



**Agenda Item No. 9f.**

**Staff Report**

**Date:** June 10, 2021

**To:** Mayor Robbins and Council Members

**From:** Joe Chinn, Town Manager

**Subject:** Consideration of Adoption of Resolution No. 2205 Revising the Ross Personnel Manual

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**Recommendation**

The Town Council adopt Resolution No. 2205 revising the Ross Personnel Manual (formerly the Employee Human Resource Rules).

**Background and discussion**

Pursuant to Chapter 2 of the Town Code, the Town has established standards for employment. The Personnel Manual ("Manual") is designed to outline the benefits and important personnel policies that govern employment with the Town. The Manual is designed as a guide to ensure consistent, fair, and uniform internal employment practices and treatment of all employees.

The current Employee Human Resource Rules which is being updated with this Manual were last approved by the Town Council in December of 2012. Personnel rules and regulations have changed over time and the Town of Ross is updating these rules and regulations to reflect current human resources best practices, current Federal and State law, integrating Town standalone policies related to employees into the personnel rules, and making the policies gender neutral. Town staff along with the Town Attorney's Office worked together in reviewing and updating the document.

The changes to the document include:

- Renamed Section entitled "Appointment" to "Application and Selection for Employment" and made clear that employee applications and supporting documents should be submitted in accordance with the Manual
  - Added Minimum Age Requirement per Government Code, section 1020

- Added “Legal Authority to Work” as required by the 1986 Immigration Reform and Control Act, Public Law 99-603; Government Code, section 1020.
- Added a new section “Types of Appointment” to address how vacancies shall be filled pursuant to best practices and added a new appointment for “Limited Term Employee” and removed appointment for “Management Employee” which is covered by appointment of “Executive Employee”. Revised definition of Temporary Employee appointment to not to exceed a total of 999 hours worked in a fiscal year per Government Code, section 20305.
- Added new sections to “Classification Plan” pursuant to best practices.
- Incorporated the Town’s standalone Compensation and Benefits Regulation into a new section of the personnel rules titled Section 6, “Compensation” and added a new section for “Withholding Advancement”.
- Added a new section General Working Conditions
  - Incorporated Hours of Work provisions from the Town’s Compensation and Benefits Regulation
  - Added Section 7.2.3 regarding the Town having the ability to change employee schedules.
- Added a section for Leaves of Absences and incorporated all information related to leaves of absences in Manual Section 8 pursuant to best practices.
  - Added provisions related to Family Medical Leave Act (FMLA) to comply with State law
  - Incorporated the Town’s existing pregnancy disability leave policy into this section and made revisions pursuant to State law
  - Sick Leave deleted limit of employees use of sick leave for purposes of attending medical or dental examination in accordance with Labor Code 246.5(c)(1).
- Modified the Town’s Anti-Discrimination Policy to include that it covers unpaid interns, volunteers, contractors, members of the public and modified the policy to reflect that race includes traits historically associated with race (i.e., hair texture) to comply with newly adopted State law.
- Updated the Drug Free Workplace Policy.
- Expanded the Town’s Harassment Policy to include all forms of harassment (sex, gender, sexual orientation, disability, etc.), modified the policy to reflect that it covers unpaid interns, volunteers, contractors, members of the public, and to include an employee’s responsibility section to comply with State law.
- Incorporated a Lactation Accommodation Policy to comply with newly adopted State law.
- Incorporated the standalone Limited Duration Telecommuting and Technology as Section 12 into the Manual.
- Clarified language in document that was ambiguous and caused potential interpretation issues.

Any additions, amendments, and revisions to the rules and regulations contained in the Manual must be approved by the Council. The Town Manager is responsible for implementing,

administering, and ensuring compliance with the provisions of the rules and regulations contained in the Manual. The Town Manager may develop and issue procedures, consistent with these rules and regulations, to facilitate the implementation.

If there is any conflict between these rules and regulations and the Memorandum of Understanding (MOU) between the Town and the Ross Police Officer's Association, the provisions contained in the MOU shall take precedence.

**Fiscal, resource and timeline impacts**

The only financial impact is the staff and attorney time to revise the Personnel Manual.

**Attachment**

- Resolution No. 2205 with the attached Town Personnel Manual

# **TOWN OF ROSS**

## **RESOLUTION NO. 2205**

### **A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF ROSS ADOPTING AND REVISING THE TOWN PERSONNEL MANUAL**

**WHEREAS**, pursuant to Chapter 2 of the Town Code, the Town of Ross has established standards of employment; and

**WHEREAS**, the Personnel Manual ("Manual") is designed to outline the benefits and important personnel policies that govern employment with the Town; and

**WHEREAS**, the Manual is designed as a guide to ensure consistent, fair, and uniform internal employment practices and treatment of all employees; and

**WHEREAS**, the current Employee Human Resource Rules were last approved by the Town Council in December of 2012; and

**WHEREAS**, personnel rules and regulations have changed over time and the Town of Ross is updating these rules and regulations to reflect current human resources best practices and current Federal and State law; and

**WHEREAS**, the Town of Ross has updated the Manual to reflect the above stated objectives; and

**NOW THEREFORE BE IT RESOLVED**, the Town Council of the Town of Ross approves and adopts the attached Personnel Manual and authorizes the Town Manager to implement and administer the provisions of the Manual.

The foregoing resolution was duly and regularly adopted by the Ross Town Council at its regular meeting held on the 10<sup>th</sup> day of June, 2021, by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

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Elizabeth Robbins, Mayor

**ATTEST:**

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Linda Lopez, Town Clerk



# **TOWN OF ROSS**

## **PERSONNEL MANUAL**

**Revised June 10, 2021**

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# Town of Ross Personnel Manual

## SECTION 1 - ADMINISTRATION

- 1.1 Purpose: Pursuant to Chapter 2 of the Town Code, the Town of Ross ("Town") has established standards for employment. This Personnel Manual ("Manual") is designed to outline the benefits and important personnel policies that govern employment with the Town. This Manual is designed as a guide to ensure consistent, fair, and uniform internal employment practices and treatment of all Employees. This Manual is not an employment contract or a legal document.

The rules and regulations contained in this Manual supersede any and all previously issued Town policies, procedures, rules, or instructions related to matters discussed herein.

Circumstances will obviously require that policies, procedures, and benefits described in this Manual change from time to time. Consequently, the Town reserves the right to amend, supplement or rescind any provisions of this Manual except those items that are subject to meet and confer process.

Nothing in this Manual shall be deemed to supersede applicable State or Federal law.

- 1.2 Authority: The Mayor and Town Council have approved the provisions of this Manual. Any additions, amendments, and revisions to the rules and regulations contained in this Manual must be approved by the Council.
- 1.3 Administration: The Town Manager is responsible for implementing, administering, and ensuring compliance with the provisions of these rules and regulations contained in this Manual. In the event any provision of these rules and regulations needs clarification, the Town Manager may issue administrative instructions clarifying the intent. The Town Manager may develop and issue procedures, consistent with these rules and regulations, to facilitate the implementation.

If there is any conflict between these rules and regulations and any Memorandum of Understanding between the Town and the Ross Police Officer's Association, the provisions contained in the Memorandum of Understanding shall take precedence.

- 1.4 Delegation of Responsibility: The Mayor and Town Council have delegated the responsibilities assigned in these rules and regulations as deemed appropriate and necessary. The Town Manager may delegate the

responsibilities assigned in these rules, including any power or authority granted, except as expressly limited by the Town Council.

- 1.5 Distribution of the Manual: Each current employee will receive a copy of these rules and regulations. New employees will be given a copy of these rules and regulations at the time of employment.

## **SECTION 2 - DEFINITIONS**

- 2.1 "Anniversary date": Means the date of employment from which service time is computed for purposes of accrual of vacation and sick leave benefits.
- 2.2 "Advancement": Means a salary increase within the limits of pay range established for a class.
- 2.3 "Applicant": Means a person who filed an application for employment with the Town.
- 2.4 "Appointment": Means the offer to and acceptance by a person of a position in the Town accordance with the provisions of these rules and regulations.
- 2.5 "Class Specification": Means a written description of a class which identifies factors, and conditions that are essential characteristics of the class, including the minimum qualifications of education, experience, skill for performing work in the class as well as typical duties, responsibilities, and tasks.
- 2.6 "Class or Class of Position": Means a position or group of positions sufficiently similar with regard to duties and responsibilities that the same title may be used to designate each position allocated to the class; the same minimum qualifications for employment in the class would prevail; and the same schedule of pay would apply.
- 2.7 "Compensation": Means a salary, wage, allowance and all other forms of valuable consideration earned by or paid to an employee by reason of their service in a position but does not include any reimbursement for any expenses incurred in the course of employment.
- 2.8 "Continuous Employment": Period of uninterrupted employment including holidays and authorized leave, but not including periods of leave without pay or times of suspension.
- 2.9 "Day": is a calendar day, unless otherwise indicated.
- 2.10 "Demotion": Means the change in status of an employee from one class to another class having a lower maximum rate of salary, and which has less difficult duties and responsibilities.

- 2.11 "Department Head": Means the individual who is designated the administrative head of a department.
- 2.12 "Employee": Means a person legally occupying a position or office in Town service.
- 2.13 "Employee, Regular": Means a person in a full-time position or an expressly designated regular part-time position who has successfully completed a prescribed probationary period.
- 2.14 "Employee, Probationary": Means a person in a full-time or an expressly designated regular part-time position who has not yet completed a prescribed Probationary Period.
- 2.15 "Employee, Part-time": Means an employee regularly scheduled to work fewer than forty hours a week. A part-time employee may be a regular employee if the part-time position is expressly designate as a regular part-time position. All other part-time employees are not regular employees for purposes of these rules.
- 2.16 "Executive Employee": Department Head and senior executive positions including the Administrative Manager/Town Clerk appointed by the Town Manager to be "at will" positions. This means that either the employee or the Town may end the employment relationship at any time, with or without cause and with or without prior notice. Any newly created executive employee classifications will also be at-will, unless otherwise designated by the Town Council.
- 2.17 "Exempt Employee": Means all Employees who are classified by the Town as exempt from the overtime provisions of the Federal Fair Labor Standards Act ("FLSA") and applicable State laws.
- 2.18 "Layoff": Means an involuntary separation from employment for non-disciplinary reasons including, but not limited to, lack of funds for work, abolition of position, reorganization, or the reduction or elimination of service levels.
- 2.19 "Limited Term Employee" : Means employees who holds a full-time limited term position not to exceed twenty-four (24) months, unless specifically extended by the Town Manager for a period up to twenty-four (24) months, and who is entitled to paid vacation, sick leave, holidays and benefits consistent with benefits afforded to regular employees. Limited Term employees are employed on an at-will basis. This means that either the employee or the Town may end the employment relationship at any time, with or without cause and with or without prior notice.

- 2.20 "Merit Pay Increase": Means an increase in pay established in the salary plan which may be granted to an Employee for meritorious service and completion of prescribed periods of employment in the class. All step increases are merit increases and shall be approved by the Town Manager.
- 2.21 "Minimum Qualifications": Means the lowest acceptable degree of skill, education, abilities, experience, and personal and physical characteristics which are prescribed for the selection of an appointee to fill a position vacancy.
- 2.22 "Non-Exempt Employee": Means all Employees who are covered by the provisions of the FLSA or any applicable State laws. Employees in this category are entitled to overtime pay for work in excess of forty (40) hours in a work week.
- 2.23 "Overtime Pay": Means payments made to a non-exempt employee for hours worked in excess of amounts in designated worked period as specified by FLSA or for hours in excess of regularly scheduled work hours engaged in work activities as specified in a negotiated labor contract. Overtime pay shall be computed in accordance with applicable laws and any applicable Memorandum of Understanding.
- 2.24 "Position": Means a group of current duties and responsibilities assigned or delegated by competent authority requiring the full time or part time service of one person.
- 2.25 "Probationary Period": The length of continuous service for which a part-time or full-time employee, other than an executive or at-will management employee, must serve in order to attain the status of regular employee.
- 2.26 "Promotional Probationary Period": Means the six (6) months following the promotion during which time the employee may be returned to their former classification, without prejudice and with all rights and benefits being restored to the employee as if the promotion had not occurred. The Town Manager at their sole discretion may extend the probationary period by three (3) months up to three (3) times for total extensions of up to nine (9) months.
- 2.27 "Resignation": Means the voluntary termination of employment of any Employee.
- 2.28 "Suspension": Means the temporary removal of an Employee from service, without pay, for disciplinary reasons and for a specified period of time.
- 2.29 "Temporary or Irregular Employee": Means a person in a temporary or irregular position hired for a period not to exceed 999 hours in a fiscal year, unless specifically authorized by the Town Manager, and who is paid on an hourly basis

and who is not entitled to paid vacation, holidays or benefits established for regular employees (except as may otherwise be required by law). Temporary or irregular employees are employed on an at-will basis. This means that either the employee or the Town may end the employment relationship at any time, with or without cause and with or without prior notice. Part-time employees who are not employed in expressly designated regular part-time positions are also temporary or irregular employees, regardless of the length of employment.

- 2.30 "Town Service": Means all positions and departments and agencies of the Town that are subject to control and regulation by the Town Council of the Town of Ross.
- 2.31 "Transfer": Means a change from one position to another in the same or comparable class.
- 2.32 "Working Day": Means a day on which the administrative offices of the Town are open to conduct normal business, unless otherwise indicated.

### **SECTION 3 - APPLICATION AND SELECTION FOR EMPLOYMENT**

- 3.1 Employment Policy: Selection of new employees to fill vacancies within the Town service shall be on the basis of qualification. The Town may require all applicants for employment to complete and submit applications, agreements, or statements related to their employment in accordance with these rules and, as provided by the policies and procedures of the Town Manager.
- 3.2 Equal Opportunity: The Town does not discriminate on the basis of age (40 and over), color, race, ancestry, citizenship, religion, sex (including pregnancy, childbirth or related medical conditions), marital status, domestic partnership status, national origin, veteran's status, sexual orientation, gender identity, gender expression, mental or physical disability, medical condition, genetic characteristics or information, legally protected medical status or any other basis protected by law in hiring or retention of employees. When necessary, the Town also makes reasonable accommodation for those with qualifying disabilities and reasonable accommodation when requested with the advice of health care providers, for pregnancy, childbirth and related medical conditions. (Please see Town Anti-Discrimination Policy [Section of this Manual] and Pregnancy Disability Leave Policy [Section \_ of this Manual].)
- 3.3 Recruitment: An announcement of a vacancy shall be posted on the Town's website, and through other appropriate methods as determined by the Town Manager.

- 3.4 Application: Application for employment shall be made upon official forms furnished by the Town and filed in the Human Resources Office on or before the filing date specified in the job announcement. The application may solicit information covering education, experience, references, and other pertinent items. All applications are confidential records of the Town and under no circumstances will they be returned to the applicants or displayed publicly. Fingerprints may be required for sworn offices or for purposes of security.
- 3.5 Disqualification: The Town Manager may refuse to accept an application, or, subsequent to accepting an application, may disqualify an applicant whenever it is found:
- 3.5.1 That the applicant does not possess the minimum qualifications for the class or position;
  - 3.5.2 The applicant has not submitted the application correctly or within the prescribed time limits;
  - 3.5.3 The applicant has directly or indirectly obtained information regarding examinations to which, as an applicant, the individual was not entitled;
  - 3.5.4 The applicant has been dismissed from public service for cause; or
  - 3.5.5 The applicant has made false statements of material facts in their application, or has practiced deception or fraud in securing eligibility.
- 3.6 Medical, Psychological, or Psychiatric Examination: Medical examination results are confidential by nature and are for the purpose of determining an employee's ability to perform the essential duties of the job. All records or finding of medical or psychological evaluations should be maintained in a secure file, separate from other personnel documents.
- 3.6.1 A medical examination shall be required prior to the final appointment of any new employee to determine whether the employee can carry out the essential functions of the position or to establish any accommodations necessary for the employee due to a disability. Medical examination will only be required to the extent it is job-related and consistent with business necessity and where all entering employees in the same class of position are subject to the same examination.
  - 3.6.2 At the option of the Town Manager, a health examination shall be required prior to any promotion in the Town service where the physical requirements of the new position are more demanding than that held previously by the employee.



- 3.6.3 Any appointment or offer of employment is considered to be tentative pending a report of the satisfactory results of any examination required under this section. The appointment or offer of employment may be withdrawn if the applicant is found to be medically or psychologically unable to perform the essential duties of the position and if no reasonable accommodation can be made.
- 3.6.4 Any examination required by the provisions of this section will be at the expense of the Town. This section does not apply to routine return to work slips and medical releases provided by an employee's doctor or to medical certification an employee is required to provide in connection with a leave, accommodation or similar request.
- 3.7 Minimum Age Required: All persons who are selected for employment to an appointed civil office by the Town must be at least eighteen (18) years of age. Employees may be asked to provide proof that they are at least (18) years of age at any time.
- 3.8 Legal Authority to Work: Each applicant must attest to their legal authority to work and identify such on an I-9 Form provided by the Federal government. This verification must be completed as soon as possible after an offer of employment is made and in no event more than three (3) business days after an individual is hired. All offers of employment are conditional on furnishing satisfactory evidence of identity and legal authority to work in the United States.
- 3.9 Appointing Authority:
  - 3.9.1 Appointment to full-time regular, part-time regular or temporary or irregular positions shall be made by the Town Manager with the recommendation of the Department Heads as appropriate.
  - 3.9.2 Appointment of management and executive level positions reporting to the Town Manager shall be made by the Town Manager.

#### **SECTION 4 - TYPES OF APPOINTMENT**

- 4.1 Types of Appointment: All vacancies in the competitive service shall be filled by reinstatement, re-employment, promotion, transfer, demotion, or original appointment.
- 4.2 Demotion: A position may be filled by demotion of an employee in accordance with these rules or in the event of a necessary reduction in personnel due to lack of work or funds provided the employee meets the minimum qualifications

for the lower-level position. Such transfer shall not result in a loss to the employee of any accumulated vacation, sick or other accrued leave balances.

- 4.3 Executive Positions: All individuals appointed to designated executive positions are “at will” employees as provided above. These positions would typically be held by department head level staff or assistants reporting to the Town Manager with responsibility for “confidential” financial or personnel decisions. These positions require a high level of independence and professional judgment in performing assignments, interacting and communicating with the public, and advising the Council in terms of regulations, procedures and policies of the Town. Executive level employees may be dismissed by the Town Manager with or without cause and with or without prior notice. Nothing contained in these rules is intended to confer additional rights and benefits to these individuals.
- 4.4 Limited Term Employee : When workloads occur which do not require full-time permanent employees, limited term help may be employed. An employee may be employed full-time for a limited term not to exceed twenty-four (24) months, unless specifically extended by the Town Manager for a period up to twenty-four (24) months, and who is entitled to paid vacation, sick leave, holidays and benefits consistent with benefits afforded to regular employees. Limited Term employees are employed on an at-will basis. This means that either the employee or the Town may end the employment relationship at any time, with or without cause and with or without prior notice. All limited term employees shall be subject to a probationary period. However, completion of said probationary period does not change the at-will nature of the employment relationship between the Town and at-will limited term employees.
- 4.5 Probationary Period: Each new full-time or part-time employee shall be a Probationary Employee until the successful completion of a probationary period, the purpose of which is to give the employee the opportunity to demonstrate that he/she is qualified, able, and willing to meet the standards of the Town of Ross and the position for which they are hired. The normal probationary period is for one (1) year. If, at any time prior to the successful completion of the probationary period, the appropriate department head determines that it is in the best interest of the Town to terminate the employment of the Probationary Employee, this recommendation shall be made to the Town Manager. The Town Manager, either on recommendation of the appropriate department or the Town Manager’s own initiative, has the discretion to terminate the employment of a Probationary Employee or extend the probationary period for an additional six (6) months, if the Town Manager determines it is in the best interest of the Town to do so.

- 4.6 Promotion: The Town Manager may designate a vacant position as a "Promotional" position and open only to current regular Town employees. In the case of a promotion of an employee, the one year following the promotion will be a "promotional probationary period" during which time the employee may be returned to his/her former classification, at either the option of the Town Manager or the written request of the employee, without prejudice and with all rights and benefits being restored to the employee as if the promotion had not occurred.
- 4.7 Provisional Appointment: When a person meeting the minimum qualifications for the class and acceptable to the Department Head may be appointed temporarily upon approval of the Town Manager, time spent under provisional appointment shall be credited to the probationary period or used for computing any privileges accruing under the Personnel Rules and Regulations.
- 4.8 Re-Employment: Rehired Employees are considered new Employees from the effective date of their re-employment for all purposes, including the calculation of benefit levels.
- 4.9 Reinstatement: A permanent employee who has resigned in good standing may be reinstated to a vacant position in the same class as their previous position within a period of one year from the effective date of the employee's resignation. Reinstatement shall be on probationary status. After successful completion of the probationary period, the employee shall be restored to full seniority as if service was unbroken.
- 4.10 Temporary or Irregular Appointment: When workloads occur which do not require full-time permanent employees, temporary help may be employed. Temporary or irregular employees may be employed for a period not to exceed a total of 999 hours in a fiscal year, unless specifically authorized by Town Council. Temporary or irregular employees shall be paid on an hourly basis and are not entitled to paid benefits, including vacations and holidays, or benefits established for regular employees (except as may otherwise be required by law). Temporary or irregular employees shall not acquire permanent status for the period so employed.
- Temporary or irregular employees shall be subject to a probationary period. However, completion of said probationary period does not change the at-will nature of the employment relationship between the Town and temporaries.
- 4.11 Transfer: Upon recommendation by the supervisor or Department Head, and approval of the Town Manager, or upon the employee's request and approval of the Town Manager, an employee may be transferred from one position in a department to another position of the same or comparable classification in

another department. Any Employee transferred to a different position shall possess the minimum qualifications for the position. Such transfer shall not result in a loss to the employee of any accumulated vacation, sick or other accrued leave balances.

- 4.12 Oath or Affirmation: Pursuant to Government Code sections 3100-3109, all disaster service workers (i.e., public employees) shall, before they enter upon the duties of their employment, take and subscribe to the oath or affirmation required under Government Code sections 3100-3109. Accordingly, all employees of the Town must complete and sign an Oath or Affirmation of Allegiance on the first day of employment or as soon thereafter as practicable in accordance with the Constitution of the State of California. A signed copy will be included in the employee's personnel file.

## **SECTION 5 - CLASSIFICATION PLAN**

- 5.1 Content of Class Specification: The classification shall consist of a position description setting forth the skills, experience and responsibility attached to the position, and the duties required of the position.
- 5.2 Designation of Class Specification: The duties, responsibilities, and qualifications of positions within the Town service shall be determined by and approved by the Town Manager. Class specifications (i.e., Job descriptions) shall be periodically reviewed and updated to accurately reflect the duties assigned to the positions. Class specifications shall be kept on file by the Administrative Manager/Town Clerk, with a copy being provided to each employee of their current job description. As used in these Rules, "Job Description" and "Class Specification" have the same meaning.
- 5.3 Interpretation and Significance: The class specifications are not to be considered restrictive nor construed as limited the duties and responsibilities of any position. They neither limit nor modify the authority of any Town official to assign duties to, direct, and control the work of Employees in the Town service. However, no Employee shall be required to perform duties of the position outside of the classification to which they have been appointed, except on a temporary basis. The class specifications are descriptive and explanatory of characteristic duties and responsibilities of positions in a class and, as such, they are to be interpreted in their entirety and in relation to other classes in the classification plan.

## **SECTION 6 - COMPENSATION**

- 6.1 Salary Plan: A Salary Plan shall be authorized by the Town Council. This plan may establish the salary range and steps for each full-time position in the Town. With the exception of the Town Manager and department heads which may

have a set salary, all full-time employee classes should have a four step range and the plan should provide for the conditions for awarding merit pay increases over and above step advancements.

- 6.2 Payroll: The salaries and wages of all regularly elected, appointed or employed officers and employees of the Town shall be payable and paid bi-weekly. The payroll need not be audited by the Town Council prior to payment, provided, however, that departmental payrolls or attendance records are duly certified for payment or approved by the department head or Town Manager.
- 6.3 Anniversary Dates: For the purpose of salary administration, each employee shall have an Anniversary Date which shall be determined as herein provided.
  - 6.3.1 For a new employee, the first Anniversary date shall occur on the same date as the hire date one year from the first day the employee was employed in a permanent position and every subsequent year from that date.
  - 6.3.2 For an employee who is promoted, the first Anniversary Date shall occur each year on the same date on which the employee was promoted.
  - 6.3.3 For an employee who is, demoted, the Anniversary Date shall be the first day of the pay period closest to one (1) year from the first day on which the demotion is effective.
  - 6.3.4 For an employee whose salary is reduced, the Anniversary Date shall be the first day of the pay period closest to one (1) year from the first day on which the salary reduction was effective.
- 6.4 Anniversary Date Upon Transfer: Anniversary Dates of employees who are transferred to a job classification designated by the same salary range or whose job class is reclassified from one salary range to another shall not be changed.
- 6.5 Step Advancements:
  - 6.5.1 If ranges are approved by the Town Council or are specified in a duly adopted MOU, and funding is available in the current fiscal year budget, step advancements shall be made within the appropriate salary range from each step to the next higher on each anniversary date, provided the employee demonstrates satisfactory or better job performance, as determined by the Town Manager. Step advancement is not automatic and an employee does not have a right to step advancement, absent compliance with the procedures in this section.

- 6.5.2 Step advancements authorized herein shall be made from each step to the next higher step within the limits of the appropriate salary range. Step advancements shall be made on each Anniversary Date. No advancement shall be made without the approval of the Town Manager, at his or her complete discretion. Step advancements may be suspended where funding is not available for their implementation in the current fiscal year budget or where otherwise interrupted or discontinued by action of the Town Council.
- 6.5.3 With the recommendation of the department head and the approval of the Town Manager, at his or her complete discretion, an employee who has demonstrated superior performance or skills may be advanced to a higher step in the salary range earlier than their anniversary date.
- 6.6 Salary Upon Initial Appointment: Upon initial appointment with the Town, a Regular employee shall be placed on Step A of the salary range if a range is specified. However, the Town Manager, at his or her sole discretion, may appoint to a higher step within the range based on the applicant's qualifications.
- 6.7 Merit Pay Increases: Department Heads may recommend to the Town Manager or the Town Manager on the Town Manager's own initiative may grant a merit increase not to exceed two and one-half or five percent to any employee under the Department Head's direction who is deemed to have rendered meritorious service to the Town and is deserving of such raise. Merit pay is awarded on a one time basis, but future consideration for new meritorious service may be given as long as all merit pay within a fiscal year does not exceed the five percent total limit. Any such recommendation shall be advisory to the Town Manager which shall have the sole discretion to grant the merit pay. Merit pay is in addition to an employee's base salary and does not become part of an employee's base. The amount is determined with reference to base salary before any supplemental pay, bonuses or overtime. Merit pay recommendations and decisions are not subject to grievance.
- 6.8 Salary Upon Promotion: Upon promotion, an employee shall be placed in the appropriate step of the range for the new class based upon the employees qualifications, at the sole discretion of the Town Manager.
- 6.9 Withholding Advancement: Supervisors and their superiors have the authority and responsibility to recommend to the Town Manager that a salary advancement not be awarded if that salary advancement is not merited. Supervisors shall notify the employee in writing as to the reasons for recommending that a salary advancement not be awarded.

## **SECTION 7 - GENERAL WORKING CONDITIONS**

### **7.1 Employee Personnel Files**

- 7.1.1 Records Custodian: The Administrative Manager/Town Clerk is responsible for the maintenance of employee personnel files. Public Safety records shall be maintained as proscribed by law in the Police Department.
- 7.1.2 Contents: A personnel file is maintained for each employee in Town service. All documents relating to each employee, other than medical records and any other records that should be maintained in a separate employee file, are filed therein. These include, but are not limited to, application and appointment papers, work history with the Town of Ross, employee evaluations, safety and training records, background information records, pay and leave records, and disciplinary records.
- 7.1.3 Security: Personnel files contain private and confidential documents pertaining to the employment status and background of individual employees. These records, therefore, may be reviewed only upon authorization of the Department Head, Town Manager or Administrative Manager/Town Clerk, the employee, an employee's representative and the Town Attorney to the extent necessary and reasonable to exercise their duties. With the exception of letters of reference, employees may review their own human resource file at times arranged with the Administrative Manager/Town Clerk, or the Police Chief in the case of police officer employees. Employees may respond in writing to the contents of their personnel file. Such responses become a permanent part of their file.

### **7.2 Hours of Work**

- 7.2.1 Normal - The standard work week for all except public safety personnel shall be forty (40) hours. Working hours shall be assigned by the Town Manager.
- 7.2.2 The hours of work for public safety personnel shall be in accordance with the applicable Ross Police Officers' Association's (RPOA) Memorandum of Understanding and the provisions of State and Federal law.
- 7.2.3 The Town Manager may in the best interest of the Town and on a case-by-case basis, authorize an alternative work schedule for an employee.

- 7.3 Overtime: It is the policy of the Town to comply with applicable wage and hour law, including the federal Fair Labor Standards Act (FLSA). Without limiting the rules below, overtime (or compensatory time off) will be provided in compliance with the minimum standards of the FLSA. Non-exempt employees are required to accurately record all hours worked, neither over-reporting nor under-reporting time worked. No supervisor may authorize any non-exempt employee to work "off the books" or "off the clock."
- 7.3.1 Overtime shall mean work which commences either before the regular work time or following the regular work time and is continuous. Overtime shall be approved in advance by the Town Manager and Department Heads and shall be kept at a minimum consistent with the maintenance of essential Town services. Employees can receive credit for overtime work not approved in advance, if the overtime work is performed under emergency or unusual conditions, and is subsequently approved by the Town Manager. Overtime does not apply to employees properly classified as exempt under the FLSA.
- 7.3.2 Overtime, equivalent to two (2) hours, shall be paid to maintenance personnel for each twenty-four hours of "stand-by" duty, except that if the employee is called during that time, additional overtime shall be paid for any hours (portions thereof) worked in excess of two hours.
- 7.3.3 Overtime shall be compensated at one and one-half times the regular hourly rate of the employee and shall be paid as either compensatory time off (CTO) or pay, at the employee's discretion. However, an employee can accumulate only up to forty (40) hours of CTO and it must be used during the fiscal year in which it is accumulated. Any CTO remaining at the end of the fiscal year shall be paid as salary.
- 7.3.4 If an employee, working on a holiday, is already receiving overtime pay for that day, the employee shall receive overtime premiums required for work in excess of 40 hours in a workweek and shall not be entitled to any holiday special premium, unless otherwise specified in a collective bargaining or employment agreement.
- 7.3.5 Public Safety personnel shall be paid overtime in accordance with the RPOA memorandum of understanding.
- 7.3.6 Overtime provisions do not apply to Department Heads and any other employee determined by the Town to be exempt.
- 7.4 Holidays: The Town recognizes the following days as official Town holidays and, with the exception of Public Safety employees, Town offices shall be closed and eligible non-emergency employees shall be given the day off with pay:



New Year's Day  
Martin Luther King, Jr. Day  
President's Day  
Memorial Day  
Independence Day  
Labor Day  
Veteran's Day  
Thanksgiving Day  
The day following Thanksgiving Day  
Christmas Eve  
Christmas Day  
1 Floating Holiday (*which may only be used for a religious or cultural holiday, to extend a holiday listed under section 7.4, employee birthdays, employee anniversaries, or other state or federal holidays during which the Town remains open.*)

7.4.1 If a holiday falls on a Saturday, the preceding Friday shall be deemed a holiday. If a holiday falls on a Sunday, the following Monday shall be deemed a holiday.

7.4.2 Eligibility: An employee must either work or be on a previously-approved paid status for the entire workday immediately before and the first entire workday immediately after a holiday in order to receive compensation for that holiday.

7.5 Disaster Service Workers: The protection of the health and safety, and preservation of lives and property of the citizens of the Town of Ross from the effects of natural, manmade, or war-caused emergencies which result in conditions of disaster or in extreme peril to life, property and resources is of paramount Town importance requiring the responsible efforts of public and private agencies and individual citizens. In furtherance of the exercise of the power of the Town in protection of its citizens and resources, ALL Town employees are hereby declared to be Disaster Service Workers subject to such disaster service activities as may be assigned to them by their superiors or by law.

## **SECTION 8 - LEAVES OF ABSENCE PROVISIONS**

8.1 Vacation Leave: The Town believes that its Employees and the Town benefit when Employees have scheduled time away from work for relaxation and recreation. In order to provide for such absence without concern for continuation of pay, the Town has adopted the following paid vacation leave plan:

- 8.1.1 Accrual: Vacation will be accrued from the time an employee begins employment with the Town, and the earning of vacation, under the schedule below will not be affected by promotion of the employee. Vacation will be accrued as follows:

General Employees

<u>Years of Service</u>	<u>Hours Accrued Per Year Prorated and Credited as Worked</u>
1 - 4 Years	96 hours (12 days)
After 4 Years	120 hours (15 days)
After 9 Years	168 hours (21 days)

Public Safety Employees

Public Safety personnel shall accrue vacation hours in accordance with the RPOA memorandum of understanding.

- 8.1.2 Eligibility: Vacation shall be available to an employee on the first working day after the employee has completed two months of service. Temporary or irregular employees are not eligible for vacation benefits.
- 8.1.3 Each regular employee who works less than full-time shall earn vacation in proportion to the time worked.
- 8.1.4 It is the policy of the Town that employees should take their vacation time during the year that it is granted. However, employees may accrue not more than one-and-one-half times the annual accrual. Once an employee reaches this accrual cap, the employee will accrue no additional vacation time until the employee's vacation balance falls below the cap. An employee shall have no right to any vacation time above the cap, including where it is granted or recorded in error. Employees have the responsibility to manage and schedule their vacation time throughout the year, including anticipating emergencies and peak work periods, to assure they are not in danger of exceeding the cap. The Town Manager may grant a temporary exception to the accrual cap where the Town Manager determines employees' ability to use accrued leave is impeded, despite advance planning for an employee to remain below the cap, because of workload and the actual denial of vacation time requests or due to federal, state, local, or Town declared emergencies. An exception must be in writing, issued before an employee exceeds the accrual cap and may include additional terms, as determined by the Town Manager.
- 8.1.5 Vacation shall be taken at a time that meets the approval of the Department Head. Employees are to request and receive approval for

the use of vacation time in advance of its use and according to the advance notice and procedures required by the Department Head. Employees should request use of vacation time sufficiently in advance of its use so that work load, departmental needs and potential conflicts with the schedules of other employees can be addressed.

8.2 Administrative Management Leave: Six days of administrative leave shall be provided each calendar year to the management level employees in lieu of comp time or overtime and in recognition of the expectations and demands of their positions, which may include work outside of or in addition to normal work hours.

8.3 Sick Leave: The Town provides a sick leave program for the purpose of minimizing the economic hardships that may result from unexpected personal or dependent illness or injury. It is not intended for incidents of minor discomfort.

8.3.1 Accrual:

A. General Employees - Employees shall earn one eight (8) hour working day of sick leave with pay for each full calendar month of regular employment from their first day of employment. Regular part-time employees shall earn sick leave in proportion to their lesser time of work. Temporary or irregular employees shall earn sick hours according to State law.

B. Public Safety - Sick leave for Public Safety Officers shall be in accordance with the RPOA memorandum of understanding. The Police Chief earns hours the same as General employees.

8.3.2 Administration: In order to receive compensation while on sick leave, the employee shall notify their immediate superior prior to or at the time set for beginning their daily duties, or as may be specified by the Department Head, of the reason for required such leave. Leaves of more than five (5) days for this reason require a doctor's certificate indicating absence from work was necessary.

8.3.3 Eligibility: General employees shall be entitled to take sick leave with pay after two months of continuous employment with the Town. Eligible part-time employees shall be entitled to take sick leave with pay after completing the equivalent of two calendar months of employment. Temporary or irregular employees follow State law and can use sick hours on the 90<sup>th</sup> day of employment. Sick leave shall be granted to regular employees in the following cases:

- A. An employee's illness or injury.
- B. An employee's dental, eye or other physical or medical examination or treatment by a licensed practitioner.
- C. Providing necessary care for an ill or injured member of the immediate family, as defined in this paragraph. Absences for this reason may require a doctor's statement under the same circumstances as other sick leave use. Eligible employees may use sick leave in an amount not to exceed one-half of their annual accrual, to attend to the illness of child, parent, spouse or domestic partner of the employee.
- D. Death in the immediate family. Leave should not exceed three work days.

8.3.4 Sick Leave Payoff General Employees: Upon termination of employment by retirement, an employee who leaves the Town service in good standing shall receive compensation for all accumulated unused sick leave equal to fifty percent of the employee's then-accrued sick leave, but not to exceed a sick leave payoff of up to forty five days (360 hours). Temporary or irregular employees will not receive a sick leave payoff unless required by federal or state law.

Public Safety employees' sick leave payoff shall be in accordance with the RPOA memorandum of understanding.

Alternatively, employees can choose to apply the accrued sick leave as retirement service credit through CalPERS.

8.3.5 On the Job Injury:

- A. When a regular employee takes sick leave as a result of a condition for which the employee receives compensation for workers' compensation:
  - 1. The pay the employee receives from the Town while thus on leave shall be at a rate that pays the employee the difference between the amount of the disability payment and his regular rate of pay.
  - 2. Whenever the employee receives a check from the State Compensation Insurance Fund, the employee shall report to the Administrative Manager/Town Clerk the amount of the check and the time period for which it represents payment.

- 8.4 Family And Medical Leave: To the extent not already provided for under current leave policies and provisions, the Town will provide family and medical care leave as set forth in the Department of Labor regulations implementing the Federal Family and Medical Leave Act of 1993 ("FMLA"), and the California regulations implementing the California Family Rights Act ("CFRA"):

8.4.1 Definitions:

- A. "12-Month Period" means a rolling 12-month period measured backward from the date leave is first taken and continuous with each additional leave day taken.
- B. "Single 12-month period" means a 12-month period which begins on the first day the eligible employee takes FMLA leave to take care of a covered servicemember and ends 12 months after that date.
- C. "Four month" maximum leave for PDL means four months, or the working days in one-third of a year or 17 1/3 weeks, depending on the period(s) of actual disability.
- D. "Child" means a child under the age of 18 years of age, or 18 years of age or older who is incapable of self-care because of a mental or physical disability. An employee's child is one for whom the employee has actual day-to-day responsibility for care and includes, a biological, adopted, foster or step-child.

A child is "incapable of self-care" if the child requires active assistance or supervision to provide daily self-care in three or more of the activities of daily living or instrumental activities of daily living — such as, caring for grooming and hygiene, bathing, dressing and eating, cooking, cleaning, shopping, taking public transportation, paying bills, maintaining a residence, using telephones and directories, etc.

- E. "Parent" means the biological, adoptive, step or foster parent of an employee, or an individual who stands or stood in loco parentis (in place of a parent) to an employee when the employee was a child. This term does not include parents-in-law.
- F. "Spouse" means a husband or wife as defined or recognized under California State law for purposes of marriage. "Spouse" also includes registered domestic partners and same-sex partners in marriage.

- G. "Domestic Partner," as defined by Family Code §§ 297 and 299.2, shall have the same meaning as "Spouse" for purposes of CFRA Leave.
- H. "Serious health condition" means an illness, injury impairment, or physical or mental condition that involves:
  - 1. Inpatient Care (i.e. an overnight stay or the expectation of an overnight stay and occupying a bed, even if it later develops that such person can be discharged or transferred to another facility and does not actually remain overnight) in a hospital, hospice, or residential medical care facility, including any period of incapacity (i.e., inability to work, or perform other regular daily activities due to the serious health condition, treatment involved, or recovery therefrom). A person is considered an "inpatient" when a health care facility formally admits the person to the facility with the expectation that they will remain at least overnight, even if it later develops that such person can be discharged or transferred to another facility, and does not actually remain overnight; or
  - 2. Continuing treatment by a health care provider: A serious health condition involving continuing treatment by a health care provider includes any one or more of the following:
    - a. A period of incapacity (i.e., inability to work, or perform other regular daily activities) due to serious health condition of more than three consecutive full calendar days, and any subsequent treatment or period of incapacity relating to the same condition, that also involves:
      - i. Two or more in-person visits to a health care provider for treatment within 30 days of the first day of incapacity, unless extenuating circumstances exist. The first in-person treatment visit must take place within seven days of the first day of incapacity; or
      - ii. Treatment by a health care provider on at least one occasion which must take place within seven days of the first day of incapacity and results in a regimen of continuing treatment under the supervision of the health care provider. This includes for example, a course of prescription medication or therapy requiring special equipment to resolve or alleviate

the health condition. If the medication is over the counter, and can be initiated without a visit to a health care provider, it does not constitute a regimen of continuing treatment.

- b. Any period of incapacity due to pregnancy or for prenatal care. This entitles the employee to FMLA leave, but not CFRA leave. (Under California law, an employee disabled by pregnancy is eligible for pregnancy disability leave.)
  - c. Any period of incapacity or treatment for a chronic serious health condition. A chronic serious health condition is one which:
    - i. Requires periodic visits (defined as at least twice a year) for treatment by a health care provider or by a nurse supervised by the provider;
    - ii. Recurs over an extended period of time; and
    - iii. May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, migraine headaches, etc.). Absences for such incapacity qualify for leave even if the absence lasts only one day.
  - d. A period of incapacity which is permanent or long term due to a condition for which treatment may not be effective, but which requires the continuing supervision of a health care provider.
  - e. Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive, full calendar days in the absence of medical treatment.
- i. "Health Care Provider" means:
- 1. A doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the State of California;

2. Individuals duly licensed as a physician, surgeon, or osteopathic physician or surgeon in another state or jurisdiction, including another country, who directly treat or supervise treatment of a serious health condition;
  3. Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist) authorized to practice in California and performing within the scope of their practice as defined under California State law;
  4. Nurse practitioners and nurse-midwives, clinical social workers, and physician assistants who are authorized to practice under California State law and who are performing within the scope of their practice as defined under California State law;
  5. Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts; and
  6. Any health care provider from whom an employer or group health plan's benefits manager will accept a medical certification of the existence of a serious health condition to substantiate a claim for benefits.
- J. "Covered active duty" means: (1) in the case of a member of a regular component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country, or (2) in the case of a member of a reserve component of the Armed Forces (members of the U.S. National Guard and Reserves), duty during the deployment of member of the Armed Forces to a foreign country under a call or order to active duty under certain specified provisions.
- K. "Covered Servicemember" means (1) a current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness; or (2) a veteran who is undergoing medical treatment, recuperation, or therapy, for a serious injury or illness and who was a member of the Armed Forces, including a member of the National Guard or Reserves, at any time during the period of five years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy and who was discharged within the previous five years.



- L. "Outpatient Status" means, with respect to a covered servicemember, the status of a member of the Armed Forces assigned to either: (1) a military medical treatment facility as an outpatient; or (2) a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients.
- M. "Next of Kin of a Covered Servicemember" means the nearest blood relative other than the covered servicemember's spouse, parent, son, or daughter, in the following order of priority: Blood relatives who have been granted legal custody of the covered servicemember by court decree or statutory provisions, brothers and sisters, grandparents, aunts and uncles, and first cousins, unless the covered servicemember has specifically designated in writing another blood relative as their nearest blood relative for purposes of military caregiver leave under the FMLA.
- N. "Serious Injury or Illness": (1) in the case of a member of the Armed Forces, including a member of the National Guard or Reserves, means an injury or illness that was incurred by the servicemember in the line of duty on active duty that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating. A serious injury or illness may also result from the aggravation of a pre-existing condition in the line of duty on active duty; or (2) in the case of a veteran, means an injury or illness that was incurred in the line of duty when the veteran was on active duty in the Armed Forces, including any injury or illness that resulted from aggravation of a preexisting condition in the line of duty on active duty. The injury or illness may manifest itself during active duty or may develop after the servicemember becomes a veteran, and is (a) a continuation of a serious injury or illness that was incurred or aggravated during active duty and rendered the servicemember unable to perform their duties of office, grade, rank, or rating, (b) a physical or mental condition for which the veteran received a U.S. Department of Veterans Affairs Service Related Disability Rating of 50 percent or greater and the need for care is related to that condition, (c) a physical or mental condition because of disability or disabilities related to military service that substantially impairs the veteran's ability to work, or would do so absent treatment, or (d) any injury for which the veteran has been enrolled in the Department of Veterans' Affairs Program of Comprehensive Assistance for Family Caregivers.

#### 8.4.2 FMLA/CFRA Eligibility:

- A. Employees who have been employed by the Town for 12 months or more and who have worked at least 1,250 hours during the preceding 12-month period, are eligible for Family Medical Leave Act (FLMA)/California Family

Rights Act (CFRA) leave of absence (family and medical leave) under the following circumstances:

1. For the birth and care of a newborn child, or the placement and initial care of an adopted or foster care child; or
  2. To care for the employee's spouse, child, or parent with a serious health condition; or
  3. For the employee's own serious health condition; or
  4. Leave for a "qualifying exigency" may be taken arising out of the fact that an employee's spouse, son, daughter, or parent is on covered active duty or call to active duty status (under the FMLA only, not the CFRA). For qualifying exigency leave, a "son or daughter" means an employee's biological, adopted, foster or step-child, a legal ward, or a child in which the employee stands in loco parentis (in place of a parent). The son or daughter may be of any age; or
  5. Leave to care for a spouse, son, daughter, parent, or "next of kin" who is a covered servicemember of the United States Armed Forces who has a serious injury or illness incurred in the line of duty while on active military duty or existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces (this leave can run up to 26 weeks of unpaid leave during a single 12-month period) (under the FMLA only, not the CFRA). For military caregiver leave, a "son or daughter of a covered servicemember" means the covered servicemember's biological, adopted, or foster child, step-child, legal ward, or a child for whom the covered servicemember stood in loco parentis, and who is of any age.
- B. Leave Entitlement: Eligible employees are entitled to a total of 12 workweeks of leave during any 12-month period (or 26 weeks to care for a covered servicemember in a single 12-month period). Where FMLA leave qualifies as both military caregiver leave and care for a family member with a serious health condition, the leave will be designated as military caregiver leave first.
- C. Leave Request Procedures: The Town Manager must approve family and medical leave requests in advance. If the need for the leave is foreseeable, employees must provide the Town with at least 30 days advance notice before the leave is to begin. If the need is not foreseeable, and 30 days' notice is not possible, employees must give notice as soon as practicable,

and within one or two days of learning of the need for leave. All employees requesting a leave extension must provide medical certification of the need for continued leave.

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

If leave is requested to care for a child, parent, or spouse's serious health condition, or for the employee's serious health condition, there is no minimum amount of leave that must be taken. However, the notice and medical certification provisions of this policy must be complied with.

- E. Parents or Spouses Both Employed by the Town: In any case in which both parents are employed by the Town and are entitled to leave, the aggregate number of workweeks of CFRA leave to which both may be entitled may be limited to 12 workweeks during any 12-month period if leave is taken for the birth or placement for adoption or foster care of the employees' child (i.e., bonding leave). Similarly, where married spouses both work for the Town, they may be limited to a total of 12 weeks of FMLA leave for bonding leave.

In any case in which a husband and wife both employed by the Town are entitled to leave, the aggregate number of workweeks of leave to which both may be entitled may be limited to 26 workweeks during any 12-month period if leave is taken to care for a covered servicemember under FMLA.

#### 8.4.3 Pregnancy Disability Leave Eligibility:

- A. The Town of Ross will grant each female employee a reasonable leave of absence, not to exceed 4 months, as needed, for the period(s) of time a woman is disabled by pregnancy, childbirth, or related medical conditions. In addition, the Town will provide a reasonable accommodation for pregnancy, childbirth or related medical conditions if requested by the employee upon advice and medical certification of her health care provider. Reasonable accommodation may include a temporary transfer to a less strenuous or hazardous position, if requested, supported by proper medical certification and otherwise qualifying as reasonable accommodation. There is no length of service requirement before an

employee disabled by pregnancy is entitled to a pregnancy disability leave. Retaliation against employees for taking Pregnancy Disability Leave ("PDL") is prohibited by law and Town policy.

B. Employee Eligibility Criteria: To be eligible for PDL, the employee must be disabled by pregnancy, childbirth, or related medical conditions, as defined by law.

C. Events That Entitle an Employee to Leave: The 4-month PDL allowance includes any time taken (with or without pay) for any of the following reasons:

1. The employee is unable to work at all, is unable to perform any one or more of the essential functions of her job, or is unable to perform any one or more of the essential functions of her job without undue risk to herself, the successful completion of her pregnancy, or to other persons, because of pregnancy or childbirth or because of any medically recognized physical or mental condition that is related to pregnancy or childbirth (including severe morning sickness); or
2. The employee needs to take time off for prenatal care.

D. The Amount of PDL that May Be Taken:

Pregnancy Disability Leave may be taken in one or more periods, but may not exceed 4 months total. "Four months" means the number of days the employee would normally work within 4 months. For a full-time employee who works 5 eight-hour days per week, "four months" means 88 working and/or eight-hour days of leave entitlement, based on an average of 22 working days per month for 4 months.

#### 8.4.4 Employee Benefits and Responsibilities:

A. Pay and Benefits During FMLA/CFRA and Pregnancy Disability Leave

1. FMLA/CFRA and PDL Leaves are unpaid. However, an eligible employee may use and, in certain instances the Town may require an employee to concurrently use accrued paid leave to remain in paid status.
2. An employee on FMLA/CFRA Leave may elect or the Town may require an employee to use accrued sick leave only if the leave is for the employee's own serious health condition. An employee may not use sick leave during a period of leave in connection with

the birth, adoption, or foster care of a child, or to care for a child, parent, or spouse with a serious health condition, unless “mutually agreed” to by the employee and the Town.

3. An employee on PDL must use all accrued paid sick leave. When the accrued leave is exhausted, employees may continue the balance of their PDL absence on unpaid status.
4. Where an employee has earned or accrued paid vacation, administrative leave, or compensatory time, that paid leave may be substituted for all or part of any FMLA/CFRA or PDL unpaid leave under this policy.
5. The receipt of vacation pay, sick leave pay, or disability benefits (if any) will not extend the length of the Pregnancy Disability Leave.
6. Vacation pay, sick pay and seniority accrue only when paid leave is being substituted for unpaid leave and only if the employee would otherwise be entitled to such accrual.
7. The Town will continue to provide and pay for the group health plan(s) to employees on FMLA/CFRA and PDL leave to the same extent as if the employee had not taken leave. Employees may make the appropriate contributions for continued coverage under the preceding non-health benefit plans by payroll deductions or direct payments made to these plans. Depending on the particular plan, the Town will inform the employee whether the premiums should be paid to the carrier or to the Town. An employee’s coverage on a particular plan may be dropped if they are more than 30 days late in making a premium payment. However, the employee will receive a notice at least 15 days before coverage is to cease, advising the employee that they will be dropped if the employee’s premium payment is not paid by a certain date. Employee contribution rates are subject to any change in rates that occurs while the employee is on leave.
8. If an employee fails to return to work after their leave entitlement has been exhausted or expires, the Town shall have the right to recover its share of health plan premiums for the entire leave period, unless the employee does not return because of the continuation, recurrence, or onset of a serious health condition of the employee or their family member which would entitle the employee to leave, or because of circumstances beyond the employee’s control. The Town shall have the right to recover group

health care premiums through deduction from any sums due the Town (e.g. unpaid wages, vacation pay, etc.).

B. Requesting and Taking FMLA/CFRA and PDL Leave

1. When possible, employees must make a reasonable effort to schedule foreseeable planned medical treatments so as not to unduly disrupt the Town's operations.
2. An employee should request FMLA/CFRA and Pregnancy Disability Leave by completing a Request Form and submitting it to the Administrative Manager/Town Clerk.
3. A request for FMLA/CFRA and Pregnancy Disability Leave must be supported by medical certification from a health care provider, including the following information. The written certification must provide the contact information for the health care provider, including name, address, phone number, fax number, and type of medical practice/specialty.
4. If the leave is requested because of the employee's own serious health condition, the certification must identify the date, if known, on which the serious health condition commenced and the probable duration of the condition, and include a statement that the employee is unable to work at all or is unable to perform the essential functions of their position due to their serious health condition.
5. If leave is requested because of the employee's family member is the patient, the certification should state the date, if known, on which the serious health condition commenced; the probable duration of the condition; an estimate of the amount of time which the health care provider believes the employee needs to care for the child, parent, domestic partner, or spouse, and a statement that the serious health condition warrants the participation of the employee to provide care during a period of treatment or supervision of the child, parent or spouse.
6. If intermittent leave or a reduced schedule is requested, then the certification must also provide information that establishes the medical necessity of intermittent or reduced schedule leave and a) an estimate of the dates and duration of such treatment and periods of recovery (planned medical treatment); b) an estimate of the frequency and duration of the episodes of incapacity due to the serious health condition (unforeseeable leave for employee's own

serious health condition); or c) an estimate of the frequency and duration of leave (unforeseeable leave for family member's serious health condition).

7. If the leave requested is PDL, the certification must include a statement that the employee is disabled due to pregnancy, the date on which the employee became disabled due to pregnancy; the probable duration of the period or periods of disability; and an explanatory statement that, due to disability, the employee is unable to work at all or is unable to perform one or more of the essential functions of her position without undue risk to herself, her pregnancy or to other persons.
- C. Reinstatement after FMLA/CFRA and Pregnancy Disability Leave: Unless the Town and employee have already agreed to a return to work date, an employee who has taken FMLA/CFRA and/or Pregnancy Disability Leave must notify the Administrative Manager/Town Clerk at least two work days before their anticipated return to work. An employee who timely returns to work at the expiration of the leave will be reinstated to their former position, or a comparable position, whenever possible and consistent with applicable law. An employee taking FMLA/CFRA or PDL Leave must be released by a health care provider. The release should be in writing and submitted on or before the employee's return to work. Employees have no greater rights to reinstatement, benefits and other conditions of employment than if the employee had been continuously employed during the leave period.
- D. Employee's Obligation to Periodically Report on Their Condition: Employees may be required to periodically report to the Director of Administrative Services (or Human Resources) on their status and intent to return to work. This will avoid any delays to reinstatement when the employee is ready to return.
- E. Fitness-for-Duty Certification: As a condition of reinstatement of an employee whose leave was due to the employee's own serious health condition or pregnancy disability, which made the employee unable to perform their job, the employee must obtain and present a fitness-for-duty certification from their health care provider that the employee is able to perform the essential functions of the employee's job and resume work. Failure to provide such certification will result in denial of reinstatement.

#### 8.4.5 Reasonable Accommodation for Lactation

- A. The Town recognizes that breast milk is the optimal food for growth and development of infants. This policy is to establish guidelines for promoting a breastfeeding-friendly work environment and supporting lactating employees at The Town for as long as they desire to express breastmilk. The Town supports the legal right and necessity of employees who choose to express milk in the workplace.
- B. Employee's Responsibility: Any employee who wishes to exercise her rights under this policy shall notify her immediate supervisor, Department Head, or Town Manager in writing of the request.
- C. Town's Responsibility: A copy of this policy will be disseminated to every newly hired employee with this Manual and to any employee who inquires about or requests pregnancy or parental leave. The Town shall respond to an employee's request for lactation accommodation within 5 business days.
- D. Breaks: The break time shall, if possible, run concurrently with employee's lunch and break time. If the time for an employee's break time does not run concurrently or when additional time is necessary, the break time may be unpaid.
- E. Lactation Space: The Town shall make every effort to accommodate breastfeeding employees with space in close proximity to the employee's work area that is shielded from view and free from intrusion from co-workers and the public, to express breastmilk. The room or location may include the place where the employee normally works if it otherwise meets the requirements of the lactation space. The Designated Area shall be:
  - 1. Be safe, clean, and free of toxic or hazardous materials
  - 2. Contain a place to sit, a surface to place a breast pump and personal items
  - 3. Have access to electricity
  - 4. Have access to a sink with running water and a refrigerator in close proximity to employee work area
  - 5. Multi-purpose rooms may be used as lactation space if they satisfy the requirements for space; however, use of the room for lactation shall take priority over other uses.



- F. Employer Records: The Town shall maintain a record of the written requests for Lactation Accommodation that includes the name of the Employee, the date of the request, and a description of how the Town resolved the request. In spite of best efforts, if the Town cannot accommodate a request, it shall provide employees a response in writing. All records regarding requests to express milk, including any denials, will be maintained for a period of three years from the date of request.
  - G. Any employee who believes that her rights under this policy have been violated may notify her immediate supervisor, Department Head, or the Town Manager. If an employee is not satisfied with the Town's response to the problem, she may file, within the time allowed by law, a complaint with the Labor Commissioner for any violation under this policy.
- 8.5 Miscellaneous Leaves of Absence - Any designated paid leave of absence pursuant to this section shall not accrue vacation credits.
- 8.5.1 Military Leave of Absence - Shall be granted in accordance with and as required by provisions of State and Federal Law. An employee entitled to military leave shall give their Department Head an opportunity within the limits of military regulations to determine when such leave shall be taken. Prior to taking military leave, an employee, when possible, shall present a copy of their orders to their Department Head. Employees must contact Human Resources personnel for details related to potential military leave benefits.
  - 8.5.2 Leaves of Absence for Judicial Purposes - Every officer or employee of the Town shall be entitled to leaves of absence to appear as a witness in court other than as a litigant or to respond to an official order from another jurisdiction for reasons not brought about through the connivance or misconduct of such officer or employee.
  - 8.5.3 Jury Duty - Every employee of the Town shall be entitled to leaves of absence when regularly called for jury duty in the manner provided by law. The Town requires employees to give reasonable advance notice to their immediate supervisors. Such leaves of absence shall be granted and the employee shall receive the regular salary while on jury duty. If dismissed by the Court and there are three hours or more remaining in the work day, discounting commute time from the Court to work, the employee is required to report to work.
  - 8.5.4 Administrative Leave - The Town Manager may place an employee on Administrative Leave when such leave is identified as being in the interests of the Town.

- 8.5.5 Voting Time - Employees shall be authorized reasonable time to vote on election days in accord with and subject to the limits of California Elections Code § 14000.
- 8.5.6 Bereavement Leave – Employees may use up to three (3) days of available paid leave for the death of a close relation. Regular employees will be paid at their regular hourly rate for the time they are absent. This time will be charged to the employee's sick leave account.
- 8.5.7 Crime Victims' Leave - Employees are allowed time off from work in accordance with the California Labor Code section 230.2 to attend judicial proceedings, if the employee, an immediate family member, registered domestic partner, or the child of a registered domestic partner is a victim of a violent crime (as defined by Penal Code section 667.5(c)), or a serious felony (as defined by Penal Code section 1192.7), or a felony involving theft or embezzlement). The employee can use available sick leave or vacation leave for crime victim's leave.
- 8.5.8 Victims of Domestic Violence or Sexual Assault - Employees who are the victims of domestic violence, sexual assault, or stalking can take time off in accordance with the California Labor Code sections 230(c) and 230.1. Time off from work may be taken for any of the following purposes:
- A. To seek medical attention for injuries caused by domestic violence, sexual assault, or stalking.
  - B. To obtain services from a domestic violence shelter, program, or rape crisis center as a result of domestic violence, sexual assault, or stalking.
  - C. To obtain psychological counseling related to an experience of domestic violence, sexual assault, or stalking.
  - D. To participate in safety planning and take other actions to increase safety from future domestic violence, sexual assault, or stalking, including temporary or permanent relocation.

Employees can use available vacation time for this type of leave.

Employees who are the victims of domestic violence or sexual assault may take up to 12 weeks of FMLA leave in a 12-month period to seek medical attention, to obtain the services of a domestic violence shelter or rape center, to obtain psychological counseling, or to participate in safety planning. Employees can use available sick leave or vacation time for this type of leave.

Unless not feasible, employees are expected to provide reasonable advanced notice of the need for leave and to supply documentation supporting the leave request.

8.5.9 School Activities Leave - Employees are entitled to up to forty (40) hours per calendar year to attend or to participate in school activities or to address a child care provider or school emergency of the employee's child, foster child, or grandchild in accordance with the California Labor Code sections 230.7 and 230.8. The child must be enrolled in kindergarten through 12<sup>th</sup> grade, or must be enrolled in a licensed day-care facility. The amount of leave cannot exceed eight (8) hours in a calendar month. The Town must receive reasonable advanced notice of the planned absence and provide the Town with documentation of attendance or participation. Where both parents request leave for the same child's activity, the employee who asks first will be given the leave. To the extent permitted by law, employees must use available vacation time, administrative leave, or compensatory time off. Otherwise, the leave is unpaid.

8.5.10 Regular employees may be granted a leave of absence without pay upon request when recommended by the Department Head and then approved by the Town Manager. A leave without pay may be granted for the following reasons:

- A. Illness or disability
- B. To take a course of study which will increase the employees usefulness upon return to the position
- C. Personal reasons acceptable to the Town Manager.

8.5.11 The Town Manager will grant other leaves of absence to the extent and in the manner required by law.

## **SECTION 9 - TERMINATION**

9.1 Resignation: An employee wishing to leave Town service in good standing shall file with the Town Manager, at least two weeks before leaving the service, a written resignation stating the effective date of the resignation. Failure to give two (2) weeks' notice shall be entered upon the service record of the employee and may be cause for denying future employment by the Town. Exceptions to the notification period may be made by the Town Manager when it is determined to be in the best interest of the Town of Ross. Resignation is effective when tendered and no acceptance is required. A resignation may be withdrawn only with the mutual consent of the Town Manager and employee.

- 9.2 Retirement: Employees may retire according to the procedures established by the Public Employees' Retirement System. The eligible employees of the Town of Ross are enrolled in the Public Employees' Retirement System with benefit levels as set by the Town Council and State law within the provisions of that system. Retiring employees are requested to provide as much prior notice as possible, but at least the amount required for resignation, to provide for a smooth transition of duties.
- 9.3 Layoff: Whenever in the judgment of either the Town Council or the Town Manager, it becomes necessary in the interest of economy, because the necessity for a position no longer exists, or for other legitimate purpose, the Town Council or Town Manager, as appropriate, may abolish any position or employment and lay-off, demote or transfer an employee holding such position or employment without taking disciplinary action and without the right to appeal. Vacant positions in the designated classification anywhere in the Town will be eliminated first, except that the Town Manager may transfer employees to create a vacancy in a particular position. Thereafter, the order of layoff shall be determined by the Town Manager within the affected department and classification. Temporary or irregular employees in the affected classification and department will be laid off first. Probationary employees in the affected classification and department will be laid off before regular employees. Regular employees in the affected classification and department will be laid off in inverse order of total seniority in regular employment with the Town. The Town Manager, on recommendation of the Department Head, may grant an exception to the normal order of layoff where the Town Manager determines in good faith that the best interests of the Town require the retention of a specific employee for the work that will remain after the layoff.

## **SECTION 10 - DISCIPLINARY ACTIONS**

- 10.1 Town Expectation: Town employees are expected to conduct themselves, while carrying out the function of Town service, as a credit to the Town of Ross. Their actions should reflect their personal good character and should uphold the trust that the citizens have placed in them by their employment.
- 10.2 Types of Disciplinary Actions: The following are types of actions that may be utilized by the Town in disciplining employees. The specific type of disciplinary action taken is a decision made by the disciplinary authority based on the severity of the employee's actions. Each Department Head, except as determined by the Town Manager, will serve as the disciplinary authority for those employees reporting to the Department Head. The Town Manager may assign their authority as disciplinary authority for administrative employees to

any other Town employee in order to preserve the Town Manager's ability to hear appeals or for other purposes.

10.2.1 Oral Reprimand: A formal discussion with an employee about performance or conduct problems. This action preferably is summarized by a memo to the employee outlining the nature of the discussion. An oral reprimand is not subject to the appeal process described below.

10.2.2 Written Reprimand: A written document presented to an employee regarding performance or conduct problems. A copy must be provided to the employee with a copy being placed in the employee's personnel file. A written reprimand is not subject to the appeal process described below. However, the employee may prepare and attach a written response which will be included in the personnel record along with the written reprimand.

10.2.3 Disciplinary Suspension: An involuntary absence without pay for a fixed period of time, but shall not exceed thirty (30) days. In lieu of an actual absence, the disciplinary authority may implement a disciplinary suspension as a temporary reduction in pay over a designated period of time that is equal to the salary value of the designated suspension. Such action is subject to appeal as outlined in the procedures below.

10.2.4 Salary Reduction: A reduction in the salary of an Employee may be imposed by the disciplinary authority for disciplinary reasons. A reduction in salary shall be to a step within the salary range of the position held by the Employee. Such action is subject to appeal as outlined in the procedures below.

10.2.5 Demotion: A reduction in rank or position for disciplinary reasons. The disciplinary authority may demote an Employee for disciplinary reasons, to any position with a lower salary allocation, provided the Employee meets the minimum qualifications for the lower-level position. Such action is subject to appeal as outlined in the procedures below.

10.2.6 Termination: Discharge or removal from the Town service. An Employee may be terminated for cause. The continued tenure of each Employee who has permanent status shall be subject to satisfactory performance and the rendering of efficient service. Such action is subject to appeal as outlined in the procedures below.

10.3 Causes for Disciplinary Action: Listed below are examples of causes which shall be deemed sufficient for action under this section. Grounds for disciplinary action are not limited to the examples enumerated.

- 10.3.1 Unauthorized absence;
- 10.3.2 Misuse or abusing sick leave benefits;
- 10.3.3 Conviction of a felony or misdemeanor involving moral turpitude;
- 10.3.4 Conviction of a crime which relates to the qualifications, functions, duties, or image required of the Employee in the assigned position;
- 10.3.5 Conduct unbecoming any employee in public service;
- 10.3.6 Disorderly or immoral conduct;
- 10.3.7 Discourteous treatment of the public;
- 10.3.8 Incapacity due to physical or mental disability where no reasonable accommodation can be made;
- 10.3.9 Incompetence or inefficiency;
- 10.3.10 Insubordination;
- 10.3.11 Failure to treat superiors with respect and courtesy;
- 10.3.12 Failure to treat other Employees with respect and courtesy;
- 10.3.13 Intoxication or under the influence of non-prescription drugs while on duty;
- 10.3.14 Illegal use or possession of alcohol, controlled substances, or habit-forming drugs while on duty;
- 10.3.15 While on or off duty, behaving in a manner that tends to cause discredit to the Town;
- 10.3.16 While on or off duty, behaving in an illegal manner, which results in the impairment or disruption of Town services;
- 10.3.17 Dishonesty in the performance of the duties of the position
- 10.3.18 Performing the duties of the position in an inefficient manner;
- 10.3.19 Performing the duties of the position in an untimely manner;
- 10.3.20 Performing the duties of the position in a careless manner;

- 10.3.21 Failure to possess and/or utilize the minimum qualifications required for the position;
  - 10.3.22 Neglect of duty;
  - 10.3.23 Failure to comply with safety rules, standards or regulations;
  - 10.3.24 Failure to fully comply with the rules, regulations, or policies of the Town or Employee's department;
  - 10.3.25 Negligence or willful damage of public property;
  - 10.3.26 Engaging in harassment, including sexual harassment;
  - 10.3.27 Waste of public supplies or equipment;
  - 10.3.28 Falsification of public records;
  - 10.3.29 Fraud in securing employment;
  - 10.3.30 Willful violation of any provisions of the ordinances of the Town, these rules, or others promulgated by the Town Council as general orders.
- 10.4 Notice of Proposed Disciplinary Action: Whenever it is the intention of the disciplinary authority, to take a disciplinary action other than an oral reprimand against a regular employee, the employee shall be provided a written notice of the proposed disciplinary action, which shall include: (1) proposed disciplinary action; (2) a statement of the specific reasons for the proposed discipline; and (3) the effective date of the proposed disciplinary action. The notice shall include a copy of all documents or information upon which the proposed disciplinary action is based. The notice shall inform the employee of their right to respond, either orally or in-writing, to the Administrative Manager/Town Clerk within ten (10) working days of being served with the notice of proposed disciplinary action. Following consideration of the employee's timely response to the charges, the disciplinary authority shall issue a Notice of Decision, which provides notice the employee that the disciplinary action is withdrawn, modified or enacted.
- 10.5 Right of Appeal: A regular employee who is suspended, demoted, terminated, or who has been subjected to a salary reduction or fine may appeal the action to the Town Manager. A written appeal of the disciplinary action must be submitted to the Administrative Manager/Town Clerk within five (5) working days of the receipt of the Notice of Decision. The appeal shall be heard and the final decision within the Town's administrative process will be made by the Town Manager. The Town Manager may delegate the hearing, final decision or

both to any other individual, consistent with the rights of the employee and due process.

- 10.6 Hearing Procedure: The Town Manager or designate will endeavor to schedule the hearing within ninety (90) days, but may also consider the schedules of those involved and other appropriate factors in setting the hearing date or dates. The Town will have the burden of proof. The decision of the Town Manager or designate will be based on the preponderance of the evidence. Each side will be permitted an opening statement and closing argument. The Town will first present its witnesses and evidence in support of the charges and discipline. The employee may then present witnesses and evidence in defense. The Town may then present witnesses and evidence in rebuttal. Each side will be allowed to examine and cross-examine witnesses. All witnesses will testify under oath. The Town Manager or designate may also question witnesses. The Town Manager will issue or arrange for the issuance of subpoenas, if requested. The party requesting the subpoena will be responsible for proper service of the subpoena. The Town Manager may conduct the hearing informally and shall not be bound by the strict rules of evidence. The parties may be represented by legal counsel and the Town Manager or designee may obtain legal advice from the Town Attorney. The conduct of the hearing will be under control of the Town Manager or designate, with due regard for the rights of the parties. Town Manager or designate will issue their decision within 30 days of the close of the hearing, but this limit may be extended by the Town Manager for good cause or as agreed by the parties. The hearing will not be considered closed until the deadline has passed for post-hearing filings, if any.
- 10.7 Executive employees, limited term employees, and temporary or irregular employees are excluded from sections 10.4, 10.5, and 10.6 and do not have a right to appeal a disciplinary action or termination. They serve at the pleasure of the Town Manager.

## **SECTION 11 - POLICIES GOVERNING CONDUCT**

- 11.1 Outside Employment: Employees may engage in employment outside Town employment provided that:
- 11.1.1 Written approval is obtained in advance from the Department Head and Town Manager.
  - 11.1.2 The employment does not conflict with the employee's work schedules, duties, and responsibilities.
  - 11.1.3 The employment does not create a conflict of interest or incompatibility with Town employment.



11.1.4 The employment does not create a detrimental effect upon the employee's work performance with the Town.

11.1.5 The employment does not involve conducting business during hours of employment with the Town.

11.1.6 The employee does not use Town premises, facilities, or supplies in the employee's outside employment.

11.1.7 The Town is in no way responsible for the employee's outside employment.

11.1.8 Self-employment is considered outside employment and must meet the same conditions as other outside employment, with the addition of the restriction that the employment does not involve ownership of a private business that is incompatible with the employee's position with the Town.

11.2 Conflict of Interest: Employees of the Town are prohibited from:

11.2.1 Engaging in or having any interest in any business or transaction, or incurring any obligation which conflicts or impairs, or appears to conflict or impair their independent judgment in the discharge of the official duties.

11.2.2 Accepting money, favors, or other considerations for work they would be required or expected to perform in the regular course of their duties.

11.2.3 Accepting gifts, gratuities, or favors of any kind from persons or vendors doing business with the Town. The only exception is the acceptance of consumable gifts offered to an entire work group during the holiday season where rejection would damage the spirit in which the gifts were offered.

11.2.4 Disclosing confidential information acquired by or made available to them in the course of their employment with the Town, or using such information for speculation or personal gain.

11.2.5 It is the employee's responsibility to disclose and report all potential conflict of interest situations to their supervisor and the Town Manager.

11.3 Employment of Relatives: At the time a person is applying for a position in the Town service, the person must identify any individual who is a close relative employed by the Town.

11.3.1 The general policy of the Town does not permit discrimination against employees or applicants for employment on the basis of marital or family status. However, the employment of relatives can, in certain circumstances, create problems in the areas of supervision, safety, security or morale. Where these problems may reasonably be expected to arise, close relatives will neither be assigned within the same organizational unit nor will they be supervised by the same individual. An employee may not supervise (as an immediate supervisor or as a higher-level supervisor) any close relative.

11.3.2 If at any time a situation exists where close relatives are employed with the same organizational unit or are supervised by the same individual, the Town Manager may transfer one of the individuals to a similar position in a different organizational unit or shift in the Town.

11.3.3 Close relative is defined as mother, father, stepmother, stepfather, father-in-law, mother-in-law, husband, wife, spouse (as defined by Family Code § 300), domestic partner (as defined by Family Code § 297, et seq.) child, stepchild, brother, sister, brother-in-law, and sister-in-law.

11.4 Political Activity:

11.4.1 Employee shall not engage in political activity of any kind during work hours. Prohibited activity shall include, but is not limited to, soliciting money, influence, service, or any other thing to aid, promote, or defeat any political committee or nomination or election of any person to public office, while on the job during working hours. No person shall attempt to coerce, command, or require a person holding, or applying for, any position, office, or employment with the Town to influence or give money, service, or other valuable thing to aid, promote, or defeat the nomination or election of any person to public office.

11.4.2 The rights of employees to register and vote as they choose shall not be infringed. In their individual capacity and consistent with their Constitutional rights, employees may express their opinions on all political subjects without recourse against them.

11.4.3 Subject to the foregoing, any employee may seek appointment or election to any public position, office, or employment for which the

employee is qualified, provided there is no conflict of interest with the employee's employment for the Town of Ross.

- 11.5 Anti-Discrimination Policy: The Town Council of the Town of Ross in compliance with the Civil Rights Act of 1964, the Civil Rights Act of 1991, the California Fair Employment and Housing Act, the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990 (ADA), the Age Discrimination in Employment Act of 1967, and any other applicable antidiscrimination and equal employment opportunity laws, adopts the following policy:

11.5.1 Purpose: It is the intent of this policy to provide employees, applicants for employment, unpaid interns, volunteers, contractors, members of the public or recipients of services in the Town of Ross an environment free of unlawful discrimination.

11.5.2 Policy: The Town Council hereby prohibits discrimination against employees, applicants, unpaid interns, volunteers, contractors, and members of the public or recipients of service because of race (including traits historically associated with race such as hair texture and protective hairstyles), color, religion, national origin (including accents), ancestry, marital status, domestic partnership status, sex (including pregnancy, childbirth or related medical conditions), age (40 and over), veterans status, mental or physical disability, medical condition, genetic characteristics or information, legally protected medical status (including ARC and/or HIV positive and cancer), sexual orientation, gender identity, gender expression, political or religious opinions or affiliations, or any other basis protected by law.

This policy applies to providing equal opportunity to employees and applicants with respect to recruitment, hiring, promotion, transfer, compensation, training, demotion, disciplinary action, termination, benefits, job evaluation, and all other conditions of employment.

The Town Council further affirms its commitment to ensure accessibility by people with disabilities seeking help and assistance from any Town service or participation in any Town activity.

- 11.5.3 Disabled Applicants and Employees: Employment practices (e.g., hiring, training, testing, transfer, promotion, compensation, benefits, and discharge) will not discriminate against disabled employees or applicants. The Town will engage in the interactive process, as defined by the Americans with Disabilities Act ("ADA") and the Fair Employment and Housing Act ("FEHA"), to determine whether an applicant or employee is able to perform the essential functions of

his/her position. During this process, the District will examine possible reasonable accommodations that will make it possible for the employee or applicant to so perform.

A. Request for Accommodation. An applicant or employee who desires a reasonable accommodation in order to perform essential job functions should make such a request in writing to the Administrative Services Manager. The request must identify: 1) the job-related functions at issue; and 2) the desired accommodation(s). Reasonable accommodation can include, but is not limited to job restructuring, reassignment to a vacant Position for which the employee is qualified, leaves of absence, and making facilities accessible.

B. Reasonable Documentation of Disability. Following receipt of the request, the Town Manager and/or Administrative Manager may require additional information, such as reasonable documentation of the existence of a disability or additional explanation as to the effect of the disability on the employee's ability to perform his/her essential functions, but will not require disclosure of diagnosis or genetic history.

C. Interactive Process. The Town will engage in the interactive process, as defined by the FEHA and ADA, to determine whether an applicant or employee is able to perform the essential functions of his/her position. During this process, the Town will examine potential reasonable accommodations that will make it possible for the employee or applicant to so perform. Such interactive process will include a meeting with the employee or applicant, the Town, and, if necessary, the employee or applicant's health care provider.

D. Case-by-Case Determination. The Town determines, in its sole discretion, whether reasonable accommodations(s) can be made, and the type of reasonable accommodations(s) to provide. The Town will not provide an accommodation that would pose an undue hardship upon the Town or that is not required by law. The Town will inform the employee of any decisions made under this section in writing.

E. While the Town is engaged in the interactive process with an employee, the Town may require that the employee be placed on a fitness for duty leave.

11.5.4 Complaint Procedure: Any applicant or employee who believes that they have been the victim of discrimination, as outlined above, should promptly report the facts of the incident(s) and the names of the individuals involved and any witnesses or other relevant facts to the

Town Manager. If the Town Manager is alleged to be engaging in prohibited discrimination, the complaint may be made to the Town Council. The complaint shall immediately be investigated by the Town Manager, Town Council or their designee, as applicable. Corrective action shall be taken as soon as possible. Such corrective action shall include disciplinary actions up to and including termination for any employee found to have violated this policy.

If an employee is not satisfied with the Town response to the problem, they may file, within the time allowed by law, a complaint with the following agencies:

U.S. Equal Employment Opportunity  
Commission (EEOC)  
San Francisco District Office  
350 The Embarcadero, Suite 500  
San Francisco, CA 94105-1260  
(800) 669-4000

or

Department of Fair Employment and  
Housing (DFEH)  
Bay Area Office  
39141 Civic Center Drive, Suite 250  
Fremont, CA 94538  
(510) 789-1085

Please consult each agency for other locations or contact options.

- 11.6 Workplace Harassment Policy: The Town Council of the Town of Ross in compliance with Title VII of the Civil Rights Act of 1964 and the California Fair Employment and Housing Act adopts the following policy:

- 11.6.1 Purpose: It is the intention of this policy to provide in the Town of Ross a work environment free of unlawful harassment. This includes sexual harassment and other unlawful harassment on any other basis prohibited by law, including those listed in the Town of Ross Anti-Discrimination Policy. The Town prohibits, and will not tolerate, harassment of employees by managers, supervisors and co-workers. Similarly, the Town will not tolerate harassment by its employees of non-employees with whom Town employees have an administrative, enforcement, business, service or professional relationship. The Town will also seek to protect employees from harassment by non-

employees in the work place or in work related situations. The Town seeks to prevent unlawful harassment before it begins and reserves the right to address behavior that may lead to unlawful harassment, even where the behavior has not escalated to the level of legally actionable harassment.

11.6.2 Policy: Harassment of any type will not be tolerated and is unlawful.

11.6.3 Policy Coverage: This Policy prohibits the Town, Town Council members, employees, interns, volunteers, or contractors from harassing the following individuals covered by this policy: applicants, Town Council members, employees, unpaid interns, volunteers, members of the public, or contractors (collectively, "covered individuals") because of: 1) an individual's protected classification; 2) the perception that an individual has a protected classification; or 3) the individual associates with a person who has or is perceived to have a protected classification.

11.6.4 Harassment: Unlawful harassment is any verbal or physical conduct based on an employee's membership in a protected category, such as race (including traits historically associated with race such as hair texture and protective hairstyles), religion, creed, color, national origin, ancestry, physical or mental disability, medical condition, pregnancy, childbirth, veteran status, sexual orientation, marital status, sex, sexual orientation or age, that is sufficiently severe or pervasive so as to affect an employee's work performance negatively and/or alter the conditions of employment and create an intimidating, hostile or otherwise offensive working environment.

11.6.5 Sexual Harassment. Sexual harassment is defined as any action that constitutes an unwelcome sexual advance or request for sexual favors, or any verbal or physical conduct of a sexual nature that is (i) related to or conditional to the receipt of employee benefits, including, but not limited to, hiring and advancement, (ii) related to or forms the basis for employment decisions affecting the employee, or (iii) sufficiently severe or pervasive so as to affect an employee's work performance negatively and/or alter the conditions of employment and create an intimidating, hostile or otherwise offensive working environment. Sexual harassment can involve people of either the same or opposite sex.

Examples of the type of behavior that can constitute prohibited unlawful harassment or sexual harassment includes, but is not limited to, the following:

- A. Verbal conduct such as gender based epithets, derogatory jokes or comments about an individual's body, slurs, or unwanted sexual advances, invitations or comments or similar behavior based on a legally protected status;
- B. Visual conduct such as derogatory and/or sexually-oriented posters, photography, cartoons, drawings, or gestures;
- C. Physical conduct such as assault, unwanted touching, leering, blocking normal movement or interfering with work;
- D. Threats and demands to submit to certain non-work-related conduct or perform certain non-work-related actions in order to keep or get a job, to avoid some other loss or as a condition of continued employment benefits, security or promotion;
- E. Sexual conduct - For example: unwelcome sexual advances, requests for sexual favors, propositions, and other verbal or physical conduct of a sexual nature which is made a condition of an employment benefit or unreasonably interferes with an individual's work performance and creates an offensive work environment.
- F. Retaliation for having reported or threatened to report unlawful harassment, for having objected to harassment or for having assisted another employee's report of harassment.

11.6.6 No Tolerance: The conduct stated above will not be tolerated by the Town of Ross and an employee who harasses in violation of the law can be personally liable to the victim for damages and will be subject to discipline up to and including termination. The Town of Ross will take reasonable steps to prevent this conduct from occurring.

11.6.7 Responsibilities: Each employee, volunteer, intern, contractor, or Town Council member (or other official) is responsible for:

- A. Treating all individuals in the workplace or on worksites with respect and consideration.
- B. Modeling appropriate behavior that conforms with this policy.
- C. Participating in periodic training. All non-supervisory employees shall be required to complete a one (1) hour sexual harassment prevention training every two years. All supervisors shall be required to complete a two (2) hour sexual harassment prevention training every two years.

- D. Cooperating with the employer's investigations by responding fully and truthfully to all questions posed during the investigation.
- E. Taking no actions to influence any potential witness while the investigation is ongoing.
- F. Reporting any act the employee believes in good faith constitutes harassment, discrimination, or retaliation as defined in this policy, to their immediate supervisor, Department Head, Town Manager, or the Town Council (e.g., for complaints against the Town Manager or a Town Council Member (or other official).

#### 11.6.8 Complaint Procedure:

A. Any employee who believes that they have been harassed, as outlined above, by another employee, supervisor, or member of the public should as a first step tell the individual that the conduct is unwelcome. However, failure to do so does not prevent an employee from filing a complaint. If the conduct continues, employees are encouraged to promptly report the facts of the incident(s) and the names of the individuals involved and any witnesses or other relevant facts to a supervisor, Department Head, the Town Manager or the Town Council. Supervisors and Department Heads shall immediately report any incidents of harassment to the Town Manager. Employees are never required to complain to a supervisor or department head or to the Town Manager if that person is the person who is harassing the employee. Instead, the complaint may be made to any other supervisor, Department Head or Council Member.

B. The complaint shall immediately be investigated by the Town Manager or if the Town Manager is alleged to be involved the Mayor, Town Council, or their designee. Any investigation related to a complaint under this policy will be conducted with as much confidentiality as possible and with respect for the rights of all individuals involved and consistent with a full, fair and proper investigation. Anonymous and unwritten complaints will also be investigated to the extent possible based on the available information.

C. The Town will make its determination and communicate that determination to the complaining employee and to the alleged harasser. These employees are not entitled to copies of any notes or other written materials regarding the investigation, as these are confidential documents. Corrective action will be taken as soon as possible. Such corrective action shall include disciplinary actions up to



and including termination for any employee found to have violated this policy. Furthermore, as part of the Town's attempt to remedy the complaining employee's concerns, the complaining employee will be informed of remedial measures and disciplinary actions imposed against the violator, consistent with privacy rights of the parties. In the situation where a complaint is filed against the Mayor or a member of the Town Council, the Town Attorney shall receive the complaint and conduct the appropriate investigation in consultation with the uninvolved members of the Town Council.

D. If an employee is not satisfied with the Town response to the problem, they may within one year of the event file a complaint with the following agencies:

U.S. Equal Employment Opportunity Commission (EEOC)  
San Francisco District Office  
350 The Embarcadero, Suite 500  
San Francisco, CA 94105-1260  
(415) 356-5100

or

Department of Fair Employment and Housing (DFEH)  
Bay Area Office  
39141 Civic Center Drive, Suite 250  
Fremont, CA 94538  
(510) 789-1085

11.7 Drug Free Workplace Policy: The Town Council of the Town of Ross in compliance with Public Law 100-690, the Drug-Free Work Place Act of 1988, adopts the following policy:

11.7.1 Purpose: It is the intention of this policy to provide a drug-free workplace for employees of the Town of Ross at all work sites. While the Town of Ross has no intention of intruding into the private lives of its employees, the use of controlled substances<sup>1</sup> impacts the safety and efficiency of Town operations and the provision of services to the public.

11.7.2 Policy:

A. The unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance by employees is prohibited at all Town work sites.

B. Consistent with federal law and the provisions of the California Adult Use of Marijuana Act, Proposition 64, the Town does not permit the use, consumption, possession, transfer, display, sale or growth of marijuana on Town owned or controlled property (including but not limited to buildings, parking lots, parks and recreation facilities) or during Town sanctioned or sponsored activities or events, regardless of the location. This is true even if the use of marijuana is for medical purposes authorized and permitted under the California Compassionate Use Act, Proposition 215.

C. Employees are also prohibited from having any measurable amount of marijuana (including THC and metabolites) in their system while on duty, subject to minimum cutoff levels published by the Substance Abuse and Mental Health Services Administration in the Mandatory Guidelines for Federal Workplace Testing Programs or any successor standard, as determined by the Town.

D. Employees, as a condition of employment, shall notify their Department Head of any criminal drug statute conviction for a violation occurring in the work place no later than five days after such conviction.

E. Employees who violate the above policy, or are convicted on criminal drug statute violations occurring at the work place, or who fail to give the notice required above shall be subject to the appropriate disciplinary action, up to and including termination, or may, where appropriate be required to participate in a drug-abuse assistance or rehabilitation program by a Federal, State, or local health, law enforcement, or other appropriate agency.

11.7.3 Drug/ Alcohol Policy: The Town has adopted a Drug Free Workplace Policy within the provisions of the Federal Drug Free Workplace Act. In conjunction with this policy, the Town retains the right to assure that employees are free from the influence of drugs and alcohol during the performance of their Town duties. The Town Manager shall retain the right to:

A. Access any Town property, including but not limited to desks, lockers, closets and vehicles for the purposes of inspection to assure no illegal drug or alcohol is on the Town premises;

B. Order for drug and/or alcohol testing any employee who has demonstrated behavior on duty that causes a reasonable suspicion that they may be under the influence. The employee shall immediately comply and cooperate in being transported to the testing facility. If the

employee is found to be under the influence of an illegal drug or alcohol, the employee shall have transportation arranged for them, and sent home pending disciplinary action; and

C. Order for drug and/or alcohol testing any employee who is in an accident that results in death, injury, or major property damage;

#### 11.7.4 Employee Right and Responsibilities:

Employees who are taking prescription drugs that may hamper their ability to operate vehicles or equipment, and who are required by their assigned duties to operate vehicles or dangerous equipment, are to notify their supervisor immediately upon reporting to duty. If for reasons of safety a supervisor believes an employee is demonstrating diminished abilities, the supervisor may, after consultation with the Town Manager, arrange for transportation for the employee to send the employee home on sick leave.

No provisions of this policy are intended to remove or limit an employee's right to appeal a disciplinary action under applicable sections of the Town of Ross Human Resource Rules.

### 11.8 Anti-Workplace Violence Policy

#### 11.8.1 Policy:

The Town of Ross is committed to providing a safe workplace that is free of violence or the threat of violence. In support of this commitment, the Town strictly prohibits employees and non-employees, while on Town premises or engaged in Town-related activities, from behaving in a violent or threatening manner. Under this policy, the Town also seeks to prevent workplace violence before it begins and reserves the right to address behavior that reasonably suggests a propensity toward violence, even where actual violence has not yet occurred. Retaliation against a person making a report of workplace violence or cooperating in an investigation of possible workplace violence is also prohibited.

#### 11.8.2 Definitions: Workplace violence includes, but is not limited to:

- A. Fighting or challenging another person to fight, including but not limited to striking, slapping, punching, spitting or physically assaulting;
- B. Threats intended to place a person in fear of physical harm or that would cause a reasonable person to be placed in fear of physical harm;

- C. Threatening, physically aggressive or violent behavior, such as acts of intimidation, stalking or any activity that attempts to instill fear in others;
- D. Other behavior that suggests a propensity toward violence, such as belligerent speech, excessive arguing or swearing, sabotage or threats of sabotage toward Town property or a demonstrated pattern of refusal to follow Town policies or procedures;
- E. Throwing objects with the apparent intent to harm another person or place any person in reasonable fear of harm;
- F. Defacing or vandalizing Town property; or
- G. Except as authorized by the Town Manager or Police Chief, bringing any weapon or firearm of any kind onto Town property (including parking lots) or while conducting Town business.

#### 11.8.3 Reporting:

Any employee who witnesses or becomes aware of an instance of workplace violence, as described above, or who is a victim of workplace violence shall notify a supervisor, Department Head or the Town Manager. In the event that the Town Manager is alleged to be involved, notice may be given to any member of the Town Council. Any supervisor or Department Head receiving such a report shall immediately notify the Town Manager or, if the Town Manager is alleged to be involved, a member of the Town Council. Instances of prohibited retaliation may be reported in a similar manner.

#### 11.8.4 Investigation:

All complaints or allegations will be investigated promptly and thoroughly. The Town Manager will be responsible for assuring that an appropriate investigation is completed, except where the Town Manager is alleged to be involved, in which case the Town Council will assure that an appropriate investigation is completed. To the extent possible, the Town will endeavor to maintain the confidentiality of the reporting party and the investigation. However, disclosures may be necessary to conduct the investigation, in compliance with due process rights, where legally required or to protect individual safety. The complainant and, if applicable, an accused employee will be advised of the results of the investigation.

#### 11.8.5 Discipline or Other Action:

If the Town determines that this policy has been violated, appropriate corrective action will be taken. Corrective action may include discipline, up to and including termination. The appropriate discipline may vary depending on the particular facts and circumstances of the situation. If the violent behavior involves a non-employee, the Town will take action in an effort to prevent future occurrences. Corrective action involving appointment official may include severing their relationship with the town. Corrective action involving elected officials may include censure. Action may be taken under this policy in addition to any available civil or criminal action.

## 11.9 Computer, Telecommunication, Internet, and Email Use Policy

### 11.9.1 Purpose:

The Town of Ross, to govern the usage of Town computer and telecommunications resources which include but are not limited to personal computers, computer servers, personal digital assistants, software, networking resources, telecommunications (including voice mail) and any and all data adopts the following policy.

### 11.9.2 Policy:

Town computer and telecommunication resources are to be used by Town employees only for Town related activities. Town computer and telecommunication resources are not to be used for personal or other non-Town related business activities. Incidental use of computer and telecommunication resources is allowed with Department Head approval. All computer based data is to be considered the property of the Town and cannot be used for personal/private purposes. Electronic and telephone voice mail distributed via Town computer and telecommunication resources are also considered as Town property and cannot be considered the private property of the sender or recipient. Electronic mail and instant messaging should be utilized in a similar manner as the Town telephone. The Town is entitled to a copy of any data/information maintained on its computer systems. The Town maintains the right to control and monitor all use of its telecommunication and computer resources. Proprietary software and its associated documentation are subject to copyright laws and licensing agreements and are not to be reproduced unless authorized under a licensing agreement. Appropriate documentation to substantiate the legitimacy of the software is necessary. Employees will not use unauthorized or personal software on Town computer resources.

#### 11.9.3 Internet Acceptable Use:

Use of computing resources and the internet by employees is permitted where such use supports the mission, charter and objectives of the Town of Ross. Any individual or computing resource found to be utilizing internet access in any way which poses a threat to the Town of Ross may have their internet access restricted or revoked. Compliance with acceptable use, as outlined in this policy, is required.

11.9.4 Town of Ross employees are expected to use the internet responsibly and productively, in accordance with the following provisions:

- A. Internet access is limited to Town business activities only.
- B. All data composed, transmitted and/or received by Town computer resources is considered to belong to the Town of Ross.
- C. The Town reserves the right to monitor and log internet activity. All sites and downloads may be monitored and/or blocked by the Town of Ross if they are deemed to be harmful and/or impact Town network performance.
- D. Electronic mail sent or received on the internet cannot be expected to be secure. Town internet users should never provide confidential, sensitive or personally identifiable information to any untrusted internet resource.
- E. Intentional downloading, copying or reproduction of any software, electronic file, program or data that is copyrighted or without authorization using internet resources is prohibited.
- F. Town internet users are expected to comply with all applicable Federal, State and regional regulations.
- G. Employee incidental use of the internet is allowed when approved by the employee's Department Head.

#### 11.9.5 Enforcement:

The Department Head or delegated representative is responsible for employee compliance with the provisions of this policy and for investigating non-compliance. When an instance of noncompliance with this policy is discovered or suspected, the Department Head shall proceed in accord with departmental and Town of Ross human resource policies. Suspension of service to users may occur when deemed

necessary to maintain the operation and integrity of the Town of Ross Intranet or Internet. User accounts and password access may be withdrawn without notice if a user knowingly violates the acceptable use policy. Discipline may be appropriate in some cases of non-compliance with this policy. Criminal or civil action against users may be appropriate where laws are violated.

#### 11.9.6 Email Usage:

Town of Ross employees are expected to use Town email responsibly and productively, in accordance with the following provisions:

- A. Town e-mail services are provided to employees for the sole purpose of conducting official business.
- B. All e-mail messages processed by the Town's email servers become the property of the Town, and are subject to review. Town e-mail users have no right of ownership or personal privacy when using the Town e-mail services.
- C. The Town reserves the right, without notice to disclose e-mail content to regulators, courts and law enforcement.
- D. E-mail shall not automatically be forwarded to or from non-Town e-mail accounts.
- E. Town e-mail users must use Town authorized e-mail services when conducting Town business. All remote use must be in accordance with the Town's remote e-mail access policies.
- F. Town e-mail users are responsible for their e-mail accounts and shall be held accountable if someone else, including their delegates, violates this policy.
- G. Town e-mail users shall not intentionally alter the date, time, physical source/destination, logical source/destination, routing or other label or header information of any e-mail message, file or report.
- H. Retention and storage of e-mail will be in compliance with the email retention schedule.
- I. A limited number of authorized users, approved by the Town Manager, will have the ability to send Town wide all user distribution list e-mail messages.

J. Encryption of messages is not incorporated into the Town's e-mail system. Therefore, e-mail should not be used to transmit confidential or personal information such as credit card numbers, social security numbers, bank account numbers, etc.

#### 11.9.7 Remote Email Access:

This policy defines the standards for remote access to the Town of Ross's email system. These standards are designed to minimize the potential exposure to the Town of Ross from damages, which may result from inappropriate or careless use of Town of Ross resources. Damages include loss of sensitive or confidential Town data, intellectual property, damage to public image, damage to critical Town of Ross internal systems, etc. In addition, this policy emphasizes remote access to email is voluntary and is provided as a convenience to employees. This policy provides standards for non-compensable, voluntary and incidental access to the Town of Ross's email system.

This policy applies to Town of Ross employees requesting remote access to the Town's email system. Nonexempt employees may only have access with approval by agreement with the Department Head and will not be paid overtime for accessing email remotely. The following are provisions of this policy: It is the responsibility of Town of Ross employees with remote access privileges to maintain appropriate levels of security and confidentiality of Town of Ross resources. The Town of Ross employee is responsible for taking steps to prevent unauthorized uses and bears responsibility for the consequences should access to the email system be misused. Remote use of the Town of Ross's email system is subject to compliance with the existing email usage policy. Town of Ross email is to be used only to conduct Town of Ross business. Email and/or network communication is not considered time worked and is provided for convenience to employees. Employees are not required to check their email on their days off or while on vacation. Non-exempt employee time spent accessing Town resources via remote connection must be incidental and is therefore not subject to FLSA overtime. Any non-incidental access by nonexempt employees is not authorized by the Town of Ross. The employee is responsible for all costs associated with the remote access connection including but not limited to Internet connection or usage fees, equipment, and required software.

#### 11.9.8 Requirements:

Personally owned devices are preferred for security reasons. At no time should any Town of Ross employee provide their login or email



password to anyone, not even family members. All personal devices used for remote access to email must use the most updated and vendor supported anti-virus software, Operating System and browsers: firewalls provided with operating systems should be enabled and properly configured to minimize security risks. Individuals who wish to implement non-standard remote access solutions to the Town of Ross network must obtain prior approval from the Department Head.

#### 11.9.9 Enforcement:

Any employee found to have violated any provision of the Computer, Telecommunication, Internet and Email Use Policy will have their remote access immediately disabled and may be subject to disciplinary action, up to and including termination of employment. Employees acknowledging they have received and read this policy agree to the terms and conditions listed above.

## **SECTION 12 - LIMITED DURATION TELECOMMUTING AND TECHNOLOGY**

12.1 Purpose: The purpose of this policy is to establish guidelines for requests and approval of limited duration telecommuting arrangements. Telework is an arrangement between the agency and an employee, based upon the needs of the job, work groups, and the agency. It does not change the number of hours worked, but simply allows eligible employees the flexibility to rearrange their work schedule to better meet their personal needs while considering the needs of the agency.

12.2 Policy: The Town encourages the use of teleworking where it is a viable option and clearly defines the benefits to the employee and management. For purposes of this policy, telecommuting is defined as working at home or at other off-site locations more than one day a week on a regular basis, for special projects, or on an as-needed basis. This does not include being out of the office to attend meetings, site inspections, trainings, or other similar Town business.

A. No particular positions have been designated as, “telework positions” or “telecommuting positions.” However, certain positions may from time to time be suitable for a limited duration teleworking arrangement. In such instances, the Town Manager and Department Head may allow all or part of the duties of the position to be performed away from the office on a temporary or ongoing basis.

B. Telecommuting is an arrangement between the agency and an employee, based upon the needs of the position, work groups, and the agency. It does not change the number of hours worked, but simply allows eligible employees

the flexibility to rearrange their work schedule to better meet their personal needs while considering the needs of the agency.

C. No telecommuting arrangement will be implemented that results in an employee working fewer hours than provided in the Town's budget for the position.

D. To obtain approval for a telecommuting arrangement the employee must submit a request to their immediate supervisor, who should discuss the proposal with the Town Manager. The decision to establish a telecommuting arrangement is at the sole discretion of the Department Head and the Town Manager. A telecommuting arrangement does not alter the responsibilities and authority of the Department or the Town Manager. Approval must be completed prior to the start of the employee's telecommuting arrangement.

E. When an employee wishes to make an adjustment to the employee's original telecommuting arrangement, the employee must submit the request in writing to their immediate supervisor and the Town Manager.

F. The Town Manager or Department Head may, at their sole discretion, temporarily suspend, alter, or cancel a telecommuting arrangement if work needs change or if service is impaired.

G. A telecommuting arrangement is considered a privilege and a special arrangement and is not subject to the grievance procedure as outlined in the Town's Employee Human Resource Rules.

H. The Town does not promise or guarantee employees a telework arrangement. If telecommuting is allowed for a position, it will last as long as it is appropriate. The employees must adhere to the policy and procedures to participate in the telework program.

#### 12.2.2 Requirements for a Limited Duration Telecommuting Arrangement:

To obtain approval for, or to continue, a limited duration telecommuting arrangement employees must meet the following requirements.

A. The telecommuting arrangement must not interfere with the efficient operation of the Town nor adversely affect the services that are provided to the public or other Departments.

B. The quantity, quality, and timeliness of the employee's work must be maintained.

C. The employee must be available and accessible for communication (telephone, email, pager, keeping their calendars updated, etc.) during the Town's regular business hours and after business hours based on the needs of the department. Specific requirements for communication are subject to the needs of the department as determined by the Town Manager or the Town Council, in the case of a telecommuting request by the Town Manager.

D. The employee's remote environment must be professional, ergonomic, secure and safe.

E. The employee must comply with Town rules pertaining to leaves of absence for any time-off requests, including but not limited to vacation and sick leave, that are being requested for a day the employee has arranged to telecommute.

## **SECTION 13 - GRIEVANCE PROCEDURE**

13.1 **Grievance Defined:** A grievance is a formal allegation by an employee claiming violation, misinterpretation, inequitable application or non-compliance with provisions:

1. Collective bargaining agreement;
2. Town ordinances;
3. Existing practices affecting the status or working conditions of the Town employees.

Appeals of appointment, disciplinary actions, and performance evaluations are not grievable hereunder.

13.2 **Applicability:** A grievance may be filed by an employee on their own behalf, or jointly by any group of employees.

13.3 **Grievance Procedure:**

**General** - If a supervisor, Department Head or the Town Manager does not reply, meet or issue a written decision (as applicable) within the time limits provided below, the employee will have the option to advance the grievance to the next step. If an employee does not advance the grievance within the time limits provided below to the next step after either the Step 1 response or the Step 2 written decision, the matter will be considered resolved based on the last response or decision. The parties may mutually agree to extend any deadline in writing (including by e-mail).

**Step 1 - INFORMAL DISCUSSION:** Within ten (10) working days of the occurrence of an act in dispute, an employee shall discuss the incident with their immediate supervisor, who shall investigate and attempt to resolve the matter. The supervisor shall give the employee an oral reply within ten (10) working days after the discussion. If the employee is not satisfied with the response, they may proceed to the next step.

**Step 2 - DEPARTMENT HEAD REVIEW:** Any dispute not resolved at Step 1 may be submitted in writing to the Department Head, for administrative staff, within five (5) working days after the supervisor's informal response. In this event, the Department Head shall, within ten (10) working days, schedule a meeting with the employee to discuss the matter. After consideration of the facts, the Department Head shall give their written decision to the employee within ten (10) working days after the meeting.

**Step 3 – TOWN MANAGER REVIEW:** If the employee is not satisfied with the decision of the Department Head in Step 2, the employee may request, in writing, a hearing before the Town Manager. Such request for a hearing must be submitted within ten (10) working days of receipt of the Department Head decision and shall include in detail the facts giving rise to the grievance and supporting documentation necessary for Town Manager consideration. The Administrative Manager/Town Clerk shall forward such a request and supporting documentation to the Town Manager within ten (10) working days, for Town Manager's consideration.

The Town Manager shall have the following options:

1. Make a decision on the documentation submitted; or
2. Hold a hearing, in open or closed session as permitted by law and appropriate to the circumstances.

The decision of the Town Manager will be final.

**APPENDICES**

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## **Appendix A**

TO: Town Employees

FROM: Town Council

### **THE DANGERS OF DRUG ABUSE**

The news is daily filled with stories of drug-related problems, but these are the dramatic side of the real story. The use or being under the influence of drugs in the work place is becoming epidemic throughout the nation even though more and more studies are available showing damage that drugs do to the human body, and even more frightening, the length of time many drugs stay in the system. Studies have clearly shown that cocaine for example, can be in your system for up to a week.

Think about others around you before you "only hurt yourself" by using. Would you like to have to depend on the person next to you who has diminished judgment? The use of controlled substances puts you at risk with:

- Law Enforcement
- Your health
- Your safety
- The safety and respect of those around you
- Your job

Don't take the chance!

### **HELP IS AVAILABLE**

If you find yourself in a situation where you have started using or becoming involved with drugs, help is available for you. You do not have to deal with-the problem alone. Call:

**Marin County Division of Alcohol, Drug and Tobacco Programs**

**Telephone:**

**(415) 473-3030 — Alcohol and Drug Programs**

**(415) 473-3020 — Tobacco Programs**

**Fax: (415) 473-7008**

### **CALL THEM AND BREAK THE DRUG CYCLE**

## **Appendix B**

### **Americans with Disabilities Act Complaint Form**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

*Members of the public or employees who believe they are being denied services due to lack of program accessibility based on a physical or mental disability as provided for by the Americans with Disabilities Act should report their concerns to the Town Manager by completing this form (please feel free to add more pages). Complaints may also be filed verbally with the Administrative Manager. The Town Manager or their designee will immediately investigate the situation and take action where possible to make reasonable accommodation.*

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1. Service or program that you believe you are being denied:
  
  
  
  
  
  
  
  
  
  
2. Service or program practice, lack of facilities or equipment that is an obstacle to you receiving the service or having access:
  
  
  
  
  
  
  
  
  
  
3. Your recommended accommodation(s) necessary to allow you access to the service or program:

4. Have you discussed your concerns previously with any members of the Town staff? If yes, who?

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Your Signature

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Date