

TOWN OF WILBUR

PERSONNEL POLICY

2007

1. Purpose of Policies and Disclaimers

Policy

A. General Purpose

These policies are enacted by the Town of Wilbur in order to further the following goals:

- a. To provide a uniform system of personnel administration throughout the Town service.
- b. To ensure that recruitment, selection, placement, promotion, retention, and separation of Town employees are based upon employees' qualifications and fitness, and are in compliance with federal and state laws.
- c. To assist managers in the development of sound management practices and procedures, and to make effective consistent use of human resources throughout the Town.
- d. To promote communication between directors, managers, supervisors, and employees.
- e. To ensure, protect, and clarify the rights and responsibilities of employees.

B. Scope

These personnel rules shall apply to all Town employees except elected officials and independent contractors. In the event of conflict between these rules and any collective bargaining agreement, personnel services contract, Town ordinance, state or federal law, the terms and conditions of that contract, rule or law shall prevail. In all other cases, these rules shall apply.

In the event of the amendment of any ordinance, rule or law incorporated

in this document or upon which these provisions rely, these rules shall be deemed amended in conformance with those changes.

THE TOWN SPECIFICALLY RESERVES THE RIGHT TO REPEAL, MODIFY OR AMEND THESE POLICIES AT ANY TIME BY RESOLUTION. NONE OF THESE PROVISIONS SHALL BE DEEMED TO CREATE A VESTED CONTRACTUAL RIGHT IN ANY EMPLOYEE NOR TO LIMIT THE POWER OF THE MAYOR OR TOWN COUNCIL TO REPEAL OR MODIFY THESE RULES. THE POLICIES ARE NOT TO BE INTERPRETED AS PROMISES OF SPECIFIC TREATMENT.

2. Definitions

Policy

A. Types of Employees:

- a. Full Time Employee: an employee who is hired to work a predetermined schedule of at least 40 hours per work week.
- b. Part Time Employee: an employee who is hired to regularly work fewer hours than a full time employee.
- c. Casual Employee: an employee who is hired to work on an intermittent or as needed basis and not on a predetermined schedule.
- d. Temporary Employee: an employee who is hired for a position for a limited period of time, generally not to exceed six (6) months, unless an extension is approved by the Mayor. Such employees receive no benefits unless authorized by the Mayor.
- e. Exempt Employee: an employee who holds an administrative, professional or executive position which is defined as exempt under the wage/hour laws of the Fair Labor Standards Act.
- f. Non-Exempt Employee: an employee who is not employed in an exempt administrative, professional, or executive position as defined under the Fair Labor Standards Act.
- g. Regular Employee: an employee who has successfully completed his or her initial trial employment period. Regular employees are credited with continuous service from the date of hire.
- h. Seniority: Seniority of an employee is defined as the length of time the

employee has held a specific position, since the date of appointment to the position.

3. General Policies and Practices

Policy

A. Equal Employment Opportunity

It is the policy of the Town to treat all applicants and employees equally and without regard to race, religion, creed, color, national origin, sex, age, handicap, marital or veteran status or any other basis prohibited by local, state, or federal law. It is also the policy of the Town to foster and maintain a harmonious nondiscriminatory working environment for all employees. Toward this end, the Town will not tolerate racial, ethnic, religious or sexual slurs or comments demeaning national origin or the handicapped by any employee to or about any employee or applicant.

Violations of this policy will be cause for disciplinary action, including written warnings, suspension and termination.

Any employee who feels he or she has been the victim of discriminatory treatment in violation of this policy should bring this concern to his/her Department Head or to the Town Attorney.

All departments shall adhere to the following guidelines:

Employment Practices. All activities relating to employment such as recruitment, selection, promotion, termination, and training shall be conducted in a nondiscriminatory manner. Personnel decisions shall be based on individual performance, and staffing requirements.

Cooperation with Human Rights Organizations. The Town will cooperate fully with all organizations and commissions organized to promote fair practices and equal opportunity in employment

B. Sexual Harassment

Sexual harassment is a form of sex discrimination and is an “unlawful employment practice” under Title VII of the 1964 Civil Rights Act and the Washington State Law Against Discrimination, Chapter 49.60 RCW.

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct constitute sexual harassment when:

a. It is part of a manager’s or supervisor’s decision to hire or fire.

- b. It is used to make other employment decisions like pay, promotion, or job assignments.
- c. It interferes with the employee's work performance.
- d. It creates an intimidating, hostile, or offensive work environment.

Sexual harassment is defined as deliberate or repeated behavior of a sexual nature which is unwelcome. It can include verbal behavior such as unwanted sexual comments, suggestions, jokes, or pressure for sexual favors; nonverbal behavior such as suggestive looks and leering; and physical behavior such as pats or squeezes, or repeatedly brushing against someone's body.

Sexual harassment is inappropriate, offensive and illegal and will not be tolerated by the Town. The Town will take an affirmative role in protecting its employees from sexual harassment.

Should an employee believe that he or she is being sexually harassed, that employee should immediately identify the offensive behavior to the harasser and request that it stop, and discuss his or her concern immediately with a Department Head, the Mayor, or the Town Attorney. No employee will suffer retaliation for reporting such concerns.

When a Town official is notified of alleged harassment, he/she will promptly investigate the complaint. The investigation may include interviews with the directly-involved parties, and where necessary, with employees who may have observed the alleged harassment or who may be similarly situated with the complaining employee, and who may be able to testify to similar experiences with the accused employee.

Complaints in cases of sexual harassment will be dealt with promptly. An employee who sexually harasses another employee will be disciplined as in any other case of serious, illegal employee misconduct.

If the investigation shows the accused employee did engage in sexual harassment, appropriate action will be taken, including a warning that any continued harassment may result in a negative employment action, such as suspension or termination. Additional actions which may be taken include verbal and/or written reprimands, a letter to the employee's file or, where warranted, an employee transfer.

C. Employee Privacy/Personnel Records/Employment References

Personnel records are maintained on all Town employees and are the property of the Town. The records include, among other things, an employee's application, any examination materials, reports of the results of any employment reference checks, a list of positions held and pay rates received,

performance evaluations, notes regarding any disciplinary action(s) or other counseling sessions, and records related to fringe benefits. An employee's personnel records are confidential. Only the employee, the employee's Department Head, and the Mayor or other appropriate personnel authorized by the Mayor may examine employee personnel records. Employees are entitled to review their own personnel file annually, or upon request to the Mayor. Employees may request the removal of information they deem irrelevant or erroneous. Final determination of the retention of such material shall be made by the Mayor. The employee shall have the opportunity to submit a letter of rebuttal regarding any information contained in their file that is in dispute.

Confidential personnel records shall not be released to any other unauthorized individuals except with the written consent of the employee or in response to valid court orders or government requests directing the provision of information from personnel record.

Employment References. Unless otherwise required by a valid court order, the Town will furnish only the following information about past or present Town employees to persons outside Town government:

- (1) Dates of employment
- (2) Current job title or job title at date of termination
- (3) Verification of salary information
- (4) The employee's ability to perform his or her job
- (5) The diligence, skill, or reliability with which the employee carried out the duties of his or her job;
- (6) Any illegal or wrongful act committed by the employee when related to the duties of his or her job.

All requests for any information regarding past or present Town employees shall be directed immediately to the Mayor. Because of the potential for liability to the Town, Department Heads shall not respond directly to such requests for information. All information released to persons outside Town government shall be in writing and shall state the person or agency to whom it was disclosed and a copy shall be placed in the individual's personnel file. The employee or former employee has a right to inspect such written record upon written request.

Personnel records which are not confidential shall be maintained and destroyed in accordance with established policy regarding public records. Confidential personnel records and payroll records may be destroyed seven

(7) years after the employee has ceased to work for the Town, or at any earlier date as determined by the Mayor. Seven (7) years after the date of termination, former employees' names, social security numbers, dates of employment, and job classification will be listed on the Town's employee history index and the contents of their personnel file destroyed.

D. Substance Abuse

The Town is committed to a drug free workplace and has an obligation to ensure public safety and trust with regard to its services and programs. Accordingly, the manufacture, distribution, dispensation, possession or use of a controlled substance, drug not medically authorized or other substance which would impair job performance or pose a hazard to the safety and welfare of the employee, the public, or other employees, or the possession or use of alcohol in violation of this Policy, is strictly prohibited and employees are subject to discipline for a violation.

4. Hiring

Policy Procedures

A. Recruitment of Employees

1. Recruitment: The Town will use whatever means are appropriate to recruit qualified applicants for job vacancies in compliance with contractual, legal, and affirmative action requirements. All recruitment efforts are conducted in the spirit of equal employment opportunity. Appropriate means may include, but will not necessarily be limited to, internal job postings, help wanted advertisements or public and private employment agencies.
2. Position Announcements: Any announcements of position vacancies should include the title of the open position, a brief description of the position's minimum and/or preferred qualifications, and the place and manner of filing applications. All applications should state that the Town is an "Equal Opportunity Employer." The Mayor may add any additional information believed advisable to the announcement.
3. Applications: All applicants for open positions should be in a form or in the manner required by the Town. Any information submitted on the form or any other required documents should be verified prior to hiring to the extent necessary to determine the applicant's qualifications for employment. Any false or misleading information supplied as part of any application for employment may be grounds for rejecting the applicant or dismissing any employee.

4. Interviews: The Mayor and/or Town Council will pre-screen applicants, conduct preliminary interviews and telephone reference checks.

5. Pre-Employment Physical Examinations: The Town may establish minimum medical and physical standards for a position, which reasonably relate to the duties and responsibilities of that position. The standards may differ based on the duties and responsibilities of each position. Failure to meet the required standards for a position will result in disqualification for appointment or promotion to the position.

6. Drug Testing: Any employee occupying a position requiring a CDL (Commercial Driver's License) will be subject to random drug tests as specified in the Drug Testing Manual.

7. Offers of Employment: After the appropriate Department Head(s) have selected a candidate for employment or promotion, the Mayor will determine who will contact the successful candidate to officially extend an offer of employment or promotion and establish a starting date. Generally, the offer of employment will be made in writing with wage and benefits for the position stated in the offer, subject to meeting any physical requirements of the position.

8. New Position Descriptions: If a Department Head wishes to create a new position, he/she should prepare an outline of the duties and qualifications for the new position to be reviewed and approved by the Mayor and Council.

B. Residency Requirements

Residency within the Town shall not be a condition of initial appointment or continued employment; provided, however, that any employee's selection of residence shall not interfere with the daily performance of his/her duties and responsibilities. The Police Department Head may set response time requirements for police officers.

C. Nepotism

1. As determined by the Mayor or his/her designee, members of the immediate family of Town employees will not be hired if:

- a. One member would have the authority or practical power to supervise, hire, remove or discipline the other;
- b. One member would be responsible for financially auditing the work of another;

c. One member would handle confidential material which might create the appearance of improper or inappropriate access to that material by the other.

2. An employee's "immediate family" is defined as the employee's parent, spouse (or spousal equivalent in a cohabitation relationship), children, sister, brother, mother-in-law, father-in-law, grandparents, grandchildren and no other persons.

If two employees in such positions become so related to one another, one must be transferred to another department where the reporting, auditing or supervisory relationship does not exist or where the employees are not reporting directly to the same supervisor. If a transfer cannot be accomplished due to the unavailability of an open position, one of the employees must resign. The decision as to which employee will transfer or resign will be made in the first instance by the employees involved. If the employees do not decide which employee will transfer or resign within thirty (30) days after becoming related to one another, the Mayor shall determine which employee will transfer or resign based on the best interests of the Town.

D. Trial Period

The trial period is an integral part of the selection process for new employees and employees receiving transfers, promotions or demotions. During this period, a Department Head will determine the employee's capability to do the work, and will observe the employee's adjustment to the department. Each trial employee will be evaluated by his/her supervisor quarterly. During the trial period, the employee may be terminated without prior notice during the trial period and without recourse to the grievance procedure. Employees may not be terminated during their trial period for any reason that violates a statute, law, ordinance, or labor agreement. Employees terminated during or at the conclusion of the trial period have no rights of appeal. During this time period also, an employee may resign without prior notice.

Any new employee starting his or her first job with the Town or any employee returning to employment after any severance in Town service except lay-off shall have a trial period of twelve (12) months. For Police Department personnel, the 12 month trial period will begin after successful completion of BLET (Basic Law Enforcement Training).

Any employee receiving a transfer, promotion or demotion shall have a trial period of six (6) months. If an employee who has been transferred or promoted does not successfully complete his/her trial period, s/he may return to his/her previous position, with no additional trial period in that previous position. If an employee who has been demoted does not successfully complete his/her trial period in the new

position, further disciplinary action may be taken against the employee, up to and including termination of employment with the Town.

Any employee who is hired or transferred to fill the position vacated by another employee who has transferred or been promoted shall be informed that the transferred or promoted employee has the right to return to his/her prior position during their six (6) month trial period.

5. Hours of Work

Policy

A. Overtime

Any Town employee may be required as a condition of employment to work overtime when necessary as determined by their Department Head. For all full time employees, overtime is defined as work beyond the established work day or beyond the normal work week of 40 hours. Authorized overtime shall be granted only on approval of the Mayor or Department Head. Authorized overtime shall be compensated by payment at one and one-half times the individual rate of pay. Overtime will be paid to the nearest half hour.

B. Compensatory Time

An employee may request compensatory time off in lieu of overtime payment. Compensatory time off must be requested by the employee and authorized by the appropriate Department Head. Compensatory time is accrued at the rate of one and one-half hour for each hour of overtime work. Compensatory time must be used within current year earned. Compensatory time not used within current year will be paid as overtime at year end. The employee must have the approval of his/her Department Head to use earned compensatory time off.

Any accrued compensatory time not used prior to an employee's termination from service will be paid with the last pay check.

C. Attendance and Tardiness/Absenteeism

Employees are expected, as a condition of employment, to be at work during their regular scheduled work days. Department Heads are expected, therefore, to make sure that every employee reports to work regularly and on time.

Employees who are unable to report for work on time are to notify an appropriate supervisor as soon as they know they will be absent or tardy, but in no case later than 30 minutes after the start of the employee's regular work day.

If the absence continues beyond the first day, the employee shall notify the supervisor on a daily basis. An employee who is absent without notification on a scheduled work day or shift shall be subject to the following standard:

First Infraction: Verbal Warning

Second Infraction: Written Warning

Third Infraction: Two week suspension without pay

Forth Infraction: Up to and including Termination

An employee who is absent without notification for three (3) consecutive days/shifts shall be considered as having abandoned his/her job and will be terminated. Employees may be disciplined up to an including discharge for failing to report to work without notice or with insufficient notice, for excessive absenteeism or tardiness, or for other attendance and tardiness problems.

D. CLERK/TREASURER WORK HOURS

The Clerk/Treasurer for the Town of Wilbur hours will be based on 7.5 hours per work day, the difference up to 40 hours per work week is deemed to be made up through council related meetings. Work hours over 7.5 hours per day will be paid as overtime or can be accrued as compensatory time. Any other required meetings are excluded and will be paid as overtime hours or can be accrued as compensatory time.

6. Compensation

Policy

A. Pay Periods and Pay Days

The Town will not issue paychecks early except in emergency situations. The Mayor or the Department Head will determine if an employee's request for any early paycheck falls into the "emergency" category. Requests for early paychecks must be made by a Department Head to the

Mayor in order to make arrangements for issuance. On the 15th of the month, an employee may request a draw not to exceed one half of their monthly net pay.

Pay for full time employees not working a full month will be prorated by dividing the monthly salary by 173. Hourly pay will then be times the hours worked.

B. Payroll Deductions

The following deductions from each employee's paycheck are required by law: FICA (social security taxes) and Federal Income Tax (withholding). Each employee must sign a written authorization for any deductions other than retirement contributions and those required by law. Examples of such deductions include deductions for the employee's portion of any insurance premiums or payroll savings.

C. Call-In Pay

Call-back or call-in pay (other than a continuation of a regular shift) shall be rounded up to the nearest hour pay at the appropriate rate.

D. On-Call

On-call persons that perform inspection rounds and monitoring on a weekend or a holiday will be allowed 2 hours per day. These hours will count a part of their normal 40 hour work week. On a holiday, these hours can be used as overtime or compensatory time. If the on-call person is called out at any time beyond the regular work hours, this will be classified as overtime or compensatory time as chosen by the employee at the normal overtime rate. There will be a minimum of 1 hour on any call out. The person on-call must respond within ½ hour of the call-in.

Paid on-call time will be negotiated by the Department Head with the Mayor and Town Council and be set by resolution.

E. Personnel Evaluations

Performance evaluations are designed to provide the employee with a record of his/her performance and to encourage professional growth. The

evaluation will be discussed with the employee, who will have an opportunity to comment on it in writing.

Excluding trial period evaluations, the employee usually receives an evaluation on the first anniversary or date of hire and annually thereafter. Performance appraisals for regular employees are related to the position which the employee holds at that time. The purposes of the appraisal are to commend strengths, address weaknesses, suggest ways to improve, and discuss new challenges, career goals and objectives.

Should a regular employee be on leave-without-pay status during the scheduled time for his/her evaluation, the appraisal will be postponed until the employee has returned to work and completed as many days of continuous employment as the length of the leave without pay.

F. Travel and Other Expenses

Travel Away From the Town. All reimbursed travel away from the Town must be approved by the Mayor. Employees may travel by common carrier, Town vehicles, or personal vehicles. Town vehicles must be used whenever possible and pooling of travel is to be used whenever possible.

Travel Expense Reimbursement. Town employees will be reimbursed for reasonable and customary expenses actually incurred in connection with the business of the Town, including food, lodging and travel expenses while away, but excluding any expenses for alcoholic beverages.

Requests for reimbursements shall be submitted on an expense report form signed by the employee and the supervisor. Approved expenses are reimbursed through the normal accounts payable process. Receipts or other evidence of payment are required for the reimbursement of the following expense: airfare (ticket stub); lodging (itemized statement); meals; professional association dues or licenses; all charges made directly to the Town; and all other individual expenses of \$5.00 or more.

Rates for travel reimbursement, meals, lodging and other travel expenses are to be limited as follows:

- a. If private automobiles are used, mileage will be reimbursed at the current Federal mileage rate where transportation is not directly provided by the Town.
- b. Employees will be reimbursed for the actual costs of meals, lodging, parking fees, bridge tolls, travel by bus, train, airplane or automobile rental or other similar expenditures, provided they are reasonable.

c. Miscellaneous expenditures for any other purpose, not described in this policy, when necessarily incurred by the traveler in connection with the transaction of official business will be reimbursed on a cost basis, if allowed or approved.

d. Tips for meals, taxi or baggage handling, in an amount not to exceed fifteen percent, shall be considered as reasonable and necessary costs for such service, and may be included in the cost of the meal or service received.

e. Expense reimbursements shall not include expenses paid for by others.

Direct Billings. An employee finding it necessary to travel on official business should check with the Town Clerk to find which items may be billed directly to the Town. Other travel expenses should be paid by the employee and submitted for reimbursement on the employee's expense report.

7. Benefits

Policy

A. Health and Welfare Plans

Employees are required to participate in the Town's health insurance programs including the vision and dental portions of the program. Participation in the family coverage is optional. The Town reserves the right to make changes in the carriers and provisions of these programs when deemed necessary and advisable.

Full time employees' medical, dental and vision premium will be paid by the Town of Wilbur up to the amount set annually by the council with each year's budget per employee per month. The premium cost not to exceed the amount set annually by the council with each year's budget per month for medical, dental and vision insurance for the scheduled part-time Assistant Clerk working more than 20 hours per week will be paid by the Town of Wilbur.

Extended Health Benefits: In compliance with COBRA (the Consolidated Omnibus Budget Reconciliation Act), the Town will offer continuing health care coverage on a self-pay basis to employees and their dependants following termination (for reasons other than gross misconduct), a reduction in hours, retirement or death. These health benefits will be identical to the coverages offered to full-time employees.

For terminated or reduced-hour employees, the coverage may last up to 18 months or until they become eligible for other health insurance coverage, whichever is earlier. In the event of the employee's retirement, divorce, separation, or death the coverage may last up to 36 months for the employee and/or qualified beneficiary. The full policy monthly premium plus a 2% administration fee will be paid by the employee or the beneficiary to the Insurance Company. The employee or beneficiary may waive all rights to continuation coverage notification procedures and time limits outlined in the continuation coverage "Notification of Rights" letter sent by the Insurance Company.

B. Insurance

Other Insurance: The Town makes contributions on behalf of each employee to the Social Security System, in addition to those contributions that each employee makes through the FICA payroll deductions. The Town also pays a tax based upon the employee's wages to the State Unemployment Compensation Benefit Fund. Unemployment compensation benefits are available after termination of employment in accordance with State law.

C. Worker's Compensation

All employees of the Town are insured in a State insurance program which is designed to protect them against medical costs from on-the-job accidents and injuries and for work time lost as a result of such accidents or injuries. The Town pays a substantial portion of the premium costs for this coverage. Worker's Compensation Insurance also provides vocational rehabilitation services when required and cash settlement awards for permanent or partial disability.

All accidents and on-the-job injury must be reported to a Department Head as soon as possible, but not to exceed 24 hours after the incident. That person shall direct the injured employee to seek immediate medical treatment if necessary, and be responsible for reporting the injury to the Mayor. The Department Head shall also be responsible for insuring, as soon as possible, that the injured employee completes the Washington State Labor and Industries form for reporting the accident.

8. Leaves

Policy

A. Sick Leave

All full-time employees shall accrue sick leave benefits at the rate of 8 hours for each calendar month of continuous employment.

Temporary employees do not earn sick leave benefits. Employees do not earn sick leave benefits while in leave without pay status. Employees do not earn sick leave benefits, and may not use any earned but unused sick leave benefits, during a suspension without pay.

Sick leave benefits not used during the calendar year in which they are earned may be carried over and used during the succeeding calendar years. Full-time employees may accumulate up to and including 90 working days of sick leave benefits. Such benefits may be carried over into successive calendar years so long as the employee remains employed by the Town. Employees who are promoted or who transfer to another department retain any accumulated sick leave benefits after transfer to their new position.

Sick leave benefits shall be paid at the employee's regular rate of pay at the time the benefits are used. Sick leave pay shall be the amount the employee would have earned had he or she worked the regularly scheduled work day.

Sick leave benefits may be used by eligible employees for any absence due to personal injury, illness or temporary disability which keeps the employee from performing the employee's regular duties, and for personal medical and dental appointments. Sick leave accrual shall not be used for non-medical leaves of absence.

Sick leave benefits may not be used for any absences when the employee is entitled to receive compensation benefits under the Worker's Compensation Act. Sick leave benefits may be used for actual periods of temporary disability associated with pregnancy or childbirth.

Payment of sick leave benefits is further conditioned upon the employee notifying his/her Department Head of the employee's absence(s). Failure to give the required notice may result in non payment of sick leave benefits for such absence(s).

The employee shall be required to provide certification of illness or a written release to return to work from a qualified health care provider whenever requested by the employee's Department Head or the Mayor. The Town may require any employee returning after a prolonged absence to be examined by a qualified health care provider of the Town's choice at the Mayor's request.

Any employee found to have abused sick leave privileges by falsification or misrepresentation shall be subject to disciplinary action, including but not limited to reduction or elimination of sick leave benefits, repayment to the

Town of any amounts paid to such employees for such periods of absence, or discharge.

The Town does not grant advanced sick leave. Sharing of sick leave between employees shall be as provided under Resolution Number 159.

B. Vacations

Annual paid vacations shall be granted to all full-time employees. Paid vacation will be granted according to the following schedule:

0-5 years of service -----	96 hours/year
6-10 years of service-----	120 hours/year
11-15 years of service -----	144 hours/year
16-20 years of service-----	168 hours/ year
21+ years of service-----	192 hours/year

The maximum number of vacation hours which may be carried over from December 31 of one year to January 1 of the next year is 120 hours.

Vacation time is scheduled by the Department Head at the convenience of the Town, but every effort will be made to accommodate employees' requests.

Any conflict among employee requests will be resolved on the basis of the seniority and request date. The minimum increment in which vacation time may be taken is one hour.

Employees do not earn vacation benefits, and may not use any earned but unused vacation benefits, during a suspension without pay.

Employees who resign or are laid off due to a reduction in force shall be paid for all accrued but unused vacation time as part of their final paycheck.

C. Holidays

The Town observes the following holidays: New Years Day, Martin Luther King, Jr.'s Birthday, Presidents Day (third Monday in February), Memorial Day (last Monday in May), Independence Day, Labor Day (first Monday in September), Veteran's Day, Thanksgiving and the day after Thanksgiving day, Christmas Day, and one floating holiday. A second floating holiday will be provided to employees after 7 contiguous years of employment.

1. Observance of Holidays: When a holiday occurs on Monday through Friday, the Town observes the date of the occurrence as the holiday. If a

holiday falls on a Sunday, the following Monday shall be observed as a holiday. If a holiday falls on a Saturday, the preceding Friday shall be observed as a holiday. For employees whose regular days off are other than Saturday or Sunday, their first regular day off shall be considered a “Saturday” and their second regular day off shall be considered a “Sunday” for purposes of determining when their holiday shall be observed if a holiday falls on their regular day off.

2. Payment for Holidays: All regular employees shall be paid for holidays observed as they occur. A regular, full-time employee who does not work on the day the holiday is observed shall receive eight hours pay at the employee’s regular straight time rate, so long as the employee reports for work or is on approved absence on the regularly scheduled work days both immediately preceding and immediately following the holiday.

3. Scheduled Holiday Work: Whenever the Town’s operational needs require employees to work on a holiday, insofar as practical, holiday work shall be divided equally among the eligible employees. Full-time employees who are scheduled or required to work on the day a holiday is observed, will receive eight hours regular pay at the straight time rate and will also be paid for all hours actually worked on the holiday at two times the straight time rate.

4. Floating Holidays: An employee may select floating or personal holiday(s) during each calendar year provided that the employee has been continuously employed by the Town for a least one year (12 calendar months), and the number of employees selecting a particular day off does not prevent the Town from providing continued public service.

An employee shall make a request for floating holidays to his/her Department Head a minimum of 3 working days in advance of the selected date. When the number of requests for a particular day would impair department operations if granted, the following criteria shall be used to determine which requests are allowed:

--A holiday shall be granted to employees in the order in which the requests for a holiday date are submitted, with the earliest request receiving priority.

--In the event several requests are submitted for the same day, requests shall be based on seniority.

--Final authority for approving or disapproving holiday requests shall rest with the Department Head, based on operational needs. Any disapproval shall be communicated as soon as possible to the employee involved.

All floating holidays must be taken during the calendar year and may not be carried forward from one year to the next.

D. Jury Duty

Employees who are called to serve on a jury or appear as a subpoenaed witness in any established court will be released from work to do so. During the period of such absence, employees will receive their regular wages, minus the amount received as jury duty or witness fees (excluding any amount for mileage reimbursement).

Employees who are absent from work because of jury duty will retain seniority and all benefits. The time away will not affect vacation or sick leave accruals. Employees who appear in court in cases not related to their work for the Town shall not be paid for time away from work unless that time is taken as accrued vacation leave. On any day that an employee is released from jury duty or as a witness by the court and four or more hours of the employees scheduled work day remain, the employee is to immediately inform an appropriate supervisor and report to work if requested to do so.

E. Bereavement

When a death occurs in a regular employee's immediate family, the employee may take up to five (5) working days of paid bereavement leave. The 5 days off must be consecutive working days. Scheduling of bereavement leave will be by mutual agreement between the employee and the Department Head. An employee is not paid for any consecutive days off if the employee would not otherwise have been entitled to compensation for that day. Bereavement leave pay shall be that amount the regular employee would have earned had the employee worked his/her regular work schedule during the leave. An employee may be granted a bereavement leave prior to completion of the trial period.

"Immediate family" as used in this policy is defined as an employee's spouse, parents, step-parents, children, step-children, grandchildren, great-grandchildren, brothers, sisters, step-brothers, step-sisters or grandparents. The term also includes a spouse's parents, step-parents, brothers or sisters or the employee's significant other.

F. Leaves of Absence—General

A personal leave of absence is a privilege the Town may extend to qualified employees for specific periods of time under certain circumstances. It allows an employee to take time off from work for medical or personal reasons, or to fulfill a military obligation in excess of 15 calendar days per year. All such leaves are taken without pay. Unless state or federal law specifically provides otherwise, the Town will not grant leaves of absences in excess of 90 calendar days.

A leave of absence must be requested in writing and submitted to the employee's Department Head as soon as the need for such a leave is known. The Town reserves the right to grant or deny any leave requested. All leaves granted are without pay unless the policies provide that previously accrued fringe benefits may be used to offset loss of pay during the leave. No benefits such as vacation or sick leave are earned while on leave. Employees on leave may return early from leave if they notify the supervisor at least 3 working days in advance. Failure to return from leave on or before the agreed upon date, however, will result in termination.

During any unpaid leave an employee may keep health, life, and dental insurance in effect by paying the premium amount to the Town in advance. If the unpaid leave is for medical purposes, the Town will pay its portion of the employee's group insurance premiums for 3 months.

Compassionate leave will be granted employees to attend and participate in local funeral services held during working hours. The leave time shall not exceed the time of the service plus one hour preceding and one hour after the service is concluded.

G. Military Duty

Any employee who is a member of the Washington National Guard or a Federal military unit is entitled to leave from his or her duties for up to 15 days each calendar year for official military duty in accordance with RCW 38.40.060. "Day" for purposes of this section shall be defined as a twenty-four hour period. Such leaves are in addition to any other leaves or vacation benefits. During the period of military leave, the employee shall continue to receive his/her normal rate of pay.

An employee who is called to or volunteers for service with the armed forces of the United States or the Washington National Guard is entitled to reinstatement in his/her position upon completion of service, providing that the period of service is four years or less. Eligibility for and terms of reinstatement are administered in accordance with RCW 73.16.

An employee promoted or hired to fill a vacancy created by a person on military leave is appointed to the position subject to the return of the absent employee. Upon such return, a promoted employee is restored to his/her original position or an equivalent position subject to the provision of RCW 73.16.033. A replacement employee is subject to layoff if no other position is available.

Employees who fail to return to work on the date specified on the Leave Request without receiving an extension in advance are subject to disciplinary action up to and including termination.

9. Standards of Conduct and Discipline

Policy

A. Rules of Conduct

In the interest of the Town and the public, it is desirable at all times, whether off-duty or on-duty, that an employee's conduct reflect favorably on the employee, his or her fellow employees, and the Town. Off-duty misconduct may result in discipline when it renders an employee less capable of performing his or her duties and responsibilities, or when it reflects unfavorably upon an employee's continuing qualifications for employment.

It is the Town's policy to place as few restraints on employee personal conduct as possible. The Town relies on each employee's good judgment and sense of responsibility as the principal source of guidance for conducting day-to-day duties and responsibilities. However, for the protection of the Town's business interests and other employees, certain rules of conduct have been established. The rules have been formalized and any employee who violates the rules shall be subject to disciplinary action.

1. Immediate Discharge. No regular employee may be discharged except for cause. However, there are certain kinds of actions which cannot be permitted to occur because of their impact on other employees and the Town. Such offenses may result in discharge on the first occurrence. The following section contains examples of such offenses. This list of examples is not all-inclusive. Before a final decision is made regarding a discharge, the Town will convene a pre-termination meeting as provided for in the section on discharge.

The occurrence of any of the following is deemed a sufficient justification for immediate discharge:

- (a) Theft, misappropriation or removal of Town property or the property of employees, clients or customers.
- (b) Knowing, intentional or repeated falsification of any application for employment or any report, record, time sheet or other Town records.
- (c) Soliciting and/or accepting payment, gifts or any item of value for services performed during the regular workday, whether or not the

services are performed on behalf of the Town and whether or not Town vehicles or equipment are used.

(d) Willful alteration, destruction or waste of Town property, facilities, records or equipment, wherever located, or the destruction of another employee's property.

(e) Possession of alcohol, narcotics or other controlled substances on Town property or in Town vehicles; the use of alcohol, narcotics or other controlled substances on Town property or in Town vehicles; reporting to work or being under the influence of alcohol, narcotics or other controlled substances while on working time, or while on Town property or in Town vehicles.

(f) Giving or taking a bribe of any nature as inducement for obtaining or retaining a job or position.

(g) Serious or repeated disorderly conduct, horseplay or insubordination. Insubordination includes, but is not limited to: neglect of duty, or refusal or failure to obey orders or instructions in the line of duty; public disrespect displayed toward a supervisor or the Town while performing work for the Town; and abusive language to any supervisor.

(h) Threatening, intimidating, coercing or interfering with supervisors or other employees.

(i) Deliberate attempts to injure another employee or fighting on Town property.

(j) Sleeping during working hours.

(k) Unauthorized possession of firearms, explosives or any dangerous weapons while performing Town work.

(l) Participating in an unauthorized work stoppage or slowdown.

(m) Recklessness resulting in a serious accident while on duty, whether on Town property or while driving a Town vehicle.

(n) Repeated, unwelcome racial or sexual harassment directed toward another employee, including but not limited to demands for sexual favors in exchange for employment, retention of job, promotion or other employment benefits.

2. Other Disciplinary Actions. The degree of discipline administered must depend upon the severity of the infraction and must take into account whether the action is a reoccurrence of previously identified inappropriate behavior. It is the responsibility of the supervisor to evaluate thoroughly the circumstances and facts as objectively as possible. The supervisor will then apply the most suitable form of discipline to the best of his/her knowledge and discretion.

The occurrence of any of the following is deemed sufficient justification for the imposition of lesser discipline such as a warning, suspension without pay or probation as set forth in the succeeding section, although under appropriate circumstances, the Town may immediately discharge the offender:

- (a) Ignoring safety rules or common safety practices.
- (b) Engaging in disorderly conduct, horseplay, immoral conduct or insubordination; using uncivil, insulting, vile or obscene language.
- (c) Failure to report occupational injuries or accidents, including motor vehicle accidents, promptly to the employee's Department Head.
- (d) Engaging in activities other than assigned work during working hours and/or while operating Town equipment, without approval in advance by an employee's Department Head.
- (e) Acting in an insulting, rude, insolent or uncivil manner toward any customer or other person while working for the Town, or while operating Town equipment or on Town premises.
- (f) Failure to exercise the care and attention to one's work as required by the circumstances.
- (g) Smoking in restricted or prohibited areas, whether on Town property or otherwise.
- (h) Accepting employment with another employer without written authorization from the Town.
- (i) Acting in any manner inconsistent with common sense rules of conduct necessary to the welfare of the Town or its employees.
- (j) Unexcused or excessive absences or tardiness.
- (k) Leaving work before the end of the shift or not being ready to begin work at the start of the shift or working overtime without permission of management.

(l) Loafing or spending unnecessary time away from the job.

(m) Unauthorized possession or use of any Town property, equipment or materials.

3. Discipline. The occurrence of any of the actions set forth above in the general rules of conduct section is deemed a sufficient justification for the imposition of the disciplinary procedures set forth in this section. The Town may skip steps in this sequence whenever, in its judgment, circumstances require an abbreviated disciplinary procedure.

4. Oral Warning. Talk to the employee IN PRIVATE. Oral warnings may be given for minor offenses or to bring to the attention of an employee potential work performance problems. Oral warnings should include an explanation of the violation or problem and requests for corrective action on the part of the employee. A notation of each oral warning should be placed in a file and maintained by the Department Head for future reference. In addition, the offending employee may be handed a warning slip.

5. Written Warning. A written warning may be given for a more serious offence or when the employee, who has been orally warned for minor offenses or problems in his or her work performance, repeats them or fails to take corrective action. Written warnings will contain: a statement of the facts; a statement of the discipline being given, if any; if appropriate, the employee's explanation and reason for the violation; the required corrective action on the part of the employee; if appropriate, a written and definite period of disciplinary probation (not to exceed six months) during which the employee must clearly demonstrate improvement; and a statement indicating further disciplinary action may follow if correction is not achieved. The warning may be signed by the employee and any other person who may be present at the discussion. The warning should be signed by the employee's Department Head. Copies of the written warning are to be forwarded to the Mayor. After review with the employee, a copy of the written warning is to be given to the employee and a copy is to be entered into the employee's personnel file.

6. Suspension/Final Warning. A suspension may be given for serious infractions of employee rules of conduct which are not deemed sufficient justification for immediate discharge, or for repeated offenses, or for failure to correct an action for which a written warning was previously given. A suspension is time off without pay for disciplinary reasons, and will be for as long as the Town determines is reasonable and necessary for a specific violation. In each case of disciplinary suspension, a written memo will be prepared indicating: the event or events which led to the suspension; the duration of the suspension; a statement indicating required corrective action on the part of the employee; if appropriate, the employee's explanation or

comment; and a statement indicating that it is a “final warning” and further indicating that the employee will be discharged upon the occurrence of another infraction or unless corrective action is taken within the stated time.

The memo may be signed by the employee and any other person who may be present at the discussion. The memo will be signed by the Department Head of the employee involved, with copies forwarded to the Mayor. After review with the employee, a copy of this memo is to be given to the employee and a copy is to be entered into the employee’s personnel file.

7. Discharge. When a Department Head or the Mayor determines, after appropriate investigation, that the nature of a violation warrants discharge, or if the discharge is a result of the disciplinary procedure where the desired corrective action was not achieved by one or all of the steps above (written warning, suspension, etc.), the Department Head or in the case of a department head, the individual designated by the Mayor will prepare a written report. The written report should include the reason(s) for the discharge; information on any previous warnings or disciplinary actions which may be relevant; a brief summary of the regular employee’s part work record and length of employment with the Town; and any other relevant information. The Department Head will process the case and present his/her findings, including a statement of just cause, and recommendations to the Mayor. Before the final decision is made regarding a discharge, a meeting shall be convened as follows:

Pre-Discharge Meeting. No regular employee shall be discharged without a pre-discharge meeting, nor can any regular employee be terminated without just cause. The employee shall be provided with a written notice of the charge or grounds for termination and a summary of the Town’s evidence. The employee shall be given an opportunity to respond to these charges, either orally or in writing, and to explain why the Town should not go ahead with the discharge. Although the Department Head’s explanation of the Town’s evidence should be sufficient to inform the employee of the basis for discharge, this procedure shall not be construed to limit the Town at any subsequent hearing or proceeding from presenting a more detailed and complete case, including the presentation of witnesses and/or documents not introduced at the discharge meeting. Should the Mayor determine to proceed with the discharge, or some alternative disciplinary action, the Town will give the employee written notice of discipline without undue delay.

B. Complaints/Grievances

The Town recognizes that sometimes situations arise in which employees feel that they have not been treated fairly or in accordance with Town policies. For this reason the Town provides its employees with procedures for resolving complaints.

Step 1: Employees should first try to resolve any problem or complaint with their supervisor.

Step 2: When normal communication between an employee and the supervisor is not successful, or when an employee disagrees with the application of policies and procedures, the employee should attempt to resolve the problem with his/her Department Head. The Department Head will usually respond to the employee within 10 days after meeting with him/her, if possible.

Step 3: If the employee is not satisfied with the response from the Department Head, the employee may submit the problem, in writing, to the Mayor. The written complaint must contain, at a minimum:

- (1) A description of the problem;
- (2) A specific policy or procedure which the employee believes has been violated or misapplied;
- (3) The date of the circumstances leading to the complaint or the date when the employee first became aware of those circumstances;
- (4) The remedy sought by the employee to resolve the complaint.

The written complaint must be filed within 10 workings days of the occurrence leading to the complaint, or 10 working days after the employee becomes aware of the circumstances.

The Mayor may meet with the parties, either individually or together, and will usually respond in writing to the aggrieved employee within 10 days of the meeting. The Mayor's response and decision shall be final and binding.

ORS SECTION 504, HANDICAPPED JOB APPLICATANTS: In order to protect the substantive rights of interested persons to meet appropriate due process standards and to assure that the Town complies with Section 504 of the Office of Revenue Sharing Regulations (3) C.F.R, 51.55, the grievance procedure in this section also applies to handicapped job applicants. In this circumstance, the Town Clerk will be considered the supervisor, the applicant will assume the role of employee and the process and time limits shall apply.

C. Outside Employment

The Town does not encourage employees to hold second jobs, or have an active interest in outside enterprises, though it does not object to employees

doing so provided the following conditions are met. Outside employment must:

1. In no way detract from the efficiency of the employee while performing Town duties;
2. Present no conflict of interest with Town affairs;
3. Not take preference over extra duty required by Town employment;
4. In no way involve the use of any Town resources such as copiers, telephones, supplies, other equipment, or time. Any outside employment that could potentially interfere with emergency call-out situations must be reported to the Department Head.

If an employee is unsure as to these criteria or the effect of his/her outside employment, he/she should contact the Mayor or the Department Head prior to beginning another job.

Engaging in employment that interferes with or reduces the efficiency of Town employment may be grounds for disciplinary action.

D. Personal Appearance and Dress

Employees shall wear appropriate attire for their position and department. All employees shall be neat and clean in dress and personal appearance. The Mayor and Department Heads may issue rules regarding what is considered necessary, required or appropriate attire for each department or for particular positions. Should uniforms be required for a particular position, they will be provided at Town expense.

Police Department personnel will receive \$450.00 annually per employee for police related uniforms, equipment and the upkeep of the uniforms and equipment.

Public Works personnel will receive \$350.00 annually per employee for required clothing and upkeep. To include inclement weather clothing, boots and shirts bearing the Town of Wilbur logo.

E. Conflicts of Interest

Town employees shall not sell or barter anything to the Town or to a contractor supplying the Town, or make any contract with the Town or purchase anything from the Town other than those things which the Town offers generally to the public, such as but not limited to, utility services, and then only on the same terms as offered to the public, unless an invitation to

submit sealed bids is published and the Town accepts the sealed bid which is most advantageous to the Town. Any violation of this section with the express or implied knowledge of the person or corporation contracting with the Town shall render the contract voidable by the Mayor or the Town Council.

Employees shall not accept or seek for others, any service, information, or thing of value on more favorable terms than those granted to the public generally, from any person, firm or corporation having dealings with the Town.

Employees shall not accept, directly or indirectly, any gift, favor, loan, retainer, entertainment or other thing of monetary value from any person, firm or corporation having dealings with the Town when such acceptance would conflict, or create the appearance of conflict, with the performance of the employee's duties. A conflict or appearance of a conflict shall be deemed to exist where a reasonable and prudent person would believe that such was given for the purpose of obtaining special consideration or influence. If an employee is given or offered any gift, favor, loan, retainer, entertainment or other thing of monetary value under circumstances which could reasonably be construed to create a conflict of interest, the employee shall immediately report such activity to his or her Department Head. The Department Head shall in turn inform the Mayor.

In recognition of the public responsibility to provide for the maintenance of good relations between the Town and its suppliers and others with whom the Town may have business dealings, and to prevent gift-bearing businesses from interfering with and/or influencing employees, the Town permits acceptance of an occasional lunch or its equivalent.

Violation of this policy will result in disciplinary action up to and including discharge.

10. Safety and Security

Policy

A. Safety

It is the Town's policy to prevent accidents and to ensure that employees are provided safe and healthful working conditions, free from recognized hazards.

Department Heads and employees should guard the safety of themselves, their fellow employees and the public. Employees shall observe all safety practices governing their work. Employees are encouraged to offer safety suggestions and contribute to a safer working environment. It is the employee's

responsibility to learn the safety regulations applicable to his/her job. He/she is also responsible to use safety equipment and/or personal protective equipment as set forth by regulations. New employees will receive training on applicable safety rules and procedures as part of their orientation to the department.

Department Heads are responsible for assuring safe working conditions and compliance of safety standards of each work site. Failure to comply with the responsibilities set forth above shall be grounds for disciplinary action up to and including termination.

Open Flame Policy: The use of any open flame in any administrative buildings of the Town of Wilbur is expressly forbidden. This includes, but is not limited to, candles, heaters, smoked tobacco products and any other device that has an open flame or is consumed by burning. In the event that maintenance or construction procedures are in process by authorized personnel, the ban does not apply to those procedures. However, appropriate safety procedures will be followed, including the use of fireguards, any time a device with an open flame is utilized.

Personal heaters that do not use any open flame may be used during office hours at the discretion of the Department Head. However, all personal heaters must be unplugged at the end of the workday or when not in use.

Seat Belts. When operating a Town vehicle, the employee must use the seat belt/safety restraint device and require any passengers to do the same. Any employee who does not use safety restraints/seat belts shall be subject to disciplinary action.

Driver's Licenses. Any employee whose work requires he/she drive Town vehicles must hold a valid Washington State driver's license. Certain vehicles may only be operated by employees holding a commercial driver's license (CDL). Loss of the CDL by employees required to retain the same in order to operate Town vehicles may subject them to termination. Any employee who does not hold a valid driver's license will not be allowed to operate a Town vehicle until such time as he/she obtains a valid license.

Any employee whose work requires the operation of a Town vehicle and whose license (or commercial driver's license for those regularly operating vehicles which require a CDL) is expired, suspended, or revoked, is subject to disciplinary action including demotion or termination, unless that employee is able to obtain an occupational permit from the State Department of Licensing. Should the employee fail to immediately report such a revocation or

suspension of his/her license to the appropriate supervisor and instead continue to operate a Town vehicle under such circumstances, that employee may be subject to termination.

A new employee whose work will require the operation of a Town vehicle will be required to submit to a Department of Motor Vehicles driving records check as a condition of employment. Information indicating a suspended or revoked license status may result in denial of employment.

C. Security

Town personnel on duty should make every effort to be aware of strangers in the non-public areas of their facility. Anyone who notices unfamiliar or unauthorized people in the facility should contact the supervisor in charge. Employees are not to be in the non-public areas of Town facilities except for official Town business.

D. Accidents and Reports

On-The-Job Injuries. It is the Town's intent to provide safe working conditions for its employees. However, occasional on-the-job injuries may occur. When they do, employees are to make a prompt report to their immediate supervisor of each injury or illness regardless of the degree of severity.

As soon as possible after an accident or occupational illness is discovered, the employee and the supervisor must complete an accident report form and submit it to the Mayor. Should the injury require attention beyond first aid, the employee's treating physician is to complete the State Industrial Medical Claim Form. All injured employees are to promptly seek a second medical opinion regarding their condition when requested to do so by the Town. It is recommended that all injured employees who are absent from work for more than seven days contact the Town once a week to keep the Town informed of their condition and progress.

Accidents. Employees shall report any accidents causing damage to public or private property or equipment occurring before, during and after working hours on duty Town employees, or Town equipment or property, to their Department Head. Such report shall be made as soon as possible, but in no case later than 24 hours following such accident.

Employees shall compile any accident reports requested by their Department Head. In the case of a motor vehicle accident, the Police Department shall also be notified immediately. The Mayor shall be notified of all accidents involving Town employees and Town equipment as soon as possible and not later than the next work day on which the accident occurred.

Legal Liability. Employees shall abide by all laws and regulations which govern the performance of their duties and shall perform their duties as reasonable, prudent persons. Defense of legal claims against an employee relating to an official status within the Town shall follow RCW 4.96.041.

E. Selling and Solicitation

Employees may not solicit for any purpose other than Town related business during working time. Working time includes both the soliciting and solicited employees' working time. Reasonable forms of solicitation between employees will be permitted during nonworking times such as before or after work, or during authorized meal or break periods. Employees may not distribute literature for any purpose other than Town related business during working time or at any time in work areas.

Individuals not employed by the Town may not at any time solicit, petition or distribute literature in the non-public working areas of Town offices or other buildings, except for bona fide Town purposes and with the prior authorization of the Mayor.

11. Personnel Actions

Policy

A. Demotion:

Involuntary Demotion: A Department Head, after review with the Mayor may demote an employee whose ability to perform the required duties for the position falls below minimum performance requirements as established by the immediate supervisor, or for disciplinary purposes. No employee shall be demoted to a position for which he or she does not possess the minimum qualifications.

B. Disciplinary Probation:

When a regular employee is placed on disciplinary probation, such an employee will be given a written statement of the action taken, the reasons for the action and the consequences of repeating or engaging in further or other unacceptable behavior. This written statement shall be given to the employee at the time the regular employee is placed on disciplinary probation or within five (5) days thereafter. A copy of this written statement shall be placed in the employee's personnel file.

During a period of disciplinary probation, a regular employee may not use any earned but unused vacation benefits, is ineligible for a leave without pay, may not take a floating holiday, and must provide a satisfactory explanation to his/her Department Head for using any earned but unused sick leave benefits.

Disciplinary probation may be for any period not to exceed 6 months. During the disciplinary probationary period, the regular employee must show the required improvement necessary to remain in the job. If the regular employee fails to correct his/her performance or repeats the unacceptable conduct during the disciplinary probation period, the employee may be discharged. All discharges shall be in accordance with the Town's policy on pre-discharge meetings.

C. Resignation:

A regular employee may resign by giving their supervisor written notice of the effective date of resignation as far in advance as possible. The minimum amount of written notice which is requested is 14 calendar days; however a resignation can be accepted immediately upon receipt. The 14 days' notice requirement may be waived in writing by the Mayor where adequate provisions can be made for a successor in that period of time (if one is needed right away) as well as under extenuating circumstances.

A resignation without the notice required by these rules may be grounds for denying re-employment with the Town. Upon approval of the Mayor, an employee may withdraw his/her resignation at any time prior to its effective date, provided the position has not been filled.

Employees who are absent from work for a period of 3 consecutive days without authorization may be considered by the Town to have abandoned their position, and may be discharged. Such employees will never-the-less be invited to participate in a pre-discharge meeting if they have attained regular status, by sending a letter to such employee's last known address.

D. Layoffs

The Town may lay off employees where there are changes in duties or a reorganization of positions, a position or service is abolished, there is a lack of work or shortage of funds, or other appropriate reasons. Efforts will be made to integrate affected employees into other available positions. The procedures are generally as follows;

1. Whenever a layoff is anticipated, employees whose jobs may be affected will be notified of the situation and what options may be made available to them.

2. Temporary employees performing similar work in the same department or division will be laid off before regular employees are affected.

3. Regular employees will be retained on the basis of seniority when job performance and qualifications are equal. Relative job performance will be determined by the Department Head on the basis of relative qualifications, experience, past job performance evaluations, and current job evaluations. Qualifications will be determined by the knowledge, abilities and skills required for an affected position as stated in the position description and the employee's ability to perform the remaining work without further training.

4. For a period of 12 months from the date of layoff, regular employees who were laid off may be offered the first opportunity to fill comparable vacant positions which become available.

E. Retirement:

Employees shall retire in accordance with the State of Washington Personnel Rules; however, annual employment contracts beyond that retirement may be granted by the appointing authority in conformance with existing law. Uniformed employees shall retire as specified by the Law Enforcement Officer's and Fire Fighter's (LEOFF) Retirement System.

12. Amendment and Revision of Rules

Amendment and revision of these policies may be suggest to the Town Council by any interested party and shall be submitted to the City Council through the Mayor. Proposed amendment or revision to these policies shall be publicly posted in the Town Hall and all department bulletin boards for at least ten consecutive days prior to consideration by the Town Council. At the time of consideration, any interested party may appear and be heard. Amendments and revisions shall become effective upon adoption by the Town Council.

13. Severability

If any provision of these rules and regulations, or their application to any person or circumstances, is held invalid, the remainder of the rules and regulations, or the application of the provision to other persons and/or circumstances shall not be affected.



**TOWN OF WILBUR
RESOLUTION #354**

A RESOLUTION AMENDING RESOLUTION 317, AMENDING AND ADDING TO THE PERSONNEL MANUAL REGARDING CERTAIN POLICIES, RULES AND REGULATIONS CONCERNING THE TOWN PERSONNEL.

WHEREAS, it has been deemed necessary to update the current personnel manual which provides guidance in personnel matters and,

WHEREAS, it has been deemed necessary to comply with Washington State and Federal Law to add sections to the Personnel Manual relating to Military Leave, Military Spouse leave and Leave for domestic violence, sexual assault and stalking related matters, now therefore

BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF WILBUR, WASHINGTON that the following changes and additions be made to the Personnel Manual:

2. Definitions

Policy

A. Types of Employees:

- a. Full Time Employee: an employee who is hired to work a predetermined schedule of at least 40 hours per work week.
- b. Part Time Employee: an employee who is hired to regularly work fewer hours than a full time employee.
- c. Casual Employee: an employee who is hired to work on an intermittent or as needed basis and not on a predetermined schedule.
- d. Temporary Employee: an employee who is hired for a position for a limited period of time, generally not to exceed six (6) months, unless an extension is approved by the Mayor. Such employees receive no benefits unless authorized by the Mayor.
- e. Exempt Employee: an employee who holds an administrative, professional or executive position which is defined as exempt under the wage/hour laws of the Fair Labor Standards Act.

f. Non-Exempt Employee: an employee who is not employed in an exempt administrative, professional, or executive position as defined under the Fair Labor Standards Act.

g. Regular Employee: an employee who has successfully completed his or her initial trial employment period. Regular employees are credited with continuous service from the date of hire.

h. Seniority: Seniority of an employee is defined as the length of time the employee has held a specific position, since the date of appointment to the position.

i. Seasonal Employee: an employee who is hired for a position where the work to be performed occurs each year during approximately the same calendar months or season, but does not extend to the full calendar year, and does not exceed six months total in any one calendar year.

3. General Policies and Practices

Policy

A. Equal Employment Opportunity

It is the policy of the Town to treat all applicants and employees equally and without regard to race religion, creed, color, national origin, sex, age, handicap, marital or veteran status or any other basis prohibited by local, state or federal law. It is also the policy of the town to foster and maintain a harmonious nondiscriminatory working environment for all employees. Toward this end, the Town will not tolerate racial, ethnic, religious or sexual slurs or comments demeaning national origin or the handicapped by any employee to or about any employee or applicant.

Violation of this policy will be cause for disciplinary action, including written warnings, suspension and termination.

Any employee who feels he or she has been the victim of discriminatory treatment in violation of this policy should bring this concern to his or her Department Head ~~or the Town Attorney~~. In the event that the concern relates to his or her Department Head, the employee should bring the concern to the Mayor. In the event that the concern relates to the Mayor, the employee should bring the concern to a Councilmember.

All departments shall adhere to the following guidelines:

Employment Practices. All activities relating to employment such as recruitment, selection, promotion, termination, and training shall be conducted in a nondiscriminatory manner. Personnel decisions shall be based on individual performance, and staffing requirements.

Cooperation with Human Rights Organizations. The Town will cooperate fully with all organizations and commissions organized to promote fair practices and equal opportunity in employment.

B. Sexual Harassment

Sexual harassment is a form of sex discrimination and is an “unlawful employment practice” under Title VII of the 1964 Civil Rights Act and the Washington State Law Against Discrimination, Chapter 49.60 RCW.

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct constitute sexual harassment when:

- a. It is part of a manager’s or supervisor’s decision to hire or fire.
- b. It is used to make other employment decisions like pay, promotion, or job assignments.
- c. It interferes with the employee’s work performance.
- d. It creates an intimidating, hostile, or offensive work environment.

Sexual harassment is defined as deliberate or repeated behavior of a sexual nature which is unwelcome. It can include verbal behavior such as unwanted sexual comments, suggestions, jokes, or pressure for sexual favors; nonverbal behavior such as suggestive looks and leering; and physical behavior such as pats or squeezes, or repeatedly brushing against someone’s body.

Sexual harassment is inappropriate, offensive and illegal and will not be tolerated by the Town. The Town will take an affirmative role in protecting its employees from sexual harassment.

Should an employee believe that he or she is being sexually harassed, that employee should immediately identify the offensive behavior to the harasser and request that it stop, and discuss his or her concern immediately with a his or her Department Head. If the concern relates to the Department Head, the employee should discuss his or her concern immediately with the Mayor, or the Town Attorney. If the concern relates to the Mayor, the employee should discuss his or her concern immediately with a Councilmember. No employee will suffer retaliation for reporting such concerns.

When a Town official is notified of alleged harassment, he/she will promptly investigate the complaint. The investigation may include interviews with the directly involved parties, and where necessary, with employees who may have observed the alleged harassment or who may be similarly situated with the complaining employee, and who may be able to testify to similar experiences with the accused employee.

Complaints in cases of sexual harassment will be dealt with promptly. An employee who sexually harasses another employee will be disciplined as in any other case of serious, illegal employee misconduct.

If the investigation shows the accused employee did engage in sexual harassment, appropriate action will be taken, including a warning that any continued harassment may result in a negative employment action, such as suspension or termination. Additional actions which may be taken include verbal and/or written reprimands, a letter to the employee's file or, where warranted, an employee transfer.

4. Hiring

Policy Procedures

A. Recruitment of Employees

1. Recruitment: The Town will use whatever means are appropriate to recruit qualified applicants for job vacancies for full time, part-time, or seasonal positions, in compliance with contractual, legal, and affirmative action requirements. All recruitment efforts are conducted in the spirit of equal employment opportunity. Appropriate means ~~may~~ will include, at a minimum, but will not necessarily be limited to, internal job postings, job postings at Town Hall and at least one other public place such as the Post Office, and may also include, but not be limited to, help wanted advertisements or public and private employment agencies.

2. Position Announcements: Any announcements of position vacancies should include the title of the open position, a brief description of the position's minimum and/or preferred qualifications, and the place and manner of filing applications. All applications should state that the Town is an "Equal Opportunity Employee." The Mayor may add any additional information believed advisable to the announcement.

3. Applications: All applicants for open positions should be in a form or in the manner required by the Town. Any information submitted on the form or any other required documents should be verified prior to hiring to the extent necessary to determine the applicant's qualifications for employment. Any false or misleading information supplied as part of any application for employment may be grounds for rejecting the applicant or dismissing any employee.

4. Interviews: The Mayor and/or Town Council will pre-screen all applicants, conduct preliminary interviews and telephone reference checks. The Mayor and/or Councilmembers may rely on recommendations

from the appropriate Department Head as to the qualifications of the applicants.

5. Pre-Employment Physical Examinations: The Town may establish minimum medical and physical standards for a position, which reasonably relate to the duties and responsibilities of that position. The standards may differ based on the duties and responsibilities of each position. Failure to meet the required standards for a position will result in disqualification for appointment or promotion to the position.

6. Drug Testing: Any employee occupying a position requiring a CDL (Commercial Driver's License) will be subject to random drug tests as specified in the Drug Testing Manual.

7. Offers of Employment: ~~After the appropriate Department Head(s) have selected a candidate for employment or promotion, Only the Mayor may will determine who will contact the successful candidate to officially~~ extend an offer of employment or promotion and establish a starting date. Generally, the offer of employment will be made in writing with wage and benefits for the position stated in the offer, subject to meeting any physical requirements of the position.

8. New Position Descriptions: If a Department Head wishes to create a new position, he/she should prepare an outline of the duties and qualifications for the new position to be reviewed and approved by the Mayor and Council.

B. Residency Requirements

Residency within the Town shall not be a condition of initial appointment or continued employment; provided, however, that any employee's selection of residence shall not interfere with the daily performance of his/her duties and responsibilities. The Police Department Head may set response time requirements for police officers.

C. Nepotism

1. As determined by the Mayor or his/her designee, members of the immediate family of Town employees will not be hired if:
 - a. One member would have the authority or practical power to supervise, hire, remove or discipline the other;
 - b. One member would be responsible for financially auditing the work of another;

c. One member would handle confidential material which might create the appearance of improper or inappropriate access to that material by the other.

2. An employee's "immediate family" is defined as the employee's parent, spouse (or spousal equivalent in a cohabitation relationship), children, sister, brother, mother-in-law, father-in-law, grandparents, grandchildren and no other persons.

If two employees in such positions become so related to one another, one must be transferred to another department where the reporting, auditing or supervisory relationship does not exist or where the employees are not reporting directly to the same supervisor. If a transfer cannot be accomplished due to the unavailability of an open position, one of the employees must resign. The decision as to which employee will transfer or resign will be made in the first instance by the employees involved. If the employees do not decide which employee will transfer or resign within thirty (30) days after becoming related to one another, the Mayor shall determine which employee will transfer or resign based on the best interests of the Town.

D. Trial Period

The trial period is an integral part of the selection process for new employees and employees receiving transfers, promotions or demotions. During this period, a Department Head will determine the employee's capability to do the work, and will observe the employee's adjustment to the department. Each trial employee will be evaluated by his/her supervisor quarterly. During the trial period, the employee may be terminated without prior notice during the trial period and without recourse to the grievance procedure. Employees may not be terminated during their trial period for any reason that violates a statute, law, ordinance, or labor agreement. Employees terminated during or at the conclusion of the trial period have no rights of appeal. During this time period also, an employee may resign without prior notice.

Any new employee starting his or her first job with the Town or any employee returning to employment after any severance in Town service except lay-off shall have a trial period of twelve (12) months. For Police Department personnel, the 12 month trial period will begin after successful completion of BLET (Basic Law Enforcement Training). For a seasonal employee, the trial period will be the first season that the individual works for the Town. Upon successful completion of his or her first season, the individual will be employed for each successive season, subject to the provisions of Section 11 Personnel Action.

Any employee receiving a transfer, promotion or demotion shall have a trial period of six (6) months. If an employee who has been transferred or promoted does not successfully complete his/her trial period, s/he may return to his/her previous position, with no additional trial period in that previous position. If an employee who has been demoted does not successfully complete his/her trial period in the new position, further disciplinary action may be taken against the employee, up to and including termination of employment with the Town.

Any employee who is hired or transferred to fill the position vacated by another employee who has transferred or been promoted shall be informed that the transferred or promoted employee has the right to return to his/her prior position during their six (6) month trial period.

8. Leaves

Policy

G. Military Duty

~~Any employee who is a member of the Washington National Guard or a Federal military unit is entitled to leave from his or her duties for up to 15 days each calendar year for official military duty in accordance with RCW 38.40.060. "Day" for purposes of this section shall be defined as a twenty four hour period. Such leaves are in addition to any other leaves or vacation benefits. During the period of military leave, the employee shall continue to receive his/her normal rate of pay.~~

~~An employee who is called to or volunteers for service with the armed forces of the United States or the Washington National Guard is entitled to reinstatement in his/her position upon completion of service, providing that the period of service is four years or less. Eligibility for and terms of reinstatement are administered in accordance with RCW 73.16.~~

~~An employee promoted or hired to fill a vacancy created by a person on military leave is appointed to the position subject to the return of the absent employee. Upon such return, a promoted employee is restored to his/her original position or an equivalent position subject to the provision of RCW 73.16.033. A replacement employee is subject to layoff if no other position is available.~~

~~Employees who fail to return to work on the date specified on the Leave Request without receiving an extension in advance are subject to disciplinary action up to and including termination.~~

MILITARY LEAVE FOR ACTIVE DUTY IN THE UNITED STATES ARMED FORCES. The Town will comply with the requirements of RCW 73.16 and the Uniformed services Employment and reemployment Act of 1994 (USERRA), as amended, with respect to unpaid leave of absence and return right for employees who leave Town service to serve in the armed Forces of the United States.

- A. An employee who takes a military leave of absence from city employment may choose to run out his or her unused vacation balance, compensatory time off, and personal holidays, as applicable, prior to going on unpaid status.
- B. An employee who leaves a job, voluntarily or involuntarily, to enter active duty in the United States armed forces, shall be granted a military leave of absence with guaranteed restoration to his or her position upon release from active duty as long as:
 - a. The position is a regularly budgeted, non-temporary position;
 - b. The reason the employee leaves the position is to report for active duty;
 - c. The length of the employee's military leave of absence does not exceed 5 years except at the request of the federal government;
 - d. The employee is honorably discharged from the military to return to reserve status;
 - e. The employee applies for reemployment within a reasonable period of time following separation from active duty. The USERRA defines a reasonable period of time as:
 - i. For service less than 31 days, the beginning of the first regularly scheduled work day after release from active duty, allowing time to travel from the duty arena to the employee's residence, to rest, and to travel to the place of employment;
 - ii. For service between 31 and 180 days, no more than 14 days following release from active duty; and
 - iii. For service longer than 180 days, no more than 90 days following release from active duty.
 - iv. An employee on military leave of absence shall continue to accrue service credit for purposes of salary step increments and seniority.
 - v. And employee's vacation accrual rate and unused vacation and sick leave balances shall be restored upon return from military leave of absence.
 - vi. An employee who interrupts his or her probation or trial service with a military leave of absence shall complete the remainder of the probationary or trial service period upon return. However, an employee returning from military leave of absence cannot be discharged except for cause for 1 year following his or her return, if the military leave of absence was for 181 days or longer, or for 6 months following his or her return if the military leave of absence was at least 30 days but less than 181 days.

PAID MILITARY LEAVE. State Law (RCW 38.40.060) requires that Town employees be granted up to 21 working days, exclusive of normal days off, of paid leave per year without loss of service credit for active duty or annual military training.

- A. The 21 days are counted on an annual basis, January 1 through December 31 inclusive, and need not be used consecutively.
 - a. Each day of paid military leave is equivalent of a regularly scheduled workday.
 - b. The employee receives full Town pay and benefits, including normal sick leave and vacation accrual, at the same level and under the same conditions as if he or she were at work, while on paid military leave.
 - c. The Town should verify requests for paid military leave by having the employee submit a copy of his or her military orders with the request for military leave.

MILITARY SPOUSE LEAVE. The Town will comply with the requirements of the Military Family Leave Act (RCW 49.77) with respect to unpaid leaves of absence and return right for employees with spouses who have been notified of an impending call or order to active duty and before deployment and during the military members' leave from deployment.

- a. During a period of military conflict, an employee who is the spouse of a member of the armed forces of the United States, national guard, or reserves who has been notified of an impending call or order to active duty or has been deployed, is entitled to a total of 15 days of unpaid leave per deployment after the military spouse has been notified of an impending call or order to active duty and before deployment or when the military spouse is on leave from deployment.
- b. An employee who seeks to take Military Spouse Leave must provide notice, within 5 business days of receiving official notice of an impending call or order to active duty or of a leave from deployment, of the employee's intention to make Military Spouse Leave.
- c. An employee who takes a Military Spouse Leave of absence from Town employment may elect to substitute any accrued leaves to which he or she is entitled for any part of the leave provided under this rule.
- d. An employee who takes Military Spouse Leave is entitled to be restored to the position of employment held by the employee when the leave commenced or to an equivalent position with equivalent benefits, pay and other terms and conditions of employment.
- e. The Town shall maintain an employee's coverage under the town's health plan while on Military Spouse Leave at the level and under the conditions the coverage would have been provided if the employee had continued in employment continuously for the duration of such leave.
- f. If the employee is not eligible for any employer contribution to medical or dental benefits during any period of leave, the Town shall allow the employee to continue, at the employee's expense, medical or dental insurance coverage, including any spouse and dependent coverage, in accordance with state or federal law. The premium to be paid by the employee shall not exceed one hundred two percent of the applicable premium for the leave period.

- g. The taking of leave may not result in the loss of any employment benefits accrued before the date on which the leave commenced.

H. DOMESTIC VIOLENCE LEAVE. The Town will comply with the requirements of the Domestic Violence Leave Act (RCW 49.76) with respect to unpaid leaves of absence and return right for employees.

1. An employee may take reasonable leave from work, intermittent leave or leave on a reduced leave schedule, without pay, to:
 - i. Seek legal or law enforcement assistance or remedies to ensure the health and safety of the employee or employee's family members, including but not limited to , preparing for, or participating in, any civil or criminal legal proceeding related to or derived from domestic violence, sexual assault, or stalking;
 - ii. Seek treatment by a health care provider for physical or mental injuries caused by domestic violence, sexual assault, or stalking, or to attend to health care treatment for a victim who is the employee's family member;
 - iii. Obtain, or assist a family member in obtaining, services from a domestic violence shelter, rape crisis center, or other social services program for relief from domestic violence, sexual assault or stalking;
 - iv. Obtain, or assist a family member in obtaining, mental health counseling related to an incident of domestic violence, sexual assault, or stalking, in which the employee or the employee's family member was a victim of domestic violence, sexual assault, or stalking; or
 - v. Participate in safety planning, temporarily or permanently relocate, or take other actions to increase the safety of the employee or employee's family members from future domestic violence, sexual assault, or stalking.
2. As a condition for taking domestic violence leave, the employee shall give the Town advance notice of the employee's intention to take leave in the same manner as is required for other leave. When advance notice cannot be given because of an emergency or unforeseen circumstances due to domestic violence, sexual assault, or stalking, the employee or his or her designee must give notice to the Town no later than the end of the first day that the employee takes such leave.
3. The employee shall provide the Town with verification that the employee or employee's family member is a victim of domestic violence, sexual assault, or stalking and that the leave is taken for one of the purposes described in (1) above. Such verification shall be provided in a timely manner prior to the taking of domestic violence leave. When advance notice cannot be given because of an emergency or unforeseen circumstances due to domestic violence, sexual assault, or stalking, the employee or his or her designee must give notice to the Town no later than the end of the fifth day that the employee takes such leave.

4. The employee may satisfy the verification requirement by providing the Town with one or more of the following:
 - i. A police report indicating that the employee or employee's
 - ii. A family member was a victim of domestic violence, sexual assault or stalking;
 - iii. A court order protecting or separating the employee or employee's family member from the perpetrator of the act of domestic violence, sexual assault, or stalking, or other evidence from the court or the prosecuting attorney that the employee or employee's family member appeared, or is scheduled to appear, in court in connection with an incident of domestic violence, sexual assault or stalking;
 - iv. Documentation that the employee or the employee's family member is a victim of domestic violence, sexual assault, or stalking, from any of the following person from whom the employee or employee's family member sought assistance in addressing the domestic violence, sexual assault or stalking: An advocate for victims of domestic violence, sexual assault, or stalking; an attorney; a member of the clergy; or a medical or other professional. The provision of documentation under this section does not waive or diminish the confidential or privileged nature of communications between a victim of domestic violence, sexual assault, or stalking with one or more of the individuals named in this section.
 - v. The employee's written statement that the employee or the employee's family member is a victim of domestic violence, sexual assault, or stalking and that the leave is taken for one of the purposes set for in Section (1) above.
 - vi. If the victim of domestic violence, sexual assault or stalking is the employee's family member, verification of the familial relationship between the employee and the victim may include, but is not limited to, a statement from the employee, a birth certificate, a court document, or other similar documentation. For purposes of this policy, a "family member" means any individual whose relationship to the employee can be classified as a child, spouse, parent, parent-in-law, grandparent or person with whom the employee has a dating relationship.
 - vii. An employee is only required to produce the information set forth in this subsection and is not required to produce or discuss any information with the Town that is beyond the scope of the enumerated information or that would compromise the employee's safety or the safety of the employee's family member in any way and the Town is prohibited from requiring such disclosure.
 - viii. The Town shall maintain the confidentiality of all information provided by the employee under this policy, including the fact that the employee or employee's family member is a victim of

domestic violence, sexual assault, or stalking, that the employee has requested or obtained leave under this policy, and any written or oral statement, documentation, record, or corroborating evidence provided by the employee, except that information given by the employee maybe disclosed by the Town only if (a) requested by or consented to by the employee; (b) ordered by a court or administrative agency; or(c) otherwise required by applicable federal or state law.

5. An employee who is absent from work pursuant to this policy may elect to substitute any accrued leaves to which he or she is entitled for any part of the leave provided under this rule.
6. The taking of leave under this policy shall not result in the loss of any pay or benefits to the employee that accrued before the date on which the leave commenced.
7. Upon the employee's return, the town shall restore the employee to the position held by the employee when the leave commenced or restore the employee to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment.
8. To the extent allowed by law, the Town shall maintain coverage under its health insurance plan for an employee who takes leave under this policy. The coverage will be maintained for the duration of the leave at the level and under the conditions coverage would have been provided if the employee had not taken the leave.
9. This policy shall not apply to an employee hired for a specific term or only to perform work on a discrete project, the employment term or project is over and the Town would not otherwise have continued to employ the employee.

All other policies shall remain in full force and effect.

Adopted by the Wilbur Town Council this ___ day of _____, 200__.

Robert Wyborney, Mayor

ATTEST:

Carla Shirley, Clerk/Treasurer

APPROVED AS TO FORM:

Cynthia E. McMullen, Town Attorney