



# Town of Valdese

## Personnel Policies

**TOWN OF VALDESE  
PERSONNEL POLICY**

BE IT RESOLVED by the Town Council of the Town of Valdese that the following policies apply to the appointment, classification, benefits, salary, promotion, demotion, dismissal, and conditions of employment of the employees of the Town of Valdese.

**TABLE OF CONTENTS**

ARTICLE I. GENERAL PROVISIONS .....	7
Section 1. Purpose of the Policy .....	7
Section 2. At Will Employment.....	7
Section 3. Merit Principle .....	7
Section 4. Responsibilities of the Town Council.....	7
Section 5. Responsibilities of the Town Manager .....	7
Section 6. Responsibilities of the Human Resources Director .....	8
Section 7. Application of Policies, Plan, Rules, and Regulations .....	9
Section 8. Departmental Rules and Regulations.....	9
Section 9. Definitions .....	9
ARTICLE II. POSITION CLASSIFICATION PLAN.....	15
Section 1. Purpose.....	15
Section 2. Composition of the Position Classification Plan .....	15
Section 3. Use of the Position Classification Plan .....	15
Section 4. Administration of the Position Classification Plan.....	16
Section 5. Authorization of New Positions and the Position Classification Plan .....	16
Section 6. Request for Reclassification.....	16
ARTICLE III. THE PAY PLAN .....	17
Section 1. Definition .....	17
Section 2. Administration and Maintenance .....	17
Section 3. Starting Salaries.....	18
Section 4. Trainee Designation and Provisions .....	18
Section 5. Merit Pay .....	18
Section 6. Merit Pay Bonus .....	18
Section 7. Salary Effect of Promotions, Demotions, Transfers, and Reclassifications.....	19
Section 8. Salary Effect of Salary Range Revisions.....	20
Section 9. Transition to a New Salary Plan .....	20
Section 10. Effective Date of Salary Changes.....	20
Section 11. Overtime Pay Provisions.....	21
Section 12. Compensatory Time (Comp Time).....	21

Section 13. Call-back and Stand-by Pay.....	22
Section 14. Payroll Deduction .....	23
Section 15. Hourly Rate of Pay.....	23
Section 16. Longevity.....	23
Section 17. Pay for Interim Assignments in a Higher-Level Classification.....	25
ARTICLE IV. RECRUITMENT AND EMPLOYMENT .....	25
Section 1. Equal Employment Opportunity Policy .....	25
Section 2. Implementation of Equal Employment Opportunity Policy .....	25
Section 3. Recruitment, Selection and Appointment.....	26
Section 4. Probationary Period .....	27
Section 5. Promotion.....	27
Section 6. Demotion and Reassignment.....	28
Section 7. Transfer .....	28
Section 8. Re-Hire or Employment of Retirees .....	28
ARTICLE V. CONDITIONS OF EMPLOYMENT .....	30
Section 1. Work Schedule.....	30
Section 2. Political Activity.....	30
Section 3. Outside Employment.....	30
Section 4. Dual Employment.....	31
Section 5. Employment of Relatives.....	31
Section 6. Harassment Prohibited .....	32
Section 7. Solicitation and Acceptance of Gifts and Favors.....	33
Section 8. Performance Evaluation .....	33
Section 9. Safety .....	33
Section 10. Substance Abuse Policy .....	34
Section 11. Disruption of the Work Place .....	34
Section 12. Attendance .....	34
Section 13. Direct Deposit .....	34
Section 14. Use of Town Supplies and Equipment.....	35
Section 15. Smoking and The Use of Tobacco Products and E-cigarettes Prohibited .....	35
ARTICLE VI. EMPLOYEE BENEFITS.....	37
Section 1. Eligibility.....	37
Section 2. Group Health and Hospitalization Insurance .....	37
Section 3. Group Life Insurance.....	37
Section 4. Other Optional Group Insurance Plans .....	37
Section 5. Retiree Insurance Coverage.....	38
Section 6. Supplemental Retirement Benefits.....	38
Section 7. Social Security .....	38
Section 8. Workers' Compensation.....	39
Section 9. Unemployment Compensation .....	39
Section 10. Tuition Assistance Program .....	39
Section 11. Law Enforcement Separation Allowance .....	40
ARTICLE VII. HOLIDAYS AND LEAVES OF ABSENCE.....	42
Section 1. Policy .....	42

Section 2. Holidays .....	42
Section 3. Holidays: Effect on Other Types of Leave .....	42
Section 4. Holidays: Compensation When Work is Required on Regularly Scheduled Off for Shift Personnel .....	42
Section 5. Vacation Leave.....	42
Section 6. Vacation Leave: Use by Probationary Employees .....	43
Section 7. Vacation Leave: Accrual Rate .....	43
Section 8. Vacation Leave: Maximum Accumulation.....	44
Section 9. Vacation Leave: Manner of Taking.....	44
Section 10. Vacation Leave: Payment upon Separation.....	44
Section 11. Vacation Leave: Payment upon Death .....	45
Section 12. Sick Leave .....	45
Section 13. Sick Leave: Accrual Rate, Accumulation and Manner of Taking.....	45
Section 14. Sharing of Sick Leave.....	46
Section 15. Transfer of Sick Leave from Previous Employer.....	46
Section 16. Sick Leave: Medical Certification .....	46
Section 17. Leave Pro-rated .....	47
Section 18. Bereavement Leave.....	47
Section 19. Leave Without Pay.....	47
Section 20. Family and Medical Leave .....	48
Section 21. Workers' Compensation Leave .....	50
Section 22. Return to Work.....	51
Section 23. Military Leave .....	52
Section 24. Reinstatement Following Military Service .....	53
Section 25. Civil Leave.....	54
Section 26. Parental School Leave .....	54
Section 27. Adverse Weather and Emergency Conditions .....	55
ARTICLE VIII. SEPARATION AND REINSTATEMENT.....	56
Section 1. Types of Separations .....	56
Section 2. Resignation .....	56
Section 3. Reduction in Force.....	56
Section 4. Disability.....	56
Section 5. Voluntary Retirement.....	57
Section 6. Death.....	57
Section 7. Dismissal.....	57
Section 8. Reinstatement.....	57
Section 9. Rehiring.....	57
ARTICLE IX. UNSATISFACTORY JOB PERFORMANCE AND DETRIMENTAL PERSONAL CONDUCT .....	59
Section 1. Disciplinary Action for Unsatisfactory Job Performance .....	59
Section 2. Unsatisfactory Job Performance Defined .....	59
Section 3. Communication and Warning Procedures Preceding Disciplinary Action for Unsatisfactory Job Performance.....	60
Section 4. Disciplinary Action for Detrimental Personal Conduct.....	60

Section 5. Detrimental Personal Conduct Defined .....	61
Section 6. Possible Dismissal: Notice and Hearing .....	62
Section 7. Non-Disciplinary Suspension .....	62
ARTICLE X. GRIEVANCE PROCEDURE AND ADVERSE ACTION APPEAL.....	64
Section 1. Policy .....	64
Section 2. Grievance Defined .....	64
Section 3. Purposes of the Grievance Procedure .....	64
Section 4. Procedure.....	65
Section 5. Role of the Human Resources Director .....	66
Section 6. Grievance and Adverse Action Appeal Procedure for Discrimination .....	67
ARTICLE XI. RECORDS AND REPORTS .....	68
Section 1. Public Information .....	68
Section 2. Access to Confidential Records .....	69
Section 3. Personnel Actions .....	69
Section 4. Records of Former Employees .....	70
Section 5. Remedies of Employees Objecting to Material in File.....	70
Section 6. Penalties for Permitting Access to Confidential Records .....	70
Section 7. Examining and/or Copying Confidential Material without Authorization .....	70
Section 8. Destruction of Records Regulated.....	70
ARTICLE XII. IMPLEMENTATION OF POLICIES .....	72
Section 1. Conflicting Policies Repealed .....	72
Section 2. Severability .....	72
Section 3. Effective Date .....	72
Section 4. Amendments .....	72
APPENDIX A .....	73
ALCOHOL AND DRUG FREE WORKPLACE POLICY .....	73
ARTICLE I. Introduction.....	73
ARTICLE II. Purpose.....	73
ARTICLE III. Policy Statement .....	73
ARTICLE IV. Responsibilities .....	74
ARTICLE V. Alcohol and Drug Prohibitions and Requirements .....	74
ARTICLE VI. Education .....	76
ARTICLE VII. Notice of Testing – Condition of Employment:.....	76
ARTICLE VIII. Drug and Alcohol Testing Circumstances.....	77
ARTICLE IX. Substances Tested.....	79
ARTICLE X. Testing Procedures.....	79
ARTICLE XI. Refusal to Test .....	80
ARTICLE XII. Consequences of Engaging in Prohibited Conduct.....	81
ARTICLE XIII. Return to Duty Requirements.....	82
ARTICLE XIV. Technical Implementation of Drug and Alcohol Testing Program.....	82
ARTICLE XV. Analytical Requirements .....	83
ARTICLE XVI. Omnibus Transportation Employee Testing Act .....	84
ARTICLE XVII. Definitions .....	84

## PREFACE

The Valdese Town Council is responsible for establishing the personnel policies for Town Employees. This manual is designed to help employees understand how to successfully navigate employment with the Town. Whether you are a new employee or have been a Town of Valdese employee for many years, we believe you will find the information contained in the Employee Personnel Policies useful in understanding your responsibilities as a Town of Valdese employee and a helpful guide to explaining the benefits available to you.

The Town of Valdese Employee Personnel Policies provide the Town with a framework to promote consistent human resource management practices and procedures throughout all Town departments. We believe these policies promote a work environment that helps employees perform their duties to the best of their abilities in service to the citizens of Valdese.

Employees are responsible for becoming familiar and complying with the content of these policies. If you have questions about any of the policies and how they apply to you, you are encouraged to contact your supervisor or Human Resources for more information.

The Employee Personnel Policies do not constitute a guarantee or contract of employment and the Town reserves the right to change, revoke, interpret or add to any of these policies at any time at its sole discretion without prior notice. The Town is an “at-will” employer and retains the right to terminate employment at any time and for any reason not prohibited by law.

## **ARTICLE I. GENERAL PROVISIONS**

### **Section 1. Purpose of the Policy**

It is the purpose of this policy and the rules and regulations set forth to establish a fair and uniform system of personnel administration for all employees of the Town under the supervision of the Town Manager. This policy is established under authority of Chapter 160A, Article 7, of the General Statutes of North Carolina.

### **Section 2. At Will Employment**

The employment relationship between the Town and the employee is terminable at the will of either at any time and with or without cause and with or without notice. No employee, officer or representative of the Town has any authority to enter into any agreement or representation, verbally or in writing, which alters, amends, or contradicts this provision or the provisions in these policies.

### **Section 3. Merit Principle**

All appointments and promotions shall be made solely on the basis of merit. No applicant for employment or employee shall be deprived of employment opportunities or otherwise adversely affected as an employee because of such individual's race, color, religion, sex, national origin, political affiliation, non-disqualifying disability, marital status, veteran status or age.

### **Section 4. Responsibilities of the Town Council**

The Town Council shall be responsible for establishing and approving personnel policies, the position classification and pay plan, and may change the policies and benefits as necessary. They also shall make and confirm appointments when so specified by the general statutes.

### **Section 5. Responsibilities of the Town Manager**

The Town Manager shall be accountable to the Town Council for the administration and technical direction of the personnel program. The Town Manager shall appoint, suspend, and remove all Town employees except those whose appointment is otherwise provided for by law. The Town Manager shall

make appointments, dismissals and suspensions in accordance with the Town charter and other policies and procedures spelled out in other Articles in this Policy.

The Town Manager shall supervise or participate in:

1. Recommending rules and revisions to the personnel system to the Town Council for consideration;
2. Making changes as necessary to maintain an up to date and accurate position classification plan;
3. Preparing and recommending necessary revisions to the pay plan;
4. Determining which employees shall be subject to the overtime provisions of FLSA;
5. Developing and administering such recruiting programs as may be necessary to obtain an adequate supply of competent applicants to meet the needs of the Town;
6. Performing such other duties as may be assigned by the Town Council not inconsistent with this Policy; and
7. Appointing an employee to the role of Human Resources Director.

#### **Section 6. Responsibilities of the Human Resources Director**

The responsibilities of the Human Resources Director are to make recommendations to the Town Manager on the following:

1. Recommending rules and revisions to the personnel system to the Town Manager for consideration;
2. Recommending changes as necessary to maintain an up to date and accurate position classification plan;
3. Recommending necessary revisions to the pay plan;
4. Recommending which employees shall be subject to the overtime provisions of FLSA;
5. Maintaining a roster of all persons in the municipal service
6. Establishing and maintaining a list of authorized positions in the municipal service at the beginning of each budget year which identifies each authorized position, class title of position, salary range, any changes in class title and status, position number and other such data as may be



desirable or useful;

7. Developing and administering such recruiting programs as may be necessary to obtain an adequate supply of competent applicants to meet the needs of the Town;
8. Developing and coordinating training and educational programs for Town employees;
9. Periodically investigating the operation and effect of the personnel provisions of this Policy; and
10. Performing such other duties as may be assigned by the Town Manager not inconsistent with this Policy.

### **Section 7. Application of Policies, Plan, Rules, and Regulations**

The personnel policy and all rules and regulations adopted pursuant thereto shall apply to all Town employees. The Town Manager, Town Attorney, members of the Town Council and advisory boards and commissions will be exempted except in sections where specifically included. An employee violating any of the provisions of this policy shall be subject to appropriate disciplinary action, as well as prosecution under any civil or criminal laws which have been violated.

### **Section 8. Departmental Rules and Regulations**

Because of the particular personnel and operational requirements of the various departments of the Town, each department is authorized to establish supplemental written rules and regulations applicable only to the personnel of that department. All such rules and regulations shall be subject to the approval of the Town Manager, and shall not in any way conflict with the provisions of this Policy, but shall be considered as a supplement to this Policy. The Human Resources Director shall maintain a copy of such approved department rules and regulations.

### **Section 9. Definitions**

For the purposes of this Policy, the following words and phrases shall have the meanings respectively ascribed to them by this section:

**Adverse Action.** A demotion, dismissal, reduction in pay, layoff, suspension, or an involuntary transfer.

**Allocated Position.** An allocated position is authorized as a regular position by the Town Council. Regular allocated positions are assigned a specific job title, salary grade, salary range, duties, and minimum qualifications. Appointments to allocated positions are made through a competitive selection process. All Town positions are subject to budget review and approval each year by the Town Council.

**Applicant.** One who applies for a vacant position by completing and submitting an application for employment regardless of current employment status (e.g. a current Valdese employee becomes an applicant when an application for another position is submitted).

**Class.** A position or group of positions having similar duties and responsibilities requiring similar qualifications which can be properly designated by one title indicative of the nature of work performed and which carry the same salary range.

**Close Relationship.** Means a mutually acceptable relationship, including dating, co-habitation, or other personal relationship between Town employees.

**Compensatory Time (Comp Time).** Under the Fair Labor Standards Act (FLSA) local governments may, at their discretion, compensate employees in time off rather than pay when employees work more than the standard workweek or work period hours for their classification (40 hours in a 7-day period; 171 hours for police and 212 hours for fire personnel in a 28-day cycle). The Comp Time is earned at the rate of one and one-half hours for each hour, or portion thereof, worked beyond the above stated standard workweek or work period hours. During any absence, employees are required to use any accrued Comp Time hours prior to the use of any vacation, sick or holiday leave.

**Continuous Service.** Years of regular service with the Town of Valdese without a termination and rehire of employment. This does not include Family and Medical leaves of absence or eligible Military Leave under the Uniformed Services Employment and Reemployment Rights Act (USERRA). Continuous service in regard to the Health Insurance for Retirees only includes full-time, regular employees.

**Demotion.** Demotion is the movement of an employee to a position or classification having a lower salary range than the position or classification from which the reassignment is made.

**Department Head.** The highest level of supervision and coordination within a department or agency.

**Exempt Employee.** In accordance with the Fair Labor Standards Act, an employee's classification who is not required to be compensated for overtime for work performed beyond forty hours in a work week.

**Full-time employee.**

1. **Regular:** An employee, appointed to a regular established position, who is regularly scheduled to work at least 35 hours per week.
2. **Temporary:** An employee, appointed to a temporarily established position, who is regularly scheduled to work at least 35 hours per week.

**Grievance.** A claim or complaint based upon an event or condition which affects the circumstances under which an employee works, allegedly caused by misinterpretation, unfair application, or lack of established policy pertaining to employment expectations. A grievance may involve allegations of involuntary demotion, suspension, dismissal, sexual harassment, discriminatory practices and/or hostile work environment. A grievance is not allowed for performance evaluations, suspensions with pay and/or voluntary demotions. A grievance does not include being turned down for promotion or transfer unless discrimination is alleged to have caused said action.

**Harassment.** Any unwelcomed comment or treatment made because of race, color, religion, sex (including pregnancy), national origin, age, disability, retaliation, political affiliation, veteran status, genetic information that creates a hostile work environment or circumstance. This term includes sexual harassment.

**Hostile Work Environment.** An environment which is a reasonable person would find hostile or abusive and that the particular person who is the object of the harassment perceives to be hostile or abusive. Hostile work environment is determined by looking at several circumstances including the frequency of the alleged harassing conduct, its severity, whether it is physically threatening or humiliating and how it interferes with an employee's work performance or working conditions.

**Immediate Family.** Parent, sibling, children, grandparents, grandchildren, plus the various combinations of half, step, in-law and adopted relationships that can be derived from those named.

**Maximum Salary Rate.** The maximum salary authorized for an employee within an assigned salary range.

**Merit Increase.** An increase in salary within the same salary grade, based on meritorious service and/or performance of duties based on the performance evaluation system.

**Non-Exempt Employee.** In accordance with the Fair Labor Standards Act, an employee who is required to be compensated for overtime at the rate of time and one-half their regular rate of pay for all hours worked beyond forty hours in a workweek, or a sworn law enforcement working more than 171 hours in their established 28-day work period or 84 hours in a 14-day work period, or a firefighter

working more than 212 hours in their established 28-day work period or 106 hours in a 14-day work period.

**Part-time employee.**

1. **Regular Part-Time Employee:** An employee appointed to a regularly established position, who is regularly scheduled to work less than 35 hours per week, but at least 20 hours per week.
2. **Temporary Part-Time Employee:** An employee appointed to a temporarily established position, who is regularly scheduled to work less than 35 hours per week.

**Pay Plan.** A schedule of pay grades and ranges systematized into sequential rates including minimum, midpoint and maximum for each class assigned to any given salary range.

**Position.** A group of current duties and responsibilities assigned by competent authority, requiring the full or part-time employment of one person, but the existence of a position or its identity does not depend upon its being occupied by an employee.

**Position Classification Plan.** An approved plan by the Town Council that assigns classes (positions) to the appropriate pay grade.

**Prior Service Credit.** Recognition of time worked with another Retirement System employer (Local Governmental Employees Retirement System or Teachers and State Employees Retirement System). The recognized time must have been continuous and the break in service before employment by the Town of Valdese cannot have exceeded one year. The recognized prior service credit shall only be used for the determination of “years worked” for vacation accrual.

**Probationary Employee.** A person appointed to an allocated position who has not yet successfully completed the designated probationary period. A probationary employee may be rejected, dismissed, demoted or suspended without the right to appeal. An employee who successfully completes the probationary period will be considered a regular employee of the Town.

**Probationary Period.** The initial six (6) months (12 months for Sworn Law Enforcement Officers, Fire Fighters, and Department Heads) of employment or promotion representing the period of observable work performance to determine the suitability and ability of the employee to satisfactorily perform the duties and responsibilities of the position. The Probationary Period may be extended up to an additional six (6) months but shall not exceed twelve (12) months (18 months for Sworn Law Enforcement Officers, Fire Fighters, and Department Heads).

**Promotion.** The reassignment of an employee to an existing position or classification in the Town service having a higher salary range than the position or classification from which the reassignment is made.

**Reclassification.** When, due to substantial and permanent changes, the majority of job duties, complexities and/or knowledge and skills required in a position are determined to be at a higher (or lower) classification level than the current level of the position, the position may be eligible for reclassification review. Changes in the nature, variety and complexity of job duties, the supervision received or supervision exercised, or the responsibility for staff and/or resources, may justify a reclassification review. Changes in the volume of work assigned, or an employee's performance, are not considered justification for a reclassification.

**Reduction in Force.** The abolishment of or reduction of all or some portion based on needs of the Town, work load and availability of funding.

**Regular employee.** An employee appointed to a regular full or part-time position who has successfully completed the designated probationary period. If the employee hired is designated a “trainee”, the employee shall also satisfy the minimum education and work experience requirements of the position becoming a regular employee.

**Regular position.** A position authorized for the fiscal year for a full twelve months and budgeted for twenty or more hours per week. All Town positions are subject to budget review and approval each year by the Town Council and all employees' work and conduct must meet Town standards.

**Salary Grade.** All positions that are sufficiently comparable to warrant one range of pay rates. For the purpose of this definition, the words “grade”, “salary range”, “level” and “range” are used interchangeably.

**Salary Range.** The salary/pay rate assigned to each pay grade of the salary plan including minimum, midpoint and maximum pay rates.

**Salary Schedule.** A listing, by pay grades, of all the approved salary ranges authorized by the Town Council for the various position classifications of Town government.

**Temporary Employee.** A person hired by the Town to perform additional, extra or special project assignment. May work on a seasonal or short-term basis. Temporary employees are paid on an hourly basis for hours actually worked and cannot work more than 25 hours, on average, in a workweek. They

are not eligible for benefits except those mandated by State and Federal government. The temporary employee or the Town can, at any time or for any reason, terminate the employment relationship.

**Trainee.** An employee who does not meet minimum education or experience requirements for a position but can, within a specified period, meet the established minimum requirements. An employee designated as such, appointed to a position in any class for which the Department Head and Human Resources Director has authorized “trainee” appointments. An individual may not be appointed as a trainee if he/she possesses the acceptable training and experience for the regular class and must be appointed to the regular class when he/she gains the acceptable and experience. A trainee must be paid at a rate below the minimum of the regular class. A trainee will remain in probationary status until they meet the qualifications of the position.

**Transfer.** The reassignment of an employee from one position or department to another.

## **ARTICLE II. POSITION CLASSIFICATION PLAN**

### **Section 1. Purpose.**

The position classification plan provides a complete inventory of all authorized and allocated positions in the Town service, and an accurate description and specification for each class of employment. The plan standardizes job titles, each of which is indicative of a definite range of duties and responsibilities.

### **Section 2. Composition of the Position Classification Plan**

The classification plan shall consist of:

1. A grouping of positions in classes which are approximately equal in difficulty and responsibility which call for the same general qualifications, and which can be equitably compensated within the same range of pay under similar working conditions;
2. Class titles descriptive of the work of the class;
3. Written specifications for each class of positions; and
4. An allocation list showing the class title of each position in its assigned pay grade.

### **Section 3. Use of the Position Classification Plan**

The classification plan is to be used:

1. In determining lines of promotion and in developing employee training programs;
2. In determining salary to be paid for various types of work;
3. In determining personnel costs in departmental budgets; and
4. In providing uniform job terminology.

#### **Section 4. Administration of the Position Classification Plan**

The Human Resources Director shall allocate each position covered by the classification plan to its appropriate class, and shall be responsible for the administration of the position classification plan. The Human Resources Director shall periodically review portions of the classification plan and recommend appropriate changes to the Town Manager.

#### **Section 5. Authorization of New Positions and the Position Classification Plan**

New positions shall be established upon recommendation of the Town Manager and approval of the Town Council. New positions shall be recommended to the Town Council with a recommended class title after which the Town Manager shall either allocate the new position into the appropriate existing class, or revise the position classification plan to establish a new class to which the new position may be allocated. The position classification plan, along with any new positions or classifications shall be approved by the Town Council and be on file with the Human Resources Director. Copies will be available to all Town employees for review upon request.

#### **Section 6. Request for Reclassification**

When changes have occurred in a classification resulting in substantial and permanent changes in job duties, complexities, responsibilities and/or authorities, it is the responsibility of the Department Head to notify the Human Resources Director of such changes. Upon receipt of such notification, the Human Resources Director shall study the classification and make a determination regarding any changes in the essential functions. At the conclusion of the study the Human Resources Director shall recommend to the Town Manager any necessary revision to the classification.



## **ARTICLE III. THE PAY PLAN**

### **Section 1. Definition**

The pay plan includes the basic salary schedule and the "Assignment of Classes to Grades" adopted by the Town Council. Each position is assigned a classification title and each title is assigned to a salary grade with a specific salary range. Positions are assigned to grades within the pay plan based on the duties and responsibilities assigned. Positions with more complex tasks, more responsibility, or requiring more technical knowledge are assigned to higher salary grades than positions with lower responsibilities or knowledge requirements. Salary grade ranges are set based on two components: competitiveness with the market and internal equity with similar positions and occupational groups. The salary schedule consists of the minimum, midpoint and maximum rates of pay for all classes of positions, and a designation of the standard hours in the work week for each position.

### **Section 2. Administration and Maintenance**

The Town Manager, assisted by the Human Resources Director, shall be responsible for the administration and maintenance of the pay plan. All employees covered by the pay plan shall be paid at a rate listed within the salary range established for the respective position classification, except for employees in trainee status or employees whose existing salaries are above the established maximum rate following transition to a new pay plan.

The pay plan is intended to provide equitable compensation for all positions, reflecting differences in the duties and responsibilities, the comparable rates of pay for positions in private and public employment in the area, changes in the cost of living, the financial conditions of the Town, and other factors. To this end, the Human Resources Director shall make periodic comparative studies of all factors affecting the level of salary ranges including the consumer price index, anticipated changes in surrounding employer plans, and other relevant factors, and will recommend to the Town Manager such changes in salary ranges as appear to be pertinent. Such changes shall be made in the salary ranges such that the minimum rate, all intervening rates, and the maximum change according to the market. Periodically, the Town Manager shall recommend that individual salary ranges be studied and adjusted as necessary to maintain market competitiveness. Such adjustments will be made by increasing or decreasing the assigned salary grade for the class and adjusting the rate of pay for employees in the class when the action is approved by the Town Council.

### **Section 3. Starting Salaries**

All persons employed in positions approved in the position classification plan shall be employed at the minimum rate for the classification in which they are employed; however, exceptionally well qualified applicants may be employed above the minimum rate of the established salary range upon recommendation of the Human Resources Director and approval of the Town Manager. Such recommendation and approval may be based on such factors as exceptional qualifications of the applicant, shortage of qualified applicants, equal pay justification or operational need.

### **Section 4. Trainee Designation and Provisions**

Applicants being considered for employment or Town employees who do not meet all of the requirements for the position for which they are being considered may be hired, promoted, demoted, or transferred by the Town Manager to a "trainee" status. In such cases, a plan for training, including a time schedule, must be prepared by the Department Head.

"Trainee" salaries shall be no more than two grades below the minimum salary rate established for the position for which the person is being trained. A new employee designated as "trainee" shall be regarded as being in a probationary period. However, probationary periods shall be no less than six months and trainee periods may extend from three to eighteen months. A trainee shall remain a probationary employee until the trainee period is satisfactorily completed.

If the training is not successfully completed to the satisfaction of the Town Manager, the trainee shall be transferred, demoted, or dismissed. If the training is successfully completed, the employee shall be paid at least at the minimum rate established for the position for which the employee was trained.

### **Section 5. Merit Pay**

Upward movement within the established salary range for an employee is not automatic, but rather based upon specific performance-related criteria. Procedures for determining performance levels and performance pay increases or other performance-related movement within the range shall be established in procedures approved by the Town Manager.

### **Section 6. Merit Pay Bonus**

Employees who are at the maximum amount of the salary range for their position classification are

eligible to be considered for a Merit Bonus at their regular performance evaluation time. Merit bonuses shall be awarded based upon the performance of the employee as described in the performance evaluation and in the same amounts as employees who are within the salary range. Merit bonuses shall be awarded in lump sum payments and do not become part of base pay.

## **Section 7. Salary Effect of Promotions, Demotions, Transfers, and Reclassifications**

**Promotions.** A promotion is the movement of an employee to a position in a class assigned to a higher salary range. The purpose of the promotion pay increase is to recognize and compensate the employee for taking on increased responsibility. When an employee is promoted, the employee's salary shall normally be advanced to the minimum rate of the new position, or to a salary which provides an increase of at least 5% over the employee's salary before the promotion, whichever is greater. In the event of highly skilled and qualified employees, shortage of qualified applicants, or other reasons related to the merit principle of employment, the Town Manager may set the salary at an appropriate rate in the range of the position to which the employee is promoted that best reflects the employee's qualifications for the job and relative worth to the Town, taking into account the range of the position and relative qualifications of other employees in the same classification. In no event, however, shall the new salary exceed the maximum rate of the new salary range. In setting the promotion salary, the Town shall consider internal comparisons with other employees in the same or similar jobs.

**Demotions.** Demotion is the involuntary movement of an employee from one position to a position in a class assigned to a lower salary range. When an employee is demoted to a position for which qualified, the salary shall be decreased by 5%. Salaries of demoted employees may be no greater than the maximum of the new range.

**Reassignments.** A reassignment is defined as the voluntary movement to a position in a lower salary range. When an employee takes a reassignment, the salary shall be set at the rate in the lower pay range which provides a salary commensurate with the employees' qualifications to perform the job and consistent with the placement of other employees within the same classification. Salary may be retained at the same level when this option does not create internal inequities with other employees in the same or similar job.

**Transfers.** The salary of an employee reassigned to a position in the same class or to a position in a different class within the same salary range shall not be changed by the reassignment.

**Reclassifications.** A reclassification is a change in a position's salary grade and title due to substantial and permanent increases or decreases in job responsibilities, complexities, duties and authorities. An employee whose position is reclassified to a class having a higher salary range shall receive a pay

increase of 5% or an increase to the minimum rate of the new pay range, whichever is higher.

If the position is reclassified to a lower pay range, the employee's salary shall remain the same. If the employee's salary is above the maximum established for the new range, the salary of that employee shall be maintained at the current level until the range is increased above the employee's salary.

### **Section 8. Salary Effect of Salary Range Revisions**

A salary range revision is a change in the salary range or grade assigned to a specific class of positions. The change may be based upon increased salaries in the relevant labor market, recruitment and retention data or increased complexity in job content. When a class of positions is assigned to a higher salary range, employees in that class shall receive a pay increase of 5%, or to the minimum rate of the new range, whichever is higher. When a class of positions is assigned to a lower salary range, the salaries of employees in that class will remain unchanged. If this assignment to a lower salary range results in an employee being paid at a rate above the maximum rate established for the new class, the salary of that employee shall be maintained at that level until such time as the employee's salary range is increased above the employee's current salary.

### **Section 9. Transition to a New Salary Plan**

The following principles shall govern the transition to a new salary plan:

1. No employee shall receive a salary reduction as a result of the transition to a new salary plan.
2. All employees being paid at a rate lower than the minimum rate established for their respective classes shall have their salaries raised at least to the new minimum rate for their classes. If the employee has passed probation, the employee's salary shall be advanced at least to the probation completion amount in the new range.
3. All employees being paid at a rate above the maximum rate established for their respective classes shall have their salaries maintained at that salary level with no increases until such time as the employees' salary range is increased above the employees' current salary.

### **Section 10. Effective Date of Salary Changes**

Salary changes approved after the first working day of a pay period shall become effective at the

beginning of the next pay period, or at such specific date as may be provided by procedures approved by the Town Manager.

### **Section 11. Overtime Pay Provisions**

Employees of the Town can be requested and may be required to work in excess of their regularly scheduled hours as necessitated by the needs of the Town and determined by the Department Head. Overtime work should normally be approved in advance by the Department Head, Town Manager or other designated Town official.

To the extent that local government jurisdictions are so required, the Town will comply with the Fair Labor Standards Act (FLSA). The Human Resources Director shall determine which jobs are "non-exempt" and are therefore subject to the Act in areas such as hours of work and work periods, rates of overtime compensation, and other provisions.

Non-exempt employees will be paid at a straight time rate for hours up to the FLSA established limit for their position (usually 40 hours in a 7-day period; 171 hours for police and 212 hours for fire personnel in a 28-day cycle). Hours worked beyond the FLSA established limit will be compensated in either time or pay at the appropriate overtime rate. In determining eligibility for overtime in a work period, only hours actually worked shall be considered; in no event, will Comp. Time, vacation leave, sick leave, or holidays be included in the computation of hours worked for FLSA purposes.

### **Section 12. Compensatory Time (Comp Time)**

From time to time it will be necessary for Non-Exempt employees to work beyond their standard workweek or work period hours in order to accomplish various tasks and projects required in the delivery of services to the Town's citizens.

Compensatory Time (Comp Time) shall apply to overtime hours worked by those employees classified as Non-Exempt under the Fair Labor Standards Act guidelines and regulations. Overtime hours are defined as those hours, or portion of hours, worked beyond the standard 40-hour workweek schedule for non-public safety employees. For public safety employees (sworn law enforcement officers and firefighters) the standard work period is 171 hours (law enforcement) and 212 hours (firefighters). The following guidelines shall apply to the administration of Comp Time:

1. No employee shall earn overtime or compensatory time without prior authorization by the Department Head.

2. The administration and management of compensatory time is the responsibility of each Department Head.
3. Compensatory leave balances may not exceed 40 hours except for public safety employees (sworn police and firefighting employees) who may not accrue more than 48 hours. Any overtime worked after such maximum balances must be compensated in pay.
4. Whenever practicable, Departments Heads will schedule employee time off on an hour-for-hour basis within the applicable workweek or work period for non-exempt employees, instead of compensating for overtime.
5. Employees are required to use any accrued compensatory time before June 30<sup>th</sup>, the end of each fiscal year. Employees, if they choose, may retain and carry over up to twelve (12) hours of compensatory time at the beginning of each fiscal year.
6. Department Heads shall maintain a record of employee compensatory accrual and usage and shall report each employee's compensatory time record to the Human Resources Director at the beginning of each calendar quarter (the first week in January, April, July and October).

Employees in positions determined to be "exempt" from the FLSA (as Executive, Administrative or Professional staff) will not receive pay for hours worked in excess of their normal work periods. These employees may be granted flexible time by their supervisor on an hour for hour basis where the convenience of the department allows. Such flexible time is not guaranteed to be taken and ends without compensation upon separation from the organization.

### **Section 13. Call-back and Stand-by Pay**

The Town provides a continuous twenty-four hour a day, seven day a week service to its customers. Therefore, it is necessary for certain employees to respond to any reasonable request for duty at any hour of the day or night. One of the conditions of employment with the Town is the acceptance of a share of the responsibility for continuous service, in accordance with the nature of each job position. If an employee fails to respond to reasonable calls for emergency service, either special or routine, the employee shall be subject to disciplinary actions up to and including dismissal by the Town Manager.

**Call-back.** Non-exempt employees will be guaranteed a minimum payment of two hours of wages for being called back to work outside of normal working hours. "Call-back" provisions do not apply to previously scheduled overtime work (scheduled one or more days in advance).

**Stand-by.** Non-exempt employees required to be on "stand-by" duty will be paid for three hours of work for each week (approximately 128 hours, excluding work time) of stand-by time they serve. Stand-by compensation for less than one full week shall be determined by the ratio of .0234 hours of

pay per one hour of stand-by time. Hours actually worked while on stand-by are calculated beginning when the employee reports to the work site and are added to the regular total of hours worked for the week. Stand-by time is defined as that time when an employee must carry a pager or other communication device and must respond immediately to calls for service.

Stand-by time is normally assigned in seven day increments. Employees designated for stand-by time must be fit for duty (not under the influence of any alcohol or drugs and able to respond within 30 minutes). Stand-by schedule changes must be approved by the department head.

#### **Section 14. Payroll Deduction**

Deductions shall be made from each employee's salary, as required by law. Additional deductions may be made upon the request of the employee on determination by the Town Manager as to capability of payroll equipment, associated increase in workload and appropriateness of the deduction.

#### **Section 15. Hourly Rate of Pay**

Employees working in a part-time or temporary capacity with the same duties as full-time employees will work at a rate in the same salary range as the full-time employees.

#### **Section 16. Longevity**

The Town of Valdese values the years of satisfactory performance provided by employees in their delivery of services to our citizens. The Town Council may appropriate funds, subject to annual review, in support of this recognition and the amount of longevity pay is subject to change each year, depending on the compensation package recommended by the Town Manager and approved by the Town Council. Employees may be eligible for longevity pay provided the conditions stated within this section are met.

1. Employees must have completed a minimum of five years of continuous full-time service to receive any longevity pay. Determination of years of continuous full-time service will be calculated annually. Employees who have not completed a minimum of five years of continuous service shall receive a payment in accordance with the below table.
2. An employee on continuous leave without pay for more than ninety (90) work days during the calendar year shall not be eligible for longevity payment in that calendar year.
3. An employee who resigns or is terminated from his/her position with the Town of Valdese, but is re-hired by the Town, will have his/her length of service calculated from the beginning of the latest term of full-time regular employment.

4. In order to receive longevity pay, in addition to fulfilling the preceding requirements, an employee must be on the active payroll, or on approved leave without pay status, at the time of the November longevity payment.

The longevity payments will be based on the following schedule. Years of Service are calculated as of the employee's employment anniversary date each calendar year. Longevity payments are not considered a part of an employee's annual base pay and appropriate federal, state, retirement, etc. deductions will be made from the payment.

Longevity amounts shall be as follows for employees hired prior to November 6, 2007 with a \$1,500 maximum for any one individual:

<u>Years of Service</u>	<u>Amount</u>
1-2 years	1% of annual Salary or \$400 whichever is greater
3-4 years	1.5% or \$400 whichever is greater
5-9 years	\$ 2.0%
10-14 years	\$ 2.5%
15-19 years	\$ 3.0%
20 -29 years	\$ 3.5%
30 plus years	\$ 4.0%

Longevity amounts shall be as follows for employees hired on or after November 6, 2007 with a \$1,500 maximum for any one individual:

<u>Years of Service</u>	<u>Amount</u>
0- but less than 5 years	-0-
5 but less than 10 years	2.0%
10 but less than 15 years	2.5%
15 but less than 20 years	3.0%
20 but less than 30 years	3.5%
30 plus years	4.0%

Longevity amounts shall be as follows for employees hired on or after May 1, 2020 with a \$1,500 maximum for any one individual:

<b>Years of Service</b>	<b>Longevity Amount</b>
5 but less than 10 Years	\$500.00
10 but less than 15 Years	\$750.00
15 but less than 20 Years	\$1,000.00
20 but less than 25 Years	\$1,250.00



25 or more Years	\$1,500.00
------------------	------------

**Section 17. Pay for Interim Assignments in a Higher-Level Classification**

An employee who is formally designated by the Town Manager to perform the duties of a job that is assigned to a higher salary grade than that of the employee’s regular classification shall receive an increase for the duration of the interim assignment, so long as the Interim Assignment is for 30, or greater, work days. The employee shall receive a salary adjustment to the minimum level of the job in which the employee is performing or an increase of 5%, whichever is greater. The salary increase shall be temporary and upon completion of the assignment, the employee shall return to the salary he/she would have had if not assigned in the interim role, considering any increases the employee would have received if they had not been placed in the interim role.

**ARTICLE IV. RECRUITMENT AND EMPLOYMENT**

**Section 1. Equal Employment Opportunity Policy**

The Town of Valdese fosters, maintains and promotes a consistent recruitment program to promote equal employment opportunity and to identify and attract the most qualified applicants for all vacancies. The Town shall select employees on the basis of the applicant's qualifications for the job and award them with respect to compensation and opportunity for training and advancement, including upgrading and promotion, without regard to age, sex (including pregnancy), race, color, religion, national origin, non-disqualifying disability, political affiliation, veteran status, marital status or sexual orientation.

**Section 2. Implementation of Equal Employment Opportunity Policy**

All Town employees responsible for recruitment and employment will continue to review regularly the implementation of this personnel policy and relevant practices to assure that equal employment opportunity based on reasonable, job-related requirements is are being actively observed and administered so that no employee or applicant for employment shall suffer discrimination because of age, sex (including pregnancy), race, color, religion, non-disqualifying disability, national origin, political affiliation, veteran status or marital status. Notices with regard to equal employment matters

shall be posted in conspicuous places on Town premises in places where notices are customarily posted.

### **Section 3. Recruitment, Selection and Appointment**

**Recruitment Sources.** When position vacancies occur, the Human Resources Director shall publicize these opportunities for employment, including applicable salary information and employment qualifications. Open positions shall be advertised for a minimum of seven calendar days prior to any offer of employment being made. Information on job openings and hiring practices may be provided to a variety of recruitment sources, including professional organizations and news media. In addition, notice of vacancies shall be posted on the Town's website and at designated conspicuous sites within departments if practical. Individuals shall be recruited from a geographic area as wide as necessary and for a period of time sufficient to ensure that well-qualified applicants are obtained for Town service. The North Carolina Division of Employment Security may be used as a recruitment source. In rare situations because of emergency conditions, high turnover, etc., the Town may hire or promote without advertising jobs, upon approval of the Town Manager.

**Job Advertisements.** Jobs may be advertised in local newspapers, professional publications, and other relevant publications in order to establish a diverse and qualified applicant pool. Employment advertisements shall contain assurances of equal employment opportunity and shall comply with Federal and State statutes.

**Application for Employment.** All persons expressing interest in employment with the Town shall be given the opportunity to file an application for employment for positions which are vacant.

**Selection.** Department Heads, with the assistance of the Human Resources Director, shall make such investigations and conduct such examinations as necessary to assess accurately the knowledge, skills, and experience qualifications required for the position, including criminal history where job-related using the DCI when needed. All selection devices administered by the Town shall be valid measures of job performance.

**Appointment.** Before any commitment is made to an applicant either internal or external, the Department Head shall make recommendations to the Human Resources Director including the salary to be paid, and the reasons for selecting the candidate over other candidates. The Human Resources Director and Department Head shall recommend approval of appointments and the starting salary for all applicants to the Town Manager. The Town Manager shall approve appointments and the starting salary for all applicants.

#### **Section 4. Probationary Period**

An employee appointed or promoted to a regular position shall serve a probationary period. Employees shall serve a six-month probationary period, except that employees in sworn police, fire, and Department Head positions shall serve a twelve-month probationary period. Employees hired as “trainees” shall remain on probation until the provisions of their traineeship are satisfied. During the probationary period, supervisors shall monitor an employee's performance and communicate with the employee concerning performance progress by way of a written and signed performance evaluation form. The performance evaluation form will be sent to and maintained in the employee’s personnel file located in Human Resources. Employees serving twelve-month probationary periods shall have a review at the end of six months as well as before the end of twelve months.

Before the end of the probationary period, the supervisor shall conduct a performance evaluation conference with the employee and discuss accomplishments, strengths, and needed improvements. A summary of this discussion shall be documented in the employee's personnel file. The supervisor shall recommend in writing whether the probationary period should be completed, extended, or the employee transferred, demoted, or dismissed. Probationary periods may be extended for a maximum of six additional months.

Disciplinary action, including demotion and dismissal, may be taken at any time during the probationary period of a new hire without following the steps outlined in this policy.

A promoted employee who does not successfully complete the probationary period may be transferred or demoted to a position in which the employee shows promise of success. If no such position is available, the employee shall be dismissed. Promoted and demoted employees who are on probation retain all other rights and benefits such as the right to use of the grievance procedures.

#### **Section 5. Promotion**

Promotion is the movement of an employee from one position to a vacant position in a class assigned to a higher salary range. It is the Town's policy to create career opportunities for its employees whenever possible. Therefore, when a current employee applying for a vacant position is best suited of all applicants, that applicant shall be appointed to that position. The Town will balance three goals in the employment process: 1) the benefits to employees and the organization of promotion from within; 2) providing equal employment opportunity and a diversified workforce to the community; and 3) obtaining the best possible employee who will provide the most productivity in that position. Therefore, except in rare situations where previous Town experience is essential (such as promotions to Police Sergeant), or exceptional qualifications of an internal candidate so indicate, the Town will consider

external and internal candidates rather than automatically promote from within. Candidates for promotion shall be chosen on the basis of their qualifications and their work records. Internal candidates shall apply for promotions using the same application process as external candidates.

## **Section 6. Demotion and Reassignment**

Demotion is the movement of an employee from one position to a position in a class assigned to a lower salary range. Demotion may be voluntary or involuntary. A voluntary demotion may be called a “reassignment.” An employee whose work or conduct in the current position is unsatisfactory may be demoted provided that the employee shows promise of becoming a satisfactory employee in the lower position. Such disciplinary demotion shall follow the disciplinary procedures outlined in this Policy.

An employee who wishes to accept a position with less complex duties and reduced responsibilities may request a reassignment. A reassignment is not a disciplinary action and is made without using the above-referenced disciplinary procedures.

## **Section 7. Transfer**

Transfer is the movement of an employee from one position or department to another. If a vacancy occurs and an employee in another department is eligible for a transfer, the employee shall apply for the transfer using the usual application process. The Department Head wishing to transfer an employee to a different department or classification shall make a recommendation through the Human Resources Director to the Town Manager with the consent of the receiving Department Head. Any employee transferred without requesting the action may appeal the action in accordance with the grievance procedure outlined in this Policy. An employee who has successfully completed a probationary period may be transferred into the same classification without serving another probationary period.

## **Section 8. Re-Hire or Employment of Retirees**

For special projects or where specific or unique qualifications or experience are needed to fill a vacancy or an identified Town need, the Manager may hire, or re-hire, a retired Town of Valdese employee, or a retired employee from another retirement system employer. The retired employee is responsible for knowing and shall be solely responsible for being in compliance with retirement system rules and regulations regarding re-employment.



## **ARTICLE V. CONDITIONS OF EMPLOYMENT**

### **Section 1. Work Schedule**

Department Heads shall establish work schedules, with the approval of the Town Manager which meet the operational needs of the department in the most cost-effective manner possible.

### **Section 2. Political Activity**

Each employee has a civic responsibility to support good government by every available means and in every appropriate manner. Each employee may join or affiliate with civic organizations of a partisan or political nature, may attend political meetings, may advocate and support the principles or policies of civic or political organizations in accordance with the Constitution and laws of the State of North Carolina and in accordance with the Constitution and laws of the United States. However, no employee shall:

1. Engage in any political or partisan activity while on duty;
2. Use official authority of influence for the purpose of interfering with or affecting the result of a nomination or an election for office;
3. Be required as a duty of employment or as condition for employment, promotion or tenure of office to contribute funds for political or partisan purposes;
4. Coerce or compel contributions from another employee of the Town for political or partisan purposes;
5. Use any supplies or equipment of the Town for political or partisan purposes; or
6. Be a candidate for nomination or election to office under the Town Charter;

Any violation of this section shall subject the employee to disciplinary action including dismissal.

### **Section 3. Outside Employment**

The work of the Town shall have precedence over other occupational interests of employees. All outside employment for salaries, wages, or commissions and all self-employment must be reported in advance to the employee's supervisor, who in turn will report it to the Department Head. The Department Head will review such employment for possible conflict of interest and then submit a record of the employment and review to the Human Resource Director for placement in the employee's personnel file. Conflicting or unreported outside employment are grounds for disciplinary action up to and including dismissal. Documentation of the disapproval or approval of outside employment will be placed in the employee's personnel file.

Examples of conflicts of interest in outside employment include but are not limited to:

1. Employment with organizations or in capacities that are regulated by the employee or employee's department; or
2. Employment with organizations or in capacities that negatively impact the employee's perceived integrity, neutrality, or reputation related to performance of the employee's Town duties.

Employees are prohibited from performing outside employment while on Workers' Compensation Leave, Family and Medical Leave, or any Leave Without Pay status from Town employment.

#### **Section 4. Dual Employment**

A full or part-time employee of the Town, under the Fair Labor Standards Act, may simultaneously hold another temporary position with the Town if the temporary position is in a different department and clearly different program area from that of the full or part-time position. The work of the temporary position must also be performed on an occasional or sporadic basis as identified in Fair Labor Standards Act regulations. However, the work of the full or part-time position shall take precedence over the temporary position, and such temporary work will not count toward the calculation of overtime for pay or time off. Notwithstanding the language of this section, the Town of Valdese does not authorize any employee to hold dual employment except, in circumstances benefiting the Town, the Town Manager may authorize dual employment. No dual employment shall occur without first being authorized by the Town Manager.

#### **Section 5. Employment of Relatives**

The Town is committed to the highest standards of professional conduct and integrity and believes the

familial relationships in the workplace can result in conflicts of interest, or an appearance of conflict of interest, and/or situations that might impair objective judgement or create a hostile work environment. Therefore, the Town prohibits the hiring and employment of immediate family in regular positions within the same work unit. The Town also prohibits the employment of any person into a regular position who is an immediate family member of individuals holding the following positions: Mayor, Mayor Pro Temp, Town Council Member, Town Manager, Finance Director, Human Resources Director, Town Clerk, or Town Attorney. Otherwise, the Town will consider employing family members or related persons in the service of the Town, provided that such employment does not:

1. Result in a relative supervising any other relatives;
2. Result in a relative auditing the work of a relative;
3. Create a conflict of interest with either relative and the Town; or
4. Create the potential or perception of favoritism.
5. Romantic relationships between any employee and a direct or indirect supervisor or subordinate of that employee are prohibited

This provision shall not apply retroactively to anyone employed when the provision is adopted by the Town.

## **Section 6. Harassment Prohibited**

The Town prohibits and will not tolerate sexual harassment or harassment on the basis of sex (including pregnancy), race, color, religion, national origin, age, retaliation, non-disqualifying disability, political affiliation, marital status or veteran status, genetic information that creates a hostile work environment or circumstance. Harassment complaints or allegations will be investigated promptly and where it is determined that such inappropriate conduct occurred, the Town will act immediately to eliminate the conduct and impose such corrective action as is necessary, including disciplinary action up to and including dismissal.

Harassment is defined as conduct that culminates in tangible employment action or is sufficiently severe or pervasive to create a hostile work environment. Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when 1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; 2) submission to or rejection of such conduct by an individual is used as the basis for



employment decisions affecting such individual; or 3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment. Sexual harassment includes repeated offensive sexual remarks, suggestive text messages, continual or repeated comments about an individual's body and offensive sexual language as well as the display in the workplace of sexually suggestive pictures.

Any employee who believes that he or she may have a complaint of harassment may follow the Grievance Procedure described in this Policy or may file the complaint directly with the Human Resources Director or Department Head who will immediately notify the Town Manager. The employee may file the complaint directly with the Town Manager if it involves a Department Head. The Human Resources Director will ensure that an investigation is conducted into any allegation of harassment and advise the employee and appropriate management officials of the outcome of the investigation.

Employees who are found to be engaged in harassment are subject to disciplinary action up to and including dismissal. Employees making complaints of harassment are protected against retaliation from alleged harassers or other employees.

### **Section 7. Solicitation and Acceptance of Gifts and Favors**

No official or employee of the Town shall solicit or accept any gift, favor, or thing of value (more than \$50) that may tend to influence such employee in the discharge of the employee's duties or grant in the discharge of duty an improper favor, service, or thing of value.

### **Section 8. Performance Evaluation**

Supervisors and/or Department Heads shall conduct Performance Evaluation conferences with each employee at least once a year to review the employee's accomplishments and strengths, areas for improvement, goals for the next year and overall performance level. These performance evaluations shall be documented in writing and placed in the employee's personnel file. Procedures for the performance evaluation program shall be published by the Town Manager.

### **Section 9. Safety**

Safety is the responsibility of both the Town and employees. It is the policy of the Town to establish a safe work environment for employees. The Town shall establish a safety program including policies and procedures regarding safety practices and precautions and training in safety methods. Department

Heads and supervisors are responsible for insuring the safe work procedures of all employees and providing necessary safety training programs. Employees shall follow the safety policies and procedures and attend safety training programs as a condition of employment. Employees who violate such policies and procedures shall be subject to disciplinary action up to and including dismissal.

The Town may award annual safety bonuses to regular full-time and part-time employees who earn such awards based on safe work records and subject to the recommendation of the Town Manager. The bonus is based on the past year's worker's compensation claims.

### **Section 10. Substance Abuse Policy**

The Town has an established policy and procedure related to employee substance abuse in order to ensure the safety and well-being of citizens and employees, and to comply with any state, federal, or other laws and regulations. The Town provides a drug free workplace for all employees. The Substance Abuse Policy may be found in Appendix A of this personnel policy.

### **Section 11. Disruption of the Work Place**

The Town has a responsibility to maintain a productive and professional work environment conducive to conducting the Town's business. To that end, employees are expected to keep any work place disruptions and distractions to a minimum. This includes personal visits and phone calls, texting, receiving personal mail or packages, charitable solicitations, or other activities that distract an employee or coworkers from the work of the Town. Supervisors will provide feedback to employees on any actions that are becoming distracting.

### **Section 12. Attendance**

The Town depends on employees to provide needed services every day. Regular attendance is mandatory and is part of the work standards for all jobs. Poor attendance can negatively affect performance evaluations or may lead to disciplinary action. Excessive absenteeism or a chronic attendance problem can lead to disciplinary action up to and including termination.

### **Section 13. Direct Deposit**

Participation in the Town's direct deposit program is mandatory.

## **Section 14. Use of Town Supplies and Equipment**

Town equipment, materials, tools and supplies shall not be available for personal use nor be removed from Town property except in conduct of official Town business. Town employees shall provide reasonable care for any Town vehicle as a duty and function of their job requirements and will be accountable for the vehicle. Such vehicles are to be used exclusively for official Town business, except that by special approval by the Town Manager, an employee may be directed to take the vehicle home when doing so shall serve the best interest of the Town. Use of Town vehicles for commuting to and from work shall usually be limited to an employee who is subject to emergency call-back work. IRS guidelines will dictate any charges which shall accrue to the employee. No individual shall operate or ride in a Town vehicle except as is required for the conduct of official Town business.

## **Section 15. Smoking and The Use of Tobacco Products and E-cigarettes Prohibited**

Smoking and the use of tobacco products and E-cigarettes by town employees is prohibited in any Town facility or vehicle and shall comply with the Valdese Town Code (Sections 8-5006 through 8-5010)

### Definitions:

1. "E-cigarette" shall mean any noncombustible product that employs a heating element, battery, or electronic circuit regardless of shape or size and that can be used to heat a liquid nicotine solution contained in a vapor cartridge. The term includes an electronic cigarette, electronic cigar, electronic cigarillo and electronic pipe. The term does not include any product regulated by the United States Food and Drug Administration under Chapter V of the federal Food, Drug and Cosmetic Act.
2. "Smoking" shall mean the use or possession of a lighted cigarette, lighted cigar, lighted pipe, or any other lighted tobacco product.
3. "Tobacco product" shall mean any product containing, made, or derived from tobacco that is intended for human consumption, whether chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, or any component part of accessory of a tobacco product, including but not limited to cigarettes, cigars, little cigars, cheroots, stogies, periques, granulated, plug cut, crump cut, ready rubbed, and other smoking tobacco, snuff, snuff flour, Cavendish, plug and twist tobacco, fine-cut and other chewing tobacco, shorts, refuse scraps, clippings, cutting and sweepings of tobacco, and other kinds and forms of tobacco. A tobacco product excludes any product that has been approved by the United States Food and

Drug Administration for sale as a tobacco cessation product, as a tobacco dependence product, or for other medical purposes, and being marketed and sold solely for such an approved purpose.

4. "Town Building" shall mean a building owned or leased by the Town of Valdese and occupied, managed or controlled by the town including, but not limited to, the Old Rock School building and the Valdese Community Center.
5. "Town Park or Sports Facility" shall mean a park or a sports facility owned, leased or operated by the Town of Valdese including, but not limited to, McGalliard Falls Park, Children's Park, Fletcher Ball Park, and the track and football facility located behind the Old Rock School including Joe Temple Field and Michael Jeffrey Morse Field House.
6. "Town Vehicle" shall mean a passenger carrying vehicle owned, leased or otherwise controlled by the Town of Valdese and assigned permanently or temporarily to town employees, agencies, institutions, or facilities for official town business.

Smoking and the Use of Tobacco Products and E-cigarettes is not prohibited in private vehicles while parked within a Town Park or Sports Facility or anywhere else where smoking and the use of tobacco products and E-cigarettes is otherwise prohibited by this Section.

#### Enforcement and Penalties:

1. Violation of this ordinance shall be punishable by a civil penalty of not more than \$25.
2. A citation may be issued by a sworn law enforcement officer. A citation issued under this Section has no consequence other than as set forth in (a) above and no court costs may be assessed.
3. In addition to any penalty under this section, employees of the Town who violate this ordinance shall be subject to disciplinary action consistent with the Town's personnel policies.

## **ARTICLE VI. EMPLOYEE BENEFITS**

### **Section 1. Eligibility**

As an integral part of a comprehensive, competitive compensation program, the Town offers a variety of benefits. Specific benefit programs will vary from time to time and the type, level, eligibility and cost of such programs are subject to change at any time at the sole discretion of the Town. To that end, the Town will periodically review each employee benefit and may, with or without notification, modify, delete or add benefits at its own discretion as may be deemed to be appropriate and necessary. When such changes are made no employee shall be considered “grandfathered” under any former benefits program.

All full-time employees of the Town are eligible for employee benefits, subject to any waiting period, as provided for in this Article which are subject to change at the Town's discretion. Temporary employees are eligible only for workers' compensation and FICA.

### **Section 2. Group Health and Hospitalization Insurance**

The Town provides group health and hospitalization insurance programs for full-time employees and their families.

Employees who are scheduled to work 30 hours or more per week on a continuous year-round basis may, if they so desire, purchase available group health through the Town for themselves or for themselves and qualified dependents.

Information concerning cost and benefits shall be available to all employees from the Human Resources Director.

### **Section 3. Group Life Insurance**

The Town may provide group life insurance for each employee subject to the stipulations of the insurance contract. Life insurance may be provided by the Town in an amount approved by the Town, subject to appropriation.

### **Section 4. Other Optional Group Insurance Plans**

The Town may make other group insurance plans available to employees upon authorization of the Town Manager or Town Council.

### **Section 5. Retiree Insurance Coverage**

For those employees who were hired prior to July 1, 2016, the Town provides medical insurance coverage or provides a monetary amount in lieu of insurance for the purpose of allowing the retiree to purchase insurance. The choice of insurance or payment in lieu is made by the Town. Employee eligibility for this coverage is determined as follows:

1. the employee must have been hired by the Town of Valdese prior to July 1, 2016;
2. the employee must have completed at least 25 years of employment with the Town of Valdese and not yet be eligible for Medicare; and
3. the employee must pay his/her share of the cost of such insurance coverage as hereinafter provided, if applicable.

The Town's contribution shall be reviewed each year by the Town Council to determine if the Town's contribution is financially feasible. The Town does not provide this retiree insurance benefit to employees who were hired on or after July 1, 2016."

### **Section 6. Supplemental Retirement Benefits**

The Town may provide supplemental retirement benefits for its regular full-time employees as a percentage of salary as designated by the Town Council beginning on the first day of employment, subject to appropriation by the Town Council.

Each sworn law enforcement officer shall receive 401(k) benefits as prescribed by North Carolina State Law and beginning on the first day of employment.

### **Section 7. Social Security**

The Town, to the extent of its lawful authority and power, has extended Social Security benefits for its eligible employees and eligible groups and classes of such employees.

## **Section 8. Workers' Compensation**

All employees of the Town (full-time, part-time, and temporary) are covered by the North Carolina Workers' Compensation Act and are required to report all injuries arising out of and in the course of employment to their immediate supervisors at the time of the injury in order that appropriate action may be taken at once.

Responsibility for claiming compensation under the Workers' Compensation Act is on the injured employee, and such claims must be filed by the employee with the North Carolina Industrial Commission within two years from date of injury. The Department Head and the Human Resources Director will assist the employee in filing the claim.

This provision also applies to reactions to small pox vaccinations administered to Town employees under Section 304 of the Homeland Security Act. Such reactions shall be treated the same as any other workers' compensation claim as regards leave and salary continuation.

Before returning to work, a statement from the attending physician must be submitted to the Human Resources Director giving permission for the employee to resume regular duties.

Upon return to work, the employee's salary will be computed on the basis of the last salary plus any salary increase to which the employee would have been entitled based upon performance and other compensation policies.

During the disability covered by Workers Compensation benefits, an employee continues to earn vacation leave, sick leave, and will retain all accumulated sick or vacation leave.

Employees may use sick leave, vacation and/or Comp Time during the waiting period before Workers' compensation benefits begin.

## **Section 9. Unemployment Compensation**

In accordance with Public Law 94-566 and subsequent amendments, local governments are covered by unemployment insurance. Town employees who are terminated due to a reduction in force or released from Town service may apply for benefits through the local North Carolina Division of Employment Security office, where a determination of eligibility will be made.

## **Section 10. Tuition Assistance Program**

Full-time employees who have completed initial probation may apply for tuition reimbursement for courses taken on their own time, which will improve their skills for their current job or prepare them for promotional opportunities within the Town service. Tuition, registration, fees, laboratory fees, and student fees are eligible expenses. Employees may be reimbursed for 50% of eligible expenses. Satisfactory completion of the courses will be required for reimbursement. Requests for tuition assistance shall be submitted to the Department Head prior to course registration and are subject to the review by the Human Resources Director and approval of Town Manager, subject to availability of funds.

### **Section 11. Law Enforcement Separation Allowance**

Every sworn law enforcement officer, as defined by N.C. Gen. Statute 128-21(11b) or N.C. Gen. Statute 143-166.50, of the Town shall be eligible for a separation allowance, as provided by N.C. Gen. Statute 143-166.42, in the amount specified in N.C. Gen. Statute 143-166.41(a).

Eligibility and continuation of these benefits are subject to the following conditions:

1. The officer shall have completed 30 or more year of creditable service, or have attained 55 years of age and completed five or more years of creditable service; and
2. Not have attained 62 years of age;
3. Have completed at least five years of continuous service as a law enforcement officer as herein defined with the Town immediately preceding a service retirement, as defined by N.C. Gen. Statutes 143-166.41(a)(3) and 143-166.41(b).

Termination of these benefits happens:

1. At death;
2. On the last day of the month in which the officer attains 62 years of age; or
3. Upon the first day of re-employment in any position in any local government in North Carolina.

Notwithstanding the provisions of subdivision (c) of this section, any North Carolina local government employer may employ retired officers in a public safety position in a capacity not requiring participation in the Local Governmental Employees' Retirement System, and doing so shall not cause payment to cease to those officers under the provisions of this section. If any such



retired law enforcement officer works 1000, or more, hours per year for a North Carolina Local Governmental Retirement System employer they shall be mandated to become members of that retirement system and; therefore, ineligible to continue receiving the Separation Allowance. Employment by any other North Carolina Retirement System employer shall not cause the retired officer to be ineligible. Any officer who is entitled to receive the special separation allowance from the Town shall, within ten (10) days of any change in his/her employment status, report the same to the Human Resources Director.

## **ARTICLE VII. HOLIDAYS AND LEAVES OF ABSENCE**

### **Section 1. Policy**

The policy of the Town is to provide vacation leave, sick leave, and holiday leave to all full-time employees and to provide proportionately equivalent amounts to employees having average work weeks of different lengths. Employees shall accrue leave proportionately with each payroll.

### **Section 2. Holidays**

The Town has adopted the State Holiday Schedule and, as such, the Human Resources Director shall publish that schedule prior to the beginning of each calendar year.

In order to receive a paid holiday, an employee must have worked the day before and the day after the holiday(s), or have been given approved leave.

### **Section 3. Holidays: Effect on Other Types of Leave**

Regular holidays which occur during a vacation, sick or other leave period of any employee shall not be considered as vacation, sick, or other leave.

### **Section 4. Holidays: Compensation When Work is Required on Regularly Scheduled Off for Shift Personnel**

Shift employees required to perform work on regularly scheduled holidays may be granted compensatory time off or paid for hours actually worked in addition to any holiday pay to which they are entitled. This compensatory time shall be granted whenever feasible. If a holiday falls on a regularly scheduled off-duty day for shift personnel, the employee shall receive the hours for paid holiday leave. Departments with employees working a shift schedule may elect to compensate those employees for working on the “true” holiday rather than the designated holiday.

### **Section 5. Vacation Leave**

Vacation leave is intended to be used for rest and relaxation, school appointments, and other personal

needs. Vacation leave may also be used by employees who wish to observe religious holidays other than those granted by the Town. Employees who wish to use leave for religious observances must request leave from their respective Department Heads. The Department Head will attempt to arrange the work schedule so that an employee may be granted vacation leave for the religious observance. Vacation leave for religious observance may be denied only when granting the leave would create an undue hardship for the Town.

**Section 6. Vacation Leave: Use by Probationary Employees**

Employees serving a probationary period following initial employment may accumulate vacation leave but shall not be permitted to take vacation leave during the first six months of employment unless approved in a pre-employment agreement.

**Section 7. Vacation Leave: Accrual Rate**

Each full-time employee of the Town shall earn vacation at the following schedule, prorated by the average number of hours in the workweek (Section 17):

<b>Years of Service</b>	<b>Accrual Rate (Days per Year)</b>
0 – 2	10
3	11
4	12
5	13
6	14
7	15
8	15
9	16
10	16
11	17
12	17
13	18
14	18
15	19
16	19
17+	20

For years of service recognition, the Town shall recognize prior service worked for another North Carolina Retirement System employer (Local Governmental Employees Retirement System or the Teachers and State Employees Retirement System), so long as the time was continuous and break in service prior to employment with the Town of Valdese does not exceed one year. The recognition of prior service shall only be used for the years of service calculation for the above vacation accrual schedule.

### **Section 8. Vacation Leave: Maximum Accumulation**

Vacation leave may be accumulated without any applicable maximum until December 31 of each year. However, if the employee departs from service, payment for accumulated vacation leave shall not exceed 30 days prorated as shown in Section 17. Effective December 31<sup>st</sup>, any employee with more than 30 days of accumulated leave shall have the excess accumulation removed so that only 30 days are carried forward to January 1 of the next calendar year. Those hours, in excess of 30 days, shall be converted to the employee's sick leave account. Employees are not eligible to receive pay for vacation time not taken.

Employees are cautioned not to retain excess accumulated vacation leave until late in the year. Because of the necessity to keep all functions in operation, large numbers of employees cannot be granted vacation leave at any one time. If an employee has excess leave accumulation during the latter part of the year and is unable to take such leave because of staffing demands, the employee shall receive no special consideration either in having vacation leave scheduled or in receiving any exception to the maximum accumulation.

### **Section 9. Vacation Leave: Manner of Taking**

Employees shall be granted the use of earned vacation leave upon request in advance at those times designated by the Department Head which will least obstruct normal operations of the Town. Department Heads are responsible for ensuring that approved vacation leave does not hinder the effectiveness of service delivery. Vacation may be taken in 30-minute increments. Any accrued comp. time shall be used prior to the use of accrued vacation hours.

### **Section 10. Vacation Leave: Payment upon Separation**

An employee who has successfully completed the probationary period will normally be paid for accumulated vacation leave upon separation not to exceed 30 days prorated as shown in Section 17, provided the appropriate notice is given to the supervisor in advance of the effective date of resignation.

Any employee failing to give and work the appropriate notice required by Article VIII, Section 2 shall forfeit payment for accumulated vacation leave. The notice requirement may be waived by the Town Manager when deemed to be in the best interest of the Town. Employees who are involuntarily separated shall be ineligible to receive and shall forfeit payment of any accrued vacation leave hours.

**Section 11. Vacation Leave: Payment upon Death**

The estate of an employee who dies while employed by the Town shall be entitled to payment of all the accumulated vacation leave credited to the employee's account not to exceed the maximum established in Section 8 of this Article.

**Section 12. Sick Leave**

Sick leave may be granted to a probationary or regular employee absent from work for any of the following reasons: sickness, bodily injury, required physical or dental examinations or treatment, or exposure to a contagious disease, when continuing work might jeopardize the health of others. Sick leave may be used for any qualifying Family and Medical Leave Act (FMLA) absence.

Sick leave may be taken in half-hour (30 minutes) increments. Any accrued comp. time shall be used prior to the use of sick leave hours.

Sick leave may also be used to supplement Workers' Compensation Disability Leave during the waiting period before Workers' compensation benefits begin.

Notification of the desire to take sick leave shall be submitted to the employee's supervisor prior to the leave or according to departmental procedures.

**Section 13. Sick Leave: Accrual Rate, Accumulation and Manner of Taking**

Sick leave shall accrue at a rate of one day per month of service or twelve days per year. Sick leave for full-time employees working other than the basic work schedule shall be prorated as described in Section 17 of this Article. Sick leave will be cumulative for an indefinite period of time and may be converted upon retirement for service credit consistent with the provisions of the North Carolina Local Governmental Employees' Retirement System.

All sick leave accumulated by an employee shall end and terminate without compensation when the employee resigns or is separated from the Town, except as stated for employees retiring or terminated

due to reduction in force.

#### **Section 14. Sharing of Sick Leave**

With the approval of the Town Manager, an employee may transfer a portion of the employee's accumulated sick leave to another town employee (the recipient employee) who needs that sick leave because the recipient employee has had a catastrophic injury or has a critical illness and the recipient employee has exhausted all of his or her accumulated sick leave, vacation leave and compensatory time.

The donating employee may not donate more than ten percent (10%) of the employee's accumulated sick leave and must have a remaining balance of at least eighty (80) hours of sick leave after the donation has been made.

#### **Section 15. Transfer of Sick Leave from Previous Employer**

The Town will accept sick leave balances when documented by a previous employer when the employee worked for a previous employer covered by the State or Local Government Retirement System and the employee did not withdraw accumulated contributions from that employer when leaving employment. The sick leave will be treated as though it were earned with the Town of Valdese. The sick leave amount must be certified by the previous employer and it is the employee's responsibility to provide documentation from his or her previous employer within three (3) months of employment. Transferred sick leave will be credited to the employee upon completion of the probationary period.

#### **Section 16. Sick Leave: Medical Certification**

The employee's supervisor or Department Head may require a physician's certificate stating the nature of the employee's or employee's family member's illness and the employee's capacity to resume duties, for each occasion on which an employee uses sick leave or whenever the supervisor observes a "pattern of absenteeism." The employee may be required to submit to such medical examination or inquiry as the Department Head deems desirable. The Department Head shall be responsible for the application of this provision to the end that:

1. Employees shall not be on duty when they might endanger their health or the health of other employees; and
2. There will be no abuse of leave privileges.

Claiming sick leave under false pretense to obtain a day off with pay shall subject the employee to disciplinary action up to and including dismissal.

### **Section 17. Leave Pro-rated**

Holiday, annual, and sick leave earned by full-time with fewer or more hours than the basic work week (40 Hours) shall be determined by the following formula:

1. The number of hours worked by such employees shall be divided by the number of hours in the basic work week (40 Hours).
2. The proportion obtained in step 1 shall be multiplied by the number of hours of leave earned annually by employees working the basic work week.
3. The number of hours in step 2 divided by 12 shall be the number of hours of leave earned monthly by the employees concerned, or divided by 26 shall be the number of hours of leave earned biweekly.

### **Section 18. Bereavement Leave**

Eligible employees scheduled to work eight (8) or twelve (12) hour shifts who have a death in the Immediate Family (as defined in Article I, Section 9) are eligible to receive up to twenty-four (24) working hours of paid funeral leave. Eligible employees scheduled to work twenty-four (24) hour shifts are eligible to receive up to twenty-four (24) working hours paid funeral leave. Any additional time or for deaths that are not covered by the Immediate Family designation, vacation leave or accrued compensatory time may be taken (accrued comp. time will be utilized prior to the use of vacation leave hours). Funeral leave pay cannot duplicate any other compensation of the same time period. The Town may request documentation for this leave whenever there is a pattern of absenteeism demonstrated by the employee or for other reasons as needed.

### **Section 19. Leave Without Pay**

A full or part-time employee may be granted a leave of absence without pay for a period of up to twelve months by the Town Manager. The leave may be used for reasons of personal disability, sickness or disability of immediate family members, parental leave, continuation of education, special work that will permit the Town to benefit by the experience gained or the work performed, or for other reasons deemed justified by the Town Manager.

The employee shall apply in writing to the supervisor for leave. The employee is obligated to return to duty within or at the end of the time determined appropriate by the Town Manager. Upon returning to duty after being on leave without pay, the employee shall be entitled to return to the same position held

at the time leave was granted or to one of like classification, seniority, and pay. If the employee decides not to return to work, the supervisor shall be notified immediately. Failure to report at the expiration of a leave of absence, unless an extension has been requested, shall be considered a resignation.

## **Section 20. Family and Medical Leave**

The Town provides up to 12 weeks of job-protected leave in accordance with the Family and Medical Leave Act of 1993 (FMLA). Under the FMLA, eligible employees may be granted up to a total of 12 weeks of unpaid leave per 12-month period, as determined below, for any of the following reasons:

1. For incapacity due to pregnancy, prenatal medical care or child birth.
2. To care for the employee's child after birth, or placement for adoption or foster care.
3. To care for employee's spouse, son or daughter (under age 18 or incapable of self-care due to disability) parent (in-laws not included), with a serious health condition, as defined by FMLA.
4. For a serious health condition, as defined by FMLA, that renders employee unable to perform the job.
5. For qualifying exigency arising out of the fact that the spouse, child, or parent of the employee is on active duty or called to active duty status in the National Guard or Reserves in support of a contingency operation.

### **Service member Family Leave**

FMLA also includes a special leave entitlement that permits eligible employees to take up to 26 weeks of leave to care for a covered service member during a single 12-month period. A covered service member is a current member of the Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness incurred in the line of duty and is receiving medical treatment, recuperating or undergoing therapy for a serious injury or illness. In contrast to all other FMLA leaves, service member family leave may be taken only once and does not again become available with the start of a new FMLA year. An employee may not take more than a combined total of 26 workweeks of leave in any year in which he or she uses service member family leave. The same eligibility, leave usage, and medical certification requirements apply to service member family leave as apply to all other FMLA leaves.

### **Eligible employees**

To qualify for FMLA coverage, the employee must have worked for the Town of Valdese 12 months or 52 weeks; these do not have to be consecutive. However, the employee must have worked 1,250 hours during the twelve-month period immediately before the date when the FMLA time begins. Under the



Uniformed Services Employment and Reemployment Rights Act (USERRA) an employee ordered to active military duty is eligible for FMLA if the employee would have otherwise been qualified had it not been for the active military duty.

#### Leave

Employees must provide 30 days advance notice of the need to take FMLA leave when the need is foreseeable. The request for the use of leave must be made in writing by the employee and approved by the Town Manager. The FMLA permits, and the Town of Valdese requires, that while utilizing FMLA leave employees exhaust all accrued sick leave first, then vacation leave, and lastly earned compensatory time before being granted unpaid leave. Additional time away from the job beyond the 12-week period may be approved in accordance with the Town's Leave Without Pay policy. Any use of sick leave beyond two weeks is required to be submitted as Family and Medical Leave. Family Medical Leave runs concurrently with other types of leave including sick leave/disability, voluntary shared leave, and worker's compensation. An employee ceases to earn leave credits on the date leave without pay begins. An employee is prohibited from moonlighting or performing other outside work during any kind of leave including FMLA leave.

#### 12-Month Period

For the purposes of determining available leave, the 12-month period during which employees may be eligible for leave will be calculated on a rolling leave year looking forward 12 months from the date an employee begins FMLA leave.

#### Medical Certification

The Town may require medical certification to assess FMLA eligibility, as well as updates at reasonable intervals for continued certification. Employees are responsible for paying for the certification or re-certification. The Town, at its own cost, may also require the employee to get a second or third opinion from a physician designated by the Town. Failure to provide adequate information within 15 calendar days, may result in denial of leave. The employee is expected to return to work at the end of the time frame stated in the medical certification, unless he/she has requested additional time in writing under the Town's Leave Without Pay policy. The Town requires a physician's statement certifying an employee's ability to return to work prior to returning from medical leave. An employee who does not return to work within three working days after their FMLA expires will be considered to have resigned their position.

#### Spouse's Combined Leave

If both spouses work for the Town and each wish to take leave for the birth of a child, adoption or placement of a child in foster care, or to care for a parent (not parent-in-law) with a serious health condition, the spouses together may only take a total of 12 weeks leave during the 12-month period under FMLA. The request for the use of leave must be made in writing by the employee and approved by the Department Head or Town Manager.

### Benefits Continuation

The Town will continue to provide health care benefits; however, the employee will be responsible for paying his/her portion of the premium for dependent coverage if applicable. Other insurance and payroll deductions (i.e. dental, flex, etc.) are the responsibility of the employee and the employee must make those payments. Failure to pay premiums may result in loss of coverage. Under federal regulations, the Town has the right to recover the insurance premiums if the employee fails to return to work for reasons other than the inability of the employee to work.

### Reinstatement

Under most circumstances, employees who return to work immediately after the expiration of this leave and who do not exceed the amount of leave permitted under the FMLA, will be reinstated to either the same or equivalent job. If the twelve or twenty-six weeks of this leave are exhausted and the employee has not returned to work, the Town will determine if the employee will be reinstated.

## **Section 21. Workers' Compensation Leave**

Under the North Carolina Workers' Compensation Act, employees may be compensated for absence from work due to injury or illness covered by the Act, subject to the following leave provisions:

1. There is a mandatory 7 calendar day waiting period before Workers' Compensation salary benefits begin. For this waiting period, employees may use accrued compensatory time, sick or vacation leave.
2. Beginning on the 8<sup>th</sup> calendar day following the injury or illness, employees who have not returned to work shall be placed in a Workers' Compensation Leave Without Pay status until their return to work. Accrued leave cannot be used while in Leave Without Pay status.
3. Employees in leave without pay status will retain all accumulated compensatory time, sick and vacation leave while receiving Workers' Compensation benefits. An employee on Workers' Compensation leave may be permitted to continue to be eligible for benefits under the Town's group insurance plans.
4. Upon reinstatement, an employee's salary will be computed on the basis of the last salary plus any salary increase to which the employee would have been entitled during the absence covered by Workers' Compensation benefits.

5. After returning to work, employees shall be required to use sick or vacation leave for any additional absences for doctor visits, physical therapy, and other required medical care except where any full or partial workday absence may be eligible for Workers' Compensation payment.
6. Any period of leave for a Workers' Compensation disability that qualifies as a "serious health condition" under the Family and Medical Leave Act (FMLA), will run concurrently with FMLA leave.
7. The Town of Valdese's personnel policies shall continue to apply to an employee on Workers' Compensation leave in the same manner as they would apply to an employee who continues to work, or is absent while on some other form of leave.
8. An employee is prohibited from moonlighting or performing other outside work during any kind of leave including workers' compensation leave.
9. After a one-year (52-week) leave of absence on Workers' Compensation leave, employment with the Town will be terminated to allow the Town to fill the position. The employee will be eligible for rehire and given priority for qualified job openings upon a physician's statement certifying the employee's ability to return to work. The Town reserves the right to separate the employee prior to 52-weeks.
10. During a period of leave under the Workers' Compensation Act, the employee remains responsible for paying for any voluntary benefits, or dependent benefits, at the same cost and at the same time as if the employee were still working. Failure to make timely payments will result in the cancelation of the voluntary benefit or dependent benefits coverage.

## **Section 22. Return to Work**

Before an employee may return to work from an injury at full or light duty, the employee must provide a physician's note to Human Resources Director indicating that he/she is released and capable of resuming duties, and what, if any restrictions are in place.

If the employee retains some temporary disability after Workers' Compensation leave, which prevents successful performance in his/her original position, efforts will be made to place the employee in a Modified Duty assignment. A Modified Duty assignment is a temporary position to which an employee is assigned when he/she is unable to return to his/her regular position following an on-the-job injury or illness. The modified duty assignment temporarily addresses the restrictions placed on the employee by the treating physician. For work to be considered suitable modified employment, the following conditions must be met:

1. The employee must meet the required qualifications for the modified duty assignment,
2. The work must be a meaningful and productive part of the department's operations,
3. The work must conform to the medical restrictions set by the medical care provider, and
4. The modified duty assignment and/or modified work schedule cannot exceed ninety calendar days.

If the employee's regular department is unable to meet the employee's need for modified duty, the employee's department is responsible for payment of the employee's salary and benefits while performing a Modified Duty position in a different department that has been able to meet the employee's needs. The employee placed in a Modified Duty position will be paid a salary that is equivalent to the salary of other employees holding the same position. The Town cannot guarantee placement and is under no obligation to offer or create any specific position for purposes of offering placement.

An employee may choose to accept or refuse the Return to Work (modified duty) job offer. However, an employee who refuses a Modified Duty job offer is subject to termination. Rejection of the job offer might also result in cancellation of income benefits under Workers' Compensation Insurance.

If an employee is unable to return to work at full duty after 90 calendar days, he/she may request a continuation of Modified Duty not to exceed a total of 180 calendar days in a modified capacity. Approval beyond 90 calendar days will be based upon the assessment of the employee's ability to return to full duty within the immediate future. An employee requesting an extension beyond 90 calendar days must submit updated information from the treating physician. The Town reserves the right to consider a separation of employment for any employee who is out on Workers' Compensation leave for an extended period of time thus causing hardship for the department.

### **Section 23. Military Leave**

In accordance with federal and state laws, the Town provides military leave to employees who are members of a United States Armed Forces Reserve organization or National Guard for absences to perform military duty, whether voluntary or involuntary. Absences to perform any military duty (including active duty, active duty training, inactive duty training such as scheduled drills and summer camp, full-time National Guard federal duty, fitness-for-duty examination, and funeral honors duty) are covered by this policy, unless the employee reaches the five-year maximum of military leave as established by the Uniformed Services Employment and Reemployment Rights Act (USERRA). This

policy provides military leave to regular Town employees unless their employment is for a brief, non-recurrent period and there is no reasonable expectation that such employment will continue indefinitely or for a significant period.

Employees should submit a request for military leave to the supervisor or Department Head as soon in advance of the military duty as possible. The request should be in writing and should be accompanied by a copy of the military orders. Employees must report back to work as soon after military duty as possible, consistent with federal and state laws. If the reason for the employee's delay is not related to military duties, the employee is subject to the personnel policies and practices normally applied to employees with unexcused absences.

Employees may choose whether to use earned compensatory time, accrued vacation leave (leave with pay), leave without pay, or some combination thereof for these absences, and the provisions of that leave shall apply. Upon exhausting all other paid leave, employees may request to use sick leave, if approved by the Town Manager.

Regular employees choosing to use military leave may claim up to ten (10) days of differential pay per calendar year provided the days are recorded as military leave and the military basic pay is less than the employee's regular Town pay. To claim differential pay, the employee must submit a copy of his/her military orders, pay vouchers, Leave and Earnings Statement and/or other appropriate documentation evidencing performance and compensation pertinent to the military duty.

During the period of military leave, regular employees may continue health and dental insurance coverage up to eighteen months under COBRA coverage, provided they continue to pay their share of the premiums. As with any other unpaid leave, employees do not accrue vacation leave or sick leave during the period of leave without pay. However, the balance of such accruals on the date of commencement of the military leave will remain intact for the employee's return to work.

#### **Section 24. Reinstatement Following Military Service**

Employees who are separated or discharged from military service under honorable conditions and who apply for reinstatement within the established time limits are reinstated to the same position or one of like status, seniority, and pay with the Town. If, during military service, an employee is disabled to the extent that the duties of the original position cannot be performed, the employee is reinstated to a position with duties compatible with the disability, if available. The employee's salary upon reinstatement is based on the salary rate just prior to leave, plus any general salary increase(s) implemented while on leave. The addition of a performance salary increase may be considered. Employees who are eligible for military leave have all job rights specified by the Uniformed Services Employment and Reemployment Rights Act (USERRA).

An employee's entitlement to the provisions of this section terminates upon the occurrence of any of the following events:

1. Such employee is separated from uniformed service with dishonorable or bad conduct discharge;
2. Such employee is separated from uniformed service under other than honorable conditions, as characterized pursuant to regulations prescribed by the Secretary concerned;
3. The Town's circumstances have so changed as to make such reemployment impossible or unreasonable; or,
4. Such employee gives clear written notice s/he has no intention of returning to work.

### **Section 25. Civil Leave**

A Town employee called for jury duty or as a court witness for the federal or state governments, or a subdivision thereof, shall receive leave with pay for such duty during the required absence without charge to accumulated leave. The employee may keep fees and travel allowances received for jury or witness duty in addition to regular compensation; except, that employees must turn over to the Town any witness fees or travel allowance awarded by that court for court appearances in connection with official duties. While on civil leave, benefits and leave shall accrue as though on regular duty. Employees required to be in court for their own case, defendant or plaintiff, must use accrued compensatory time or vacation leave during such absence from the work of the Town.

### **Section 26. Parental School Leave**

A Town employee who is a parent, guardian, or person standing in loco parentis (in place of the parent) may take up to four hours of unpaid leave annually to involve him or herself in school activities of his or her child(ren). This leave is subject to the three following conditions:

1. The leave must be taken at a time mutually agreed upon by the employee and the Town; and,
2. The Town may require the employee to request the leave in writing at least 48 hours prior to the time of the desired leave; and
3. The Town may require written verification from the child's school that the employee was involved at the school during the leave time.

Paid leave (compensatory time or vacation time) taken by an employee to attend to school activities of his or her child shall count toward the fulfillment of this provision by the Town.

## **Section 27. Adverse Weather and Emergency Conditions**

The Town has responsibility for providing emergency services. Adequate staff is required to operate these critical services seven days per week and 24 hours per day in all weather. Department Heads should designate which staff are in critical positions required to report to work regardless of weather or other hazardous conditions.

The adverse weather/hazardous conditions policy is established to be as fair as possible to all employees applying the following principles:

1. Maintain adequate staffing at all times of emergency services;
2. Provide for as much safety as possible for all employees in traveling to and from work in hazardous conditions; and
3. Not pay regular salaries to some employees for *not working* when others are required to be at work.

Town offices and departments shall remain open for the full scheduled working day unless authorization for closing or other deviation is received from the Town Manager's office. The Manager will consider the hazard of driving conditions and other relevant factors in determining whether to close Town offices. All departments and offices will be given sufficient advance notice of any authorized closing of non-critical Town functions. Upon authorizing a closing, non-critical staff who does not work does not get paid but may use vacation, earned compensatory time, or time without pay for the unworked hours. Employees who leave work before an official early closing time, as well as employees who report for work late or do not report for work because of hazardous conditions may also use earned vacation or compensatory leave for days or hours not worked.

Critical staff is required to report in emergency situations and should make preparations for care of family and personal needs to allow them to report for duty when required. Any employee in a position designated as critical who does not report to work as directed by the Town Manager shall be subject to disciplinary action.

## **ARTICLE VIII. SEPARATION AND REINSTATEMENT**

### **Section 1. Types of Separations**

All separations of employees from positions in the service of the Town shall be designated as one of the following types and shall be accomplished in the manner indicated: Resignation, reduction in force, disability, voluntary retirement, dismissal, or death.

### **Section 2. Resignation**

An employee may resign by submitting the reasons for resignation and the effective date in writing to the immediate supervisor as far in advance as possible. The minimum notice requirement for non-exempt employees is two calendar weeks. The minimum notice requirement for exempt employees is 30 days. Failure to provide minimum notice shall result in forfeit of payment for accumulated vacation unless the notice is waived upon recommendation of the Department Head and approval by the Town Manager.

Three consecutive days of absence without contacting the immediate supervisor or Department Head may be considered to be job abandonment, a voluntary resignation. Sick leave will only be approved during the final worked notice (as listed above) with a physician's certification or comparable documentation.

### **Section 3. Reduction in Force**

In the event that a reduction in force becomes necessary, consideration shall be given to the quality of each employee's performance, organizational needs, and seniority in determining those employees to be retained. Employees who are separated because of a reduction in force shall be given at least two weeks' notice of the anticipated action. No regular employee shall be separated because of a reduction in force while there are temporary or probationary employees serving in the same class in the department, unless the regular employee is not willing to transfer to the position held by the temporary or probationary employee.

### **Section 4. Disability**

The Town will comply with the Americans with Disabilities act and will make all responsible efforts to



provide reasonable accommodation to employees who may be or become disabled. An employee who cannot perform the essential duties of a position because of a physical or mental impairment may be separated for disability. Action may be initiated by the employee or the Town. In either case, such action must be accompanied by medical evidence acceptable to the Town Manager. The Town may require an examination, at the Town's expense, performed by a physician of the Town's choice. In circumstances where the employee may be eligible to retire under the disability provisions of the North Carolina Local Governmental Employees' Retirement System the Town will provide assistance to the employee in filing such application.

### **Section 5. Voluntary Retirement**

An employee who meets the conditions set forth under the provision of the North Carolina Local Governmental Employee's Retirement System may elect to retire and receive all benefits earned under the retirement plan.

### **Section 6. Death**

Separation shall be effective as of the date of death. All compensation due shall be paid to the estate of the employee.

### **Section 7. Dismissal**

An employee may be dismissed in accordance with the provisions and procedures of Article IX.

### **Section 8. Reinstatement**

An employee who is separated because of reduction in force may be reinstated within one year of the date of separation, upon recommendation of the Department Head, and upon approval of the Town Manager. An employee who is reinstated in this manner shall be re-credited with his or her previously accrued sick leave.

### **Section 9. Rehiring**

An employee who resigns while in good standing may be rehired with the approval of the Town Manager, and may be regarded as a new employee, subject to all of the provisions of rules and

regulations of this Policy. An employee in good standing who is separated due to a reduction in force shall be given the first opportunity to be rehired in the same or a similar position.

## **ARTICLE IX. UNSATISFACTORY JOB PERFORMANCE AND DETRIMENTAL PERSONAL CONDUCT**

### **Section 1. Disciplinary Action for Unsatisfactory Job Performance**

A regular employee may be placed on disciplinary suspension, demoted, or dismissed for unsatisfactory job performance, if after following the procedure outlined below, the employee's job performance is still deemed to be unsatisfactory. All cases of disciplinary suspension, demotion, or dismissal must be approved by the Town Manager prior to giving final notice to the employee.

### **Section 2. Unsatisfactory Job Performance Defined**

Unsatisfactory job performance includes any aspects of the employee's job which are not performed as required to meet the standards set by the Department Head or Town Manager.

Examples of unsatisfactory job performance include, but are not limited to, the following:

1. Demonstrated inefficiency, negligence, or incompetence in the performance of duties;
2. Careless, negligent or improper use of Town property or equipment;
3. Physical or mental incapacity to perform duties after reasonable accommodation;
4. Discourteous treatment of the public or other employees;
5. Absence without approved leave;
6. Improper use of leave privileges;
7. Failure to report for duty at the assigned time and place;
8. Failure to complete work within time frames established in work plan or work standards;
9. Failure to meet work standards over a period of time;
10. Failure to follow the chain of command to address work-related issues.
11. Failure to obtain or maintain current license or certificate required as a condition of the job.

12. Repeated or serious incident of unsafe behavior at work

13. Failure to wear or use appropriate safety equipment or otherwise to abide by safety rules

### **Section 3. Communication and Warning Procedures Preceding Disciplinary Action for Unsatisfactory Job Performance**

When an employee's job performance is unsatisfactory, or when incidents or inappropriate actions warrant, the supervisor shall meet with the employee as soon as possible in one or more counseling sessions to discuss specific performance problems. A brief summary of these counseling sessions shall be noted in the employee's personnel\_file by the supervisor.

An employee whose job performance is unsatisfactory over a period of time should normally receive at least two documented warnings, one of which may be in the final written warning, from the supervisor before disciplinary action resulting in dismissal is taken by the Town Manager. In each case, the supervisor will record the dates of discussions with the employee, the performance deficiencies discussed, the corrective actions recommended, and the time limits set. If the employee's performance continues to be unsatisfactory, then the supervisor will use the following steps:

1. A final written warning from the supervisor serving notice upon the employee that immediate and lasting corrected performance must take place in order to avoid suspension, demotion, or dismissal.
2. If performance does not improve, a written recommendation should be sent to the Town Manager for disciplinary action such as suspension, demotion, or dismissal.

Disciplinary suspensions are for the purpose of communicating the seriousness of the performance deficiency, not for the purpose of punishment, and should not generally exceed three days (24 hours) for nonexempt employees. Suspensions for exempt employees shall be in accordance with FLSA requirements to maintain exempt status.

Demotions are appropriate when an employee has demonstrated inability to perform successfully in the current job, but shows promise and commitment to performing successfully in a lower level job. If no other options are available, dismissal is appropriate.

If after suspension or demotion, the employee's performance does not reach an acceptable level, the employee may be dismissed.

### **Section 4. Disciplinary Action for Detrimental Personal Conduct**

With the approval of the Town Manager, an employee may be placed on disciplinary suspension, demoted, or dismissed without prior warning for causes relating to personal conduct detrimental to Town service in order to 1) avoid undue disruption of work; 2) to protect the safety of persons or property; or 3) for other serious reasons.

## **Section 5. Detrimental Personal Conduct Defined**

Detrimental personal conduct includes behavior of such a serious detrimental nature that the functioning of the Town may be or has been impaired; the safety of persons or property may be or have been threatened; or the laws of any government may be or have been violated.

Examples of detrimental personal conduct include, but are not limited to, the following:

1. Fraud, theft or other illegal activities;
2. Conviction of a felony or the entry of a plea of nolo contendere thereto;
3. Falsification of records for personal profit, to grant special privileges, or to obtain employment;
4. Willful misuse or gross negligence in the handling of Town funds or personal use of equipment or supplies;
5. Willful or wanton damage or destruction to property;
6. Willful or wanton acts that endanger the lives and property of others;
7. Possession of unauthorized firearms, alcoholic beverages, illegal substances or other lethal weapons on the job;
8. Brutality in the performance of duties;
9. Reporting to work under the influence of alcohol or drugs or partaking of such while on duty. Prescribed medication may be taken within the limits set by a physician as long as medically necessary;
10. Engaging in incompatible employment or serving a conflicting interest;
11. Request or acceptance of gifts in exchange for favors or influence;
12. Engaging in political activity prohibited by this Policy;
13. Harassment of an employee(s) and/or the public on the basis of sex or any other protected class

status; or

14. Harassment of an employee or the public with threatening or obscene language and/or gestures;
15. Stated refusal to perform assigned duties, flagrant violation of work rules and regulations, or serious malfeasance of work

## **Section 6. Possible Dismissal: Notice and Hearing**

Before dismissal action is taken, whether for failure in personal conduct or failure in performance of duties, the department head or a designee thereof, along with other persons deemed necessary to the process, including the Human Resources Director will conduct a pre-dismissal hearing. This hearing will be held upon at least three business days' notice to the employee that a dismissal is being considered and the hearing will be held, unless the employee waives such notice or the particular circumstance require a different period. At this hearing, the employee may present any response to the proposed dismissal to the department head or designee. The department head or designee will consider the employee's response, if any, to the proposed dismissal, and will, within three business days following the pre-dismissal hearing, notify the employee in writing of the final decision. If the employee is dismissed, the notice shall contain a statement of the reasons for the action and the employee's appeal rights.

If the hearing results in a decision to dismiss the employee, the employee may appeal this decision in writing to the Town Manager. The written notice of appeal shall be delivered to the Human Resources Director and the Town Manager within five business days of the date of the dismissal decision.

Upon a timely appeal of a dismissal decision the Town Manager will schedule a hearing. The employee shall appear at the hearing and may bring whatever documentation the employee deems appropriate, although voluminous documentation may be excluded at the Town Manager's discretion. The employee may request the right to bring one or more witnesses to testify to critical facts upon written application to the Town Manager, along with a brief statement as to the content of the proposed testimony. The Town Manager shall have discretion as to whether to permit such testimony.

## **Section 7. Non-Disciplinary Suspension**

During the investigation, hearing, or trial of an employee on any criminal charge, or during an investigation related to alleged detrimental personal conduct, or during the course of any civil action involving an employee, when suspension would, in the opinion of the Department Head or Town

Manager, be in the best interest of the Town, the Department Head or Town Manager may suspend the employee for part or all of the proceedings as a non-disciplinary action. In such cases, the Town Manager may:

1. Temporarily relieve the employee of all duties and responsibilities and place the employee on paid or unpaid leave for the duration of the suspension, or
2. Assign the employee new duties and responsibilities and allow the employee to receive such compensation as is in keeping with the new duties and responsibilities.

If the employee is reinstated following the suspension such employee shall not lose any compensation or benefits to which otherwise the employee would have been entitled had the suspension not occurred. If the employee is terminated following suspension, the employee shall not be eligible for any pay from the date of suspension; provided, however, all other benefits with the exception of accrued vacation and sick leave shall be maintained during the period of suspension.

## **ARTICLE X. GRIEVANCE PROCEDURE AND ADVERSE ACTION APPEAL**

### **Section 1. Policy**

The Town shall provide a just procedure for the presentation, consideration, and disposition of employee grievances. The purpose of this article is to outline the procedure and to assure all employees that a response to their complaints and grievances will be prompt and fair.

Employees utilizing the grievance procedures shall not be subjected to retaliation or any form of harassment from supervisors or employees for exercising their rights under this policy. Supervisors or other employees who violate this policy shall be subject to disciplinary action up to and including dismissal from Town service.

### **Section 2. Grievance Defined**

A grievance is a claim or complaint by a current or a former employee based upon an event or condition which affects the circumstances under which an employee works, allegedly caused by misinterpretation, unfair application, or lack of established policy pertaining to employment conditions. Grievance does not include appeal from a dismissal decision, which is covered by Article IX.

### **Section 3. Purposes of the Grievance Procedure**

The purposes of the grievance procedure include, but are not limited to:

1. Providing employees with a procedure by which their complaints can be considered promptly, fairly, and without reprisal;
2. Encouraging employees to express themselves about the conditions of work which affect them as employees;
3. Promoting better understanding of policies, practices, and procedures which affect employees;
4. Increasing employees' confidence that personnel actions taken are in accordance with established, fair, and uniform policies and procedures;



5. Increasing the sense of responsibility exercised by supervisors in dealing with their employees.
6. Encouraging conflicts to be resolved between employees and supervisors who must maintain an effective future working relationship, and therefore, encouraging conflicts to be resolved at the lowest level possible of the chain of command; and
7. Creating a work environment free of continuing conflicts, disagreements, and negative feelings about the Town or its leaders, thus freeing up employee motivation, productivity, and creativity.

#### **Section 4. Procedure**

When an employee has a grievance, the following successive steps are to be taken unless otherwise provided. The number of calendar days indicated for each step should be considered the maximum, unless otherwise provided, and every effort should be made to expedite the process. However, the time limits set forth may be extended by mutual consent. The last step initiated by an employee shall be considered to be the step at which the grievance is resolved. A decision to rescind a disciplinary suspension or demotion must be recommended by the Department Head and approved by the Town Manager.

**Informal Resolution.** Prior to the submission of a formal grievance, the employee and supervisor should meet to discuss the problem and seek to resolve it informally. Either the employee or the supervisor may involve the respective Department Head as a resource to help resolve the grievance. In addition, the employee or supervisor may request mediation from a local mediation services or other qualified parties to resolve the conflict, upon approval of the Human Resources Director. Mediation may be used at any step in the process when mutually agreed upon by the employee and relevant Town supervisor or Manager. Mediation is the process where a neutral party assists the parties in conflict with identifying mutually agreeable solutions or understandings.

**Step 1.** If no resolution to the grievance is reached informally, the employee who wishes to pursue a grievance shall present the grievance to the appropriate supervisor in writing. The grievance must be presented within fifteen calendar days of the event or within fifteen calendar days of learning of the event or condition. The supervisor shall respond to the grievance within ten calendar days after receipt of the grievance. The supervisor should, and is encouraged to, consult with any employee of the Town in order to reach a correct, impartial, fair and equitable determination or decision concerning the grievance. Any employee consulted by the supervisor is required to cooperate to the fullest extent possible.

The response from the supervisor for each step in the formal grievance process shall be in writing and signed by the supervisor. In addition, the employee shall sign a copy to acknowledge receipt thereof. The responder at each step shall send copies of the grievance and response to the Human Resources

Director.

**Step 2.** If the grievance is not resolved to the satisfaction of the employee by the supervisor, the employee may appeal, in writing, to the appropriate Department Head within ten calendar days after receipt of the response from Step 1. The Department Head shall respond to the appeal, stating the determination of decision within ten calendar days after receipt of the appeal.

**Step 3.** If the grievance is not resolved to the satisfaction of the employee at the end of Step 2, the employee may appeal, in writing, to the Town Manager within ten calendar days after receipt of the response from Step 3. The Town Manager shall respond to the appeal, stating the determination of decision within ten calendar days after receipt of the appeal. The Town Manager's decision shall be the final decision. The Town Manager will notify the Town Council of any impending legal action.

**Department Heads.** In the case of Department Heads or other employees where the Town Manager has been significantly involved in determining disciplinary action, including dismissal, the Town may wish to obtain a neutral outside party to act as a mediator to assist in resolving the conflict.

The filing of a lawsuit by an employee on an issue while there is a grievance on the same issue will end the appeal(s) under the Town's grievance procedure.

### **Section 5. Role of the Human Resources Director**

Throughout the grievance procedure, the roles of the Human Resources Director shall be as follows:

1. To advise parties (including employee, supervisors, and Town Manager) of their rights and responsibilities under this policy, including interpreting the grievance and other policies for consistency of application;
2. To be a clearinghouse for information and decisions in the matter including maintaining files of all grievance documents.
3. To give notices to parties concerning timetables of the process, etc.;
4. To assist employees and supervisors in drafting statements; and
5. To facilitate the resolution of conflicts in the procedures or of the grievance at any step in the process; and
6. To help locate mediation or other resources as needed.

The Human Resources Director shall also determine whether or not additional time shall be allowed to either side in unusual circumstances if the parties cannot agree upon extensions when needed or

indicated.

## **Section 6. Grievance and Adverse Action Appeal Procedure for Discrimination**

When an employee, former employee, or applicant, believes that any employment action discriminates illegally (i.e. is based on age, sex, race, color, national origin, religion, creed, political affiliation, non-disqualifying disability, marital status or veteran status), he or she has the right to appeal such action using the grievance procedure outlined in this Article (Section 4 above). While such persons are encouraged to use the grievance procedure, they shall also have the right to appeal directly to the Human Resources Director or Town Manager. Employment actions subject to appeal because of discrimination include promotion, training, classification, pay, disciplinary action, transfer, layoff, failure to hire, or termination of employment. An employee or applicant should appeal an alleged act of discrimination within thirty calendar days of the alleged discriminatory action, but may appeal for up to six months following the action. Nothing in this policy is intended to discourage or prevent an employee, former employee or applicant from filing a formal charge of discrimination or other illegal action with the appropriate state or federal agency having jurisdiction.

## ARTICLE XI. RECORDS AND REPORTS

### Section 1. Public Information

In compliance with GS 160A-168(b), the following information with respect to each Town employee is a matter of public record:

1. Name;
2. Age;
3. Date of original employment or appointment to the service;
4. The terms of any contract by which the employee is employed whether written or oral, past
5. and current, to the extent that the Town has the written contract or a record of the oral contract in its possession;
6. Current position title;
7. Current salary;
8. Date and amount of each increase or decrease in salary with the Town;
9. Date and type of each promotion, demotion, transfer, suspension, separation, or other change in position classification with the Town;
10. Date and general description of the reasons for each promotion with the Town;
11. Date and type of each dismissal, suspension, or demotion for disciplinary reasons taken by the municipality. If the disciplinary action was a dismissal, a copy of the written notice of the final decision of the municipality setting forth the specific acts or omissions that are the basis of the dismissal; and
12. The office to which the employee is currently assigned.

Any person may have access to this information for the purpose of inspection, examination, and copying, during regular business hours, subject only to such rules and regulations for the safekeeping of public records as the Town may adopt.

For the purposes of this subsection, the term “salary” includes pay, benefits, incentives, bonuses, and deferred and all other forms of compensation paid by the Town.

## **Section 2. Access to Confidential Records**

All information contained in a Town employee's personnel file, other than the information mentioned above is confidential and shall be open to inspection only in the following instances:

1. The employee or his/her duly authorized agent may examine all portions of his/her personnel file except letters of reference solicited prior to employment, and information concerning a medical disability, mental or physical, that a prudent physician would not divulge to the patient.
2. A licensed physician designated in writing by the employee may examine the employee's medical record.
3. A Town employee having supervisory authority over the employee may examine all material in the employee's personnel file.
4. By order of a court of competent jurisdiction, any person may examine all material in the employee's personnel file.
5. An official of an agency of the State or Federal Government, or any political subdivision of the State, may inspect any portion of a personnel file when such inspection is deemed by the Town Manager to be necessary and essential to the pursuit of a proper function of the inspecting agency, but no information shall be divulged for the purpose of assisting in a criminal prosecution of the employee, or for the purpose of assisting in an investigation of the employee's tax liability. However, the official having custody of the personnel records may release the name, address, and telephone number from a personnel file for the purpose of assisting in a criminal investigation.
6. An employee may sign a written release to be placed in his/her personnel file that permits the record custodian to provide, either in person, by telephone, or by mail, information specified in the release to prospective employers, educational institutions, or other persons specified in the release.
7. The Town Manager, with the concurrence of the Town Council, may inform any person of the employment, non-employment, promotion, demotion, suspension or other disciplinary action, reinstatement, transfer, or termination of a Town employee, and the reasons for that action. Before releasing that information, the Town Manager shall determine in writing that the release is essential to maintaining the level and quality of Town services. The written determination shall be retained in the Town Manager's office, is a record for public inspection, and shall become a part of the employee's personnel file.

## **Section 3. Personnel Actions**

The Human Resources Director, with the approval of the Town Manager, will prescribe necessary forms and reports for all personnel actions and will retain records necessary for the proper administration of the personnel system. There shall be one set of official personnel files, centrally located as designated by the Town Manager, normally in the Human Resources office. Any document not located there is not an official part of that employee's personnel record. These files shall contain documents such as employment applications and related materials, records of personnel actions, documentation of employee warnings, disciplinary actions, performance evaluations, retirement and insurance records, letters of recommendation, and other personnel-related documents.

#### **Section 4. Records of Former Employees**

The provisions for access to records apply to former employees as they apply to present employees.

#### **Section 5. Remedies of Employees Objecting to Material in File**

An employee who objects to material in his/her file may place a statement in the file relating to the material considered to be inaccurate or misleading. The employee may seek removal of such material in accordance with established grievance procedures.

#### **Section 6. Penalties for Permitting Access to Confidential Records**

Section 160A-168 of the General Statutes provides that any public official or employee who knowingly and willfully permits any person to have access to any confidential information contained in an employee personnel file, except as expressly authorized by the designated custodian, is guilty of a misdemeanor and upon conviction shall be fined in an amount consistent with the General Statutes.

#### **Section 7. Examining and/or Copying Confidential Material without Authorization**

Section 160A-168 of the General Statutes of North Carolina provides that any person, not specifically authorized to have access to a personnel file designated as confidential, who shall knowingly and willfully examine in its official filing place, remove or copy any portion of a confidential personnel file shall be guilty of a misdemeanor and upon conviction shall be fined consistent with the General Statutes.

#### **Section 8. Destruction of Records Regulated**

No public official may destroy, sell, loan, or otherwise dispose of any public record, except in accordance with GS 121.5, without the consent of the State Department of Cultural Resources. Whoever unlawfully removes a public record from the office where it is usually kept, or whoever, alters, defaces, mutilates or destroys it will be guilty of a misdemeanor and upon conviction will be fined in an amount provided in Policy 132.3 of the General Statutes.

## **ARTICLE XII. IMPLEMENTATION OF POLICIES**

### **Section 1. Conflicting Policies Repealed**

All policies, ordinances, or resolutions that conflict with the provisions of these policies are hereby repealed.

### **Section 2. Severability**

If any provision of these policies or any rule, regulation, or order thereunder of the application of such provision to any person or circumstances is held invalid, the remainder of these policies and the application of such remaining provisions of these policies of such rules, regulations, or orders to persons or circumstances other than those held invalid will not be affected thereby.

### **Section 3. Effective Date**

These policies shall become effective on the date approved by the Town Council.

### **Section 4. Amendments**

This policy may be amended by action of the Town Council and by a formal action appropriately approved. Notice of any suggested amendment to the policy, or any portion thereof, shall be provided to employees and opportunities for employee comment and reaction shall be made available prior to the amendments going to the Town Council for action. Proposed amendments should be posted on bulletin boards in all employee work locations and/or in employee newsletters. Any revisions or amendments adopted in conformance with this procedure shall become effective as of the date of such adoption.



## **APPENDIX A**

### **ALCOHOL AND DRUG FREE WORKPLACE POLICY**

#### **ARTICLE I. Introduction**

It has been estimated that American companies and municipalities spend over one hundred billion dollars each year on the consequences of substance abuse in the workplace. This considerable amount of money covers the costs of absenteeism, accidents, and equipment damage, as well as the increased medical costs and the insurance premiums that accompany such events.

We know for example, that health insurance costs for employees with alcohol related problems are about twice that of other employees. It has also been estimated that those employees who abuse alcohol or drugs have two times as many accidents, three times as many vehicular accidents, and use three times as much sick leave as those who do not abuse these substances.

The financial cost of substance abuse is substantial: however, the emotional impact of losing a friend, co-worker, or family member to drugs or alcohol is even greater. In fact, there is no way to calculate the enormity of this kind of loss.

Each of us reacts differently to drugs and alcohol, but one thing is clear, these substances affect our judgement and our ability to perform. The danger of employees abusing these substances becomes especially clear when you add a motor vehicle or piece of machinery to the picture.

#### **ARTICLE II. Purpose**

As an employer, the Town of Valdese seeks to provide a healthy and safe work environment, to provide the best possible services to citizens, to maintain the public's confidence in its employees, and to protect the Town from economic losses that can occur due to alcohol and drug abuse. The Town is committed to administering a fair and consistent drug and alcohol testing program, to promote and maintain a drug free work environment, and to comply with the provisions of the Omnibus Transportation Employee Act of 1991.

#### **ARTICLE III. Policy Statement**

The Town of Valdese is committed to the health, safety, and welfare of its employees and the citizens it serves. As part of this commitment, the Town expects its employees to be fit, alert, and prepared to perform their jobs safely and productively for the benefit of all. Substance and alcohol abuse is a safety and health threat. To promote a drug and alcohol-free work environment, the

Town of Valdese will require pre-employment and workplace testing for either or both alcohol and drugs according to the procedure prescribed herein.

#### **ARTICLE IV. Responsibilities**

##### Town Manager

The Town Manager is responsible for insuring that all Town departments adhere to this policy.

##### Safety Director

Serving as the Program Coordinator, the Safety Director is responsible for the implementation of this policy including employee training as it relates to the policy, maintaining related documentation, and for identifying employees covered by The Omnibus Transportation Act.

##### Department Directors

All Department Directors are responsible for insuring that supervisors and employees attend training sessions pertaining to the Town's substance abuse policy and adhere to its requirements. Department Directors are also responsible for properly applying this policy and taking disciplinary actions when necessary.

##### Employees

All Town employees are responsible for knowing and adhering to the requirements of this policy. Employees are expected to share the responsibility of promoting and maintaining a drug free work environment. Any employee who knows or strongly suspects that another employee is illegally using, under the influence of, or is in possession of prohibited substances shall immediately report the facts and circumstances to their supervisors. Employees will be provided training through the Town of Valdese Employee Assistance Program.

#### **ARTICLE V. Alcohol and Drug Prohibitions and Requirements**

##### **A. Alcohol**

The Town of Valdese recognizes that impaired or reduced mental and physical abilities may create a hazard in the workplace as a result of an on or off duty use of alcohol or drugs. Therefore, the Town of Valdese prohibits the unlawful manufacture, distribution, dispensing, possession, purchase, sale, and use of alcohol by its employees during work hours, while on Town property, while performing any duties for or on behalf of the Town, or while driving any Town vehicle within the course and scope of their duties as an employee of the Town of Valdese, or within eight (8) hours prior to

performing duties for the Town.

## **B. Drugs**

The Town of Valdese recognizes that impaired or reduced mental and physical abilities may create a hazard in the workplace because of on or off duty use of alcohol or drugs. Therefore, the Town of Valdese prohibits the unlawful manufacture, distribution, dispensing, possession, purchase, sale, and use of drugs or impairment by drugs by its employees during work hours, while on Town property, while performing any duties for or on behalf of the Town, or while driving any Town vehicle within the course and scope of their duties as an employee of the Town of Valdese.

## **C. Medications**

Any prescription medication used by an employee at the workplace must be in the name of the employee and used in the amount and manner prescribed, consistent with any usage warnings. Any over the counter medication must be used in accordance with a physician's written direction or the manufacturer's directions and warnings. Any use of prescription or over the counter medications while not at the workplace must be consistent with the above, so as not to result in a positive drug screen.

## **D. Charges or Convictions**

An employee must notify his/her department head verbally and in writing of any drug or alcohol conviction within three days of the conviction. Further, any employee charged with a drug or alcohol violation must report the charge to his/her department head within three (3) days following the charge. Under employer authority, such notification shall constitute grounds for reasonable suspicion testing and investigatory suspension, as outlined in Section XI of this policy. Furthermore, the employee may receive mandatory referral to the EAP. Failure to notify the department head will result in disciplinary action up to and including termination from employment.

## **E. Violation of Policy**

Violation of the policy stated above and/or alcohol or controlled substance impaired behavior on the job shall be viewed as unacceptable personal conduct and shall be cause for disciplinary action, up to and including termination, under employer authority.

## **F. Report of Criminal and/or Policy Violations**

The Town of Valdese will report all violations of criminal drug statutes occurring in the workplace to the appropriate law enforcement agency. All employees have a responsibility to report observed and suspected violation of this policy to their supervisor or Town management.

## **G. Privacy and Confidentiality**

The Town of Valdese, in accordance with the Employee Assistance Program (EAP), will support the responsible action of an employee seeking help for an alcohol or controlled substance problem.

An employee's efforts to obtain help through the EAP will be handled in confidence. With the exceptions identified elsewhere in this policy, the Town of Valdese will maintain employee medical and personal information in confidence and release this information to authorized Town personnel on a "need to know" basis only. If the employee signs a release for the transfer of such information, the information will be released as noted in the signed release to designated persons or agencies regarding the reporting of positive substance or alcohol tests.

## **ARTICLE VI. Education**

The Town of Valdese will provide drug and alcohol awareness materials to all its employees to help them understand the consequences of alcohol and drug abuse in their personal lives and in the workplace and to recognize the signs of this abuse. This education will be provided to the Town through its Employee Assistance Program. In addition, training will be conducted in order to assure compliance with the Federal Omnibus Transportation Employee Act of 1991.

Department Directors and supervisors must receive 60 minutes of training on alcohol misuse and an additional 60 minutes of training on controlled substance use. This training will include the physical, behavioral, speech, and performance indicators of probable alcohol misuse and controlled substances use.

The Town of Valdese will also provide each employee with a copy of the drug and alcohol policy so the employee will be prepared to meet the expectations and standards set forth in the policy. Questions about this policy and its implementation may be addressed in writing to the Town of Valdese Safety Director or the Town Manager. Documentation of employee's acknowledgement of receiving a copy of this policy, drug, and alcohol awareness material will be maintained in the employee's personnel file.

## **ARTICLE VII. Notice of Testing – Condition of Employment:**

Notice is given to all applicants and all current employees that employment with the Town of Valdese is conditioned upon the applicant and employee's agreement with the testing policy and consent to be tested as provided in this policy.

### **A. New Employees**

Employment with the Town of Valdese for all persons newly employed, on or after the effective date of this policy, is conditioned upon the employee's acceptance of this alcohol and drug free workplace policy and agreement to be tested as directed by management under the conditions stated herein. The employee's acceptance of employment will constitute the employee's agreement with and acceptance of this policy as a condition of employment.

### **B. Current Employees**

Continued employment with the Town of Valdese for all persons employed before the effective date of this policy is conditioned upon the employee's acceptance of this alcohol and drug free workplace policy and agreement to be tested as directed by management under the condition stated herein. Current employees will not have to undergo initial testing in that they are already employed.

## **ARTICLE VIII. Drug and Alcohol Testing Circumstances**

The Town of Valdese will require drug and alcohol testing as follows:

### **A. Pre-Employment Testing**

Applicants for employment with the Town of Valdese must successfully undergo pre-employment drug testing as a post-offer condition of employment. The applicant must be available for testing within forty-eight (48) hours following communication of a conditional offer of employment. Pre-employment drug and alcohol testing shall be required for all applicants, whether applying for full-time or part-time positions.

### **B. Random Testing**

Town of Valdese employees who are required to hold a Commercial Driver's License (CDL), due to their current job assignment with the Town are subject to random drug testing as outlined in the Omnibus Transportation Act.

Employees will be selected for testing by a computer-generated program administered by an independent third-party contractor. Testing will be spread throughout the year and all employees will be subject to selection in each selection period.

Those employees who have been charged or convicted of a drug or alcohol related offense may also be subject to random testing under employer authority or as recommended by EAP.

### **C. Reasonable Suspicion Testing**

All Town of Valdese employees will be subject to reasonable suspicion drug and alcohol testing when the Town of Valdese has cause to suspect an employee has violated this policy, or has placed himself/herself, fellow employees or the general public in harm's way due to a drug or alcohol related offense.

The Town Manager, the Program Coordinator and related Department Directors will be responsible for determining when an employee must undergo either, or both, drug and alcohol reasonable suspicion testing. Such a determination will be based on specific, describable observations, by the immediate Supervisor, Department Director, Assistant Department Director or the Program Coordinator, such as appearance, behavior, speech or body odors, when those observations are immediately prior to, during or immediately after the performance of duties for, or on behalf of The

Town of Valdese. Such observations must be by made by at least two (2) management staff personnel. Also, reasonable suspicion testing will be conducted when it has been determined the employee has recently been charged or convicted of a drug or alcohol related offense.

The Program Coordinator will arrange for testing to be conducted as soon as practicable, but no later than thirty-two (32) hours after the event for drug testing and no later than eight (8) hours after the event for alcohol testing.

#### D. Post-Accident / Post Injury Testing

All Town of Valdese employees are subject to post accident / post injury drug and alcohol testing following an accident, vehicular or otherwise, when there exists reasonable suspicion and/or one of the following circumstances:

1. Injuries resulting in professional medical treatment
2. Worker's Compensation forms must be submitted
3. Aggregate property damage of at least \$500.00
4. Contributory negligence on part of the Town employee

An exception will be made to this requirement for testing when such an injury or damage is caused by a third party. If the employee is involved in an automobile accident while carrying out duties in the capacity of his / her job, the employee must notify his / her immediate supervisor or other management staff immediately. Testing will be carried out as soon as possible.

#### **Testing Guidelines for Reasonable Suspicion and Post Accident Tests**

- Employee being tested will be driven to the test site by a member of the same sex and who is either a member of management or supervisory personnel.
- Employee being tested will not return to duty until the test results have been received by the Town. The tested employee will continue to receive their wages until test results are received by the Town.
- Employees being tested will not be allowed to drive home after testing, if negative test results have not received from the test site. A member of the same sex will drive the tested employee home from the test site.

#### E. Return to Duty and Follow-up Testing

All Town of Valdese employees are subject to return to duty and follow-up drug and alcohol testing following a violation of this policy or following the completion of chemical dependency treatment by a designated Employee Assistance Program or counseling program. Follow-up testing will be determined by the chemical dependency evaluator and treatment provider, but will be conducted under Town authority. The employee must provide a written release for the Town Manager or the Program Coordinator to receive evaluation information relevant to a return to duty decision.

## **ARTICLE IX. Substances Tested**

Drug testing by urinalysis will include the following substances:

1. Amphetamines
2. Cocaine
3. Marijuana
4. Opiates
5. Phencyclidine

The Town of Valdese may include additional drugs in the test panel for reasonable suspicion or post-accident / injury testing based on evidence or information relating to the incident in question.

NOTE: In some cases, the use of medicinal CBD products may produce a “Positive” drug screen. Since there is no way to determine if the positive screen came from the use of medicinal products or from the use of marijuana, all positive drug screens will be treated as prohibited behavior and subject to the requirements and disciplinary actions of this policy.

## **ARTICLE X. Testing Procedures**

Employees and/or applicants will report to a medical facility designated by the Town of Valdese for drug specimen collection.

Drug and blood alcohol testing will be conducted by a laboratory certified by the United States Department of Health and Human Services (DHHHS).

Evidential Breath Alcohol Testing will be conducted by a certified Breath Alcohol Technician (BAT) using an Evidential Breath Testing (EBT) device.

Testing will occur immediately prior to, during, or immediately after performing job duties.

An applicant or employee who produces a positive drug test will be afforded the opportunity to present medical information relevant to the positive test to a special physician called a Medical Review Officer (MRO). The MRO will evaluate and verify the information and make a final medical determination on the laboratory results. Final testing results will then be reported to the Program Coordinator. Both positive and negative reports will be placed in an appropriate, secure, confidential file for the tested individual.

Within 72 hours of notification of a verified positive test result, a donor may request through the MRO that the remainder of the specimen be reconfirmed at the same or a different certified laboratory. The result will be considered positive if the confirmation testing protocol

determines the presence of the drug or drug metabolite in question without regard to cutoff levels which apply to the first testing.

The employee or applicant will be responsible for the cost of the reconfirmation test unless the Medical Review Officer (MRO) determines there has been a testing discrepancy and cancels the test.

## **ARTICLE XI. Refusal to Test**

Employees must agree to be tested upon notice. A refusal to submit immediately to testing as directed by management is a violation of this policy and will be considered insubordination, unacceptable personal conduct and reason for disciplinary action, up to and including dismissal.

Failure to report to the testing site within one hour from the time the employee was given the notice will constitute a willful refusal to follow instructions and insubordination.

If the employee or applicant does not provide a sufficient urine specimen within a period of three (3) hours or an adequate breath specimen after a reasonable number of attempts, the collection process will be discontinued and The Town of Valdese promptly notified. If the employee chooses, he/she may consume up to forty (40) ounces of fluid over the three (3) hour period to assist in the providing the urine specimen.

If the collection or testing technician reports that an employee or applicant failed to provide a specimen, the Program Coordinator will inform the employee / applicant that he/she may submit valid medical evidence from a personal physician to justify the inability to provide the required specimen. Failure to provide this information will be deemed a refusal to submit to required testing and the donor will be subject to disciplinary action as set forth in this policy.

In addition, failing to proceed promptly and directly for specimen collection or testing, obstructing the testing process, failing to remain available for testing under any circumstance or the express refusal to undergo testing immediately when informed of required testing also will be considered refusal to test and reason for disciplinary action.



## **ARTICLE XII. Consequences of Engaging in Prohibited Conduct**

**A.** The conditional offer of employment to an applicant will be withdrawn should the applicant produce a positive drug / alcohol test. If the applicant tests positive, the applicant is considered unqualified for a period of one (1) year.

**B.** An employee determined by administrative or other investigation to be involved in the unlawful manufacture, distribution, dispensation, use or sale of a controlled substance on the premises of the Town of Valdese will be dismissed based on unacceptable personal conduct. Failure to comply with any requirement of this policy will result in disciplinary action up to and including dismissal.

**C.** An employee determined by administrative or other investigation to be in possession of or involved in the manufacture, or delivery of drug paraphernalia on the premises of the Town of Valdese will receive at least a written warning, investigatory suspension, be required to participate in an Employee Assistance Program, and undergo mandatory testing.

**D.** A refusal to test will result in removal from duty and other disciplinary action up to and including dismissal.

### **E. First Testing Violation Offense**

Any employee, producing a verified positive drug test or a confirmed positive alcohol test of 0.04 BAC or greater, **may be** offered the opportunity to complete the return to duty requirements described in Section VIII of this policy in preparation for resuming workplace duties. Failing to undergo evaluation or failing to complete recommended treatment successfully will result in dismissal based upon unacceptable personal conduct. Employees on probationary status are not eligible for this return to duty option and will be dismissed following a positive drug or a confirmed positive alcohol test of 0.04 or greater.

An employee producing a confirmed alcohol test result of 0.04 or greater BAC will be immediately removed from duty and will be subject to disciplinary action, up to and including termination.

### **F. Second Testing Violation Offense**

An employee producing a second positive test, either for drugs or for alcohol at or above 0.04 BAC, within five years will be dismissed for continual violation of this policy and unacceptable personal conduct.

### **G. Self-Referral**

An employee may, prior to the first testing or if there has been no second violation offense, voluntarily enter rehabilitation without incurring disciplinary action, but will be subject to return to duty and follow-up testing at the direction of the evaluator or treatment professional. The employee may initiate this process through the Town of Valdese Employee Assistance Program or directly with a treatment provider, after obtaining approval from the Town.

### **ARTICLE XIII. Return to Duty Requirements**

Following a request for assistance, a verified positive drug test or a confirmed positive alcohol test of 0.04 BAC or greater, an eligible employee will be referred to the EAP for chemical dependency evaluation. The employee must complete the evaluation and undergo any recommended treatment to be considered for return to duty status.

The evaluator will assess the employee's needs and recommend treatment if needed. The evaluator will monitor the employee's progress during any recommended treatment and at the end of treatment will reevaluate the employee for compliance with treatment. At a time designated by the evaluator, the Valdese Town Manager and the Program Coordinator, the employee will undergo return to duty testing for either or both alcohol and drugs as determined by the evaluator. Further, if the evaluator recommends treatment, the employee will be subject to follow-up tests for a maximum of five (5) years at the direction of the evaluator, the Valdese Town Manager and the Program Coordinator.

The employee will have sole responsibility of the costs incurred in the evaluation and treatment process except for any benefits that the employee may be eligible for under the Town of Valdese Employee Assistance Program or personal medical plans.

The employee may take sick days, accrued vacation days, or, with prior agreement with the Town Manager, a specified period of unpaid leave to complete any required rehabilitation after undergoing evaluation.

Entering into or participating in a treatment program does not preclude the Town from administering appropriate disciplinary measures consistent with this or any other existing policy contained in the Town of Valdese Personnel Ordinance.

Failure of an employee in return to duty status to perform job duties to normal departmental standards and expectations can result in disciplinary action up to and including dismissal.

#### **Right of Appeal**

An employee on probationary status who has violated this policy has no right of appeal beyond the medical review program and specimen reconfirmation.

Permanent employees have the right of appeal following the guidelines in the Town of Valdese Personnel Ordinance.

### **ARTICLE XIV. Technical Implementation of Drug and Alcohol Testing Program**

## Urine Collections

The collection of urine specimens will follow the protocol established by the U.S. Department of Health and Human Services (DHHS). Among other things, this protocol includes suitable donor identification, secured collection restroom with blueed toilet water, and a strict external and internal chain of custody to assure specimen integrity.

The urine specimen collection will be performed by qualified medical personnel or the personnel trained in full DHHS urine collection procedures. Under most circumstances, the urine specimen will be provided unobserved. Observed collections will be carried out only in circumstances where there is reason to suspect an initial sample was substituted or adulterated.

If the donor cannot provide an adequate specimen, the individual may consume fluid to facilitate providing an adequate specimen within a three (3) hour period. Leaving the collection site during this time will be considered a refusal to test and will result in disciplinary action set forth in this policy.

A split sample method of collection will be used for those employees who fall under the guidelines of the Omnibus Transportation Act (employees who possess CDL driver's license). At least forty-five (45) ml of urine must be collected, thirty (30) ml to be used as the primary specimen and fifteen (15) ml to be used as the split specimen.

## Breath Testing

A Breath Alcohol Technician (BAT) who has been trained to proficiency and certified in the operation of an evidential breath alcohol testing device (EBT) will collect breath specimens. The BAT and the donor will jointly complete reporting requirements on a Breath Alcohol Test Form. If the donor leaves the collection site premises without completing the test, he/she will be considered to have refused to submit to testing and will be subject to the disciplinary action set forth in this policy.

## **ARTICLE XV. Analytical Requirements**

### Drugs

The analytical process for the testing of the designated drugs will be conducted by a DHHS certified laboratory. Such testing will be conducted under the required protocols and quality assurance requirements established by DHHS and industry standards.

Initial screening of primary urine specimens submitted to the laboratory will be performed using an immunoassay process. Any specimen indicating the positive presence of any of the screened drugs will undergo a confirmatory procedure known as the Gas Chromatography / Mass Spectrometry (GC/MS). Cutoff levels to determine positive drug tests are determined by DHHS guidelines. Cutoff levels will be adopted by reference to DHHS threshold standards where available and industry guidelines otherwise.

### Alcohol

Alcohol testing will be conducted by a Breath Alcohol Technician (BAT) using an evidential breath testing (EBT) device, which meets specified industry guidelines. An initial test of 0.04 or greater will result in a 15 to 20 minutes oral deprivation period where the donor is instructed not to consume any product orally. Following this period, a second evidential breath test will produce a final reportable alcohol concentration result. Donor disregard of instructions does not discount the final test. In the event that the initial test and the confirmation test results are different, the confirmation test result is deemed to be the final test result upon which any action under the terms of this policy shall be based.

#### **ARTICLE XVI. Omnibus Transportation Employee Testing Act**

Each calendar year, a minimum of 25% of the average number of Town employees covered under the Omnibus Transportation Act will be randomly tested for alcohol, and a minimum of 50% of the average number of Town employees covered by the Omnibus Transportation Act will be randomly tested for controlled substances.

#### **ARTICLE XVII. Definitions**

**Alcohol:** constitutes any beverage, mixture, or preparation (including medication) containing as an intoxicating agent any low molecular weight alcohol such as ethyl, methyl, or isopropyl alcohol.

**Alcohol Concentration:** means the alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath.

**BAC:** breathe alcohol concentration; used to report the level of breath alcohol.

**Breath Alcohol Technician (BAT):** a person trained to proficiency in the operation of an evidential breath testing device and in the alcohol testing procedures.

**Confirmed Positive Alcohol Test:** is the result of an initial and confirmatory test via breath or other approved body fluid with both tests reflecting an alcohol concentration of 0.04 or greater.

**Confirmed Positive Drug Test:** is the result of the detection of one or more of the designated substances at thresholds at or exceeding the levels established by DHHS, the Department of Health and Human Services, through the two-separate testing protocols.

**Drug:** includes any substance listed on Schedule I through V as they may be revised under federal law in 21 CFR 1308.

**Drug Test:** constitutes an analytical procedure or chemical test to determine if specific drugs or their metabolites are present at a given time in a person's system.

**Evidential Breath Testing Device (EBT):** a device meeting requirement set forth by the National Highway Traffic Safety Administration and placed on their list of Confirming Products for the evidential testing of breath alcohol.

**Medical Review Officer (MRO):** is a medical doctor (MD) or a doctor of osteopathy (DO) who has knowledge in the field of substance abuse disorders and who receives, reviews, and evaluates confirmed positive drug tests. MRO shall be designated by the Town of Valdese or the third-party administrator of this policy.

**Negative Drug Test:** is the result of a testing process, which has not found evidence of presence of any one of the designated substances or its metabolites at thresholds established by the Department of Health and Human Services (DHHS)

**Over the Counter Medication:** constitutes those medications legally available as over the counter purchases.

**Prescription Medication:** constitutes a substance prescribed to a specific individual by an authorized health care professional with that substance being used in the prescribed manner.

**Safety Sensitive Position:**

Any Town of Valdese employee who drives a vehicle within the course and scope of their duties as an employee of the Town of Valdese, in which the type of vehicle operated requires the driver to hold a Commercial Driver's License.

**Verified Positive Drug Test:** occurs when the Medical Review Officer has reviewed a confirmed positive test and found no acceptable medical alternative for the presence of the drug(s) or metabolite.

**CONSENT AND ACKNOWLEDGEMENT FORM  
FOR DRUG AND ALCOHOL  
TESTING**

---

As an employee with the Town of Valdese, I hereby consent to and acknowledge that I am scheduled to undergo a drug/alcohol test. The test will involve an analysis of urine, saliva, blood, and/or breath sample, which I will provide at a designated collection site. The purpose of the test will be to detect the presence of the following substances: marijuana/cannabinoids (THC), cocaine metabolites, opiates, phencyclidine (PCP), amphetamines/methamphetamines, and/or alcohol. I acknowledge that the test result will be made available to the Town of Valdese Safety Director. I understand that a refusal to submit to a drug or alcohol test, or a confirmed positive test result, will result in disciplinary action as outlined the Town of Valdese Alcohol and Drug Free Workplace Policy.

**I acknowledge that a copy of this form will be maintained in my personnel file.**

Name of Employee: \_\_\_\_\_

Department: \_\_\_\_\_

Employee Social Security Number: \_\_\_\_\_

Date Test Scheduled: \_\_\_\_\_ Time Scheduled: \_\_\_\_\_

Collection Site Designated: \_\_\_\_\_

\_\_\_\_\_  
Signature of Employee

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Department Director

\_\_\_\_\_  
Date

Designation that Employee Refused to Sign: \_\_\_\_\_

Department Director or Safety Director

**RECEIPT OF TOWN OF VALDESE  
ALCOHOL AND DRUG FREE WORKPLACE POLICY**

As an employee with the Town of Valdese, I hereby acknowledge that I have received a copy of the Town of Valdese Alcohol and Drug Free Workplace Policy. Furthermore, I acknowledge that I have received training and educational materials as outlined in the above policy.

Name of Employee: \_\_\_\_\_

Department: \_\_\_\_\_

Employee Social Security Number: \_\_\_\_\_

\_\_\_\_\_  
Signature of Employee

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Department Director

\_\_\_\_\_  
Date

# **OBSERVED BEHAVIOR**

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

Date of Observation: \_\_\_\_\_

Time of Observation: From: \_\_\_\_\_ To: \_\_\_\_\_

Description of Event: \_\_\_\_\_

Reasonable Suspicion Test For Suspected Drug Use:

Reasonable Suspicion Test for Alcohol Use:

<b>CHECK ALL APPROPRIATE ITEMS</b>
------------------------------------

- |                               |  |   |  |                          |
|-------------------------------|--|---|--|--------------------------|
| 1. ODOR OF ALCOHOL ON BREATH? | YES                                      | <input type="checkbox"/>                      | NO   | <input type="checkbox"/> |
| 2. SPEECH:                    | <input type="checkbox"/> NORMAL          | <input type="checkbox"/> INCOHERENT           | <input type="checkbox"/> CONFUSED            |                          |
|                               | <input type="checkbox"/> SLURRED         | <input type="checkbox"/> WHISPERING           | <input type="checkbox"/> SILENT              |                          |
| 3. BALANCE:                   | <input type="checkbox"/> NORMAL          | <input type="checkbox"/> SWAYING              | <input type="checkbox"/> STAGGERING          |                          |
| 4. WALKING:                   | <input type="checkbox"/> NORMAL          | <input type="checkbox"/> STUMBLING            | <input type="checkbox"/> SWAYING             |                          |
|                               | <input type="checkbox"/> ARMS RAISED     | <input type="checkbox"/> REACHING FOR SUPPORT |  |                          |
| 5. STANDING:                  | <input type="checkbox"/> FEET WIDE APART | <input type="checkbox"/> RIGID                | <input type="checkbox"/> SAGGING AT KNEES    |                          |
| 6. EYES:                      | <input type="checkbox"/> BLOOD SHOT      | <input type="checkbox"/> CLOSED               | <input type="checkbox"/> DILATED/CONSTRICTED |                          |
|                               | <input type="checkbox"/> DROOPY          | <input type="checkbox"/> GLASSY               | <input type="checkbox"/> WATERY              |                          |
| 7. FACE:                      | <input type="checkbox"/> FLUSHED         | <input type="checkbox"/> PALE                 | <input type="checkbox"/> SWEATY              |                          |
| 8. Demeanor:                  | <input type="checkbox"/> CALM            | <input type="checkbox"/> CRYING               | <input type="checkbox"/> ANGRY               |                          |
|                               | <input type="checkbox"/> EXCITED         | <input type="checkbox"/> SARCASTIC            |  |                          |
| 9. AWARENESS:                 | <input type="checkbox"/> NORMAL          | <input type="checkbox"/> CONFUSED             | <input type="checkbox"/> PARANOID            |                          |
|                               | <input type="checkbox"/> SLEEPY          | <input type="checkbox"/> LACK OF COORDINATION |  |                          |

10. OTHER OBSERVATIONS AND FACTORS:  
\_\_\_\_\_  
\_\_\_\_\_

ABOVE BEHAVIOR WITNESSED BY:

SIGNED: \_\_\_\_\_ DATE: \_\_\_\_\_  
SIGNED: \_\_\_\_\_ DATE: \_\_\_\_\_