or distribute pirated software or data or legal software or data, unless authorized by the department head. Employees are prohibited from uploading any software licensed to the Town or data owned or licensed by the Town without explicit authorization from the Town Manager.

If permission is acquired from the employee's department director, employees may use Internet and e-mail access for non-business research, browsing, communication during mealtime or other breaks, or outside of working hours, provided that they adhere to all other usage policies.

### 13.3 TAPE-RECORDING POLICY

In order to foster respect for employees and to promote a positive working atmosphere,

employees shall not record verbal communication with other employees unless prior to the communication, all members involved in the communication have given their consent to having the conversation recorded. Internal and/or criminal department investigations being conducted as directed by the Town Manager or department director may be exempt for purposes of this policy. This policy does not apply to telephone conversations.