

CHAPTER XI

ARTICLE I

PERSONNEL

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CHAPTER XI

ARTICLE I

PERSONNEL POLICY

11-1-1 ADOPTION

Upon adoption by the Governing Body, the Ordinance Codified at this Chapter hereafter shall constitute and be referred to as the Official "Personnel Ordinance". The provision thereof shall apply to all employees and appointed Officials of the Town, including the Town Clerk, Police Chief and Utility Supervisor, referred to as the "at will employees".

11-1-2 PRIOR RULES

The Personnel Policy in effect prior to enactment of this Ordinance and all amendments thereto including any provisions of the policy manual, which may conflict with this Ordinance are hereby superseded.

11-1-3 COMPLIANCE

- A. The Town of Mountainair is an Equal Opportunity Employer. The Town of Mountainair does not discriminate against any individual in hiring, discharging, or recruiting or referring for a fee because of that individual's national origin or citizenship status. It is illegal to discriminate against work eligible individuals. The Town of Mountainair CANNOT specify which document(s) they will accept from an employee. The refusal to hire an individual because of a future expiration date may also constitute illegal discrimination.
- B. All persons operating under the provisions of these policies and procedures shall conform to, comply with and aid in all proper ways in carrying out the provisions of this document.
- C. The information that is gathered in the application for affirmative action under Section 503 of the Rehabilitation Act of 1973. The Town of Mountainair is a Drug Free Work Place. After an offer of employment, and prior to reporting to work, you shall be required to submit to a medical review. Depending on the position applying for you will be required to complete a medical history form and may be required to be examined by a medical professional designated by the Town of Mountainair. Random Drug Testing will be performed.
- D. The Mountainair Housing Authority Torrance County Agency (HUD) is a Drug Free Work Place. All employees are informed that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the work place and actions will be taken against employees for violation of such prohibition.
- E. The dangers of drugs in the work place include but are limited to the possibility of endangering your life as well as those around you. Operating machinery or making decisions are influenced by drugs and can place the Housing Authority at risk.

- F. The policy of maintaining a drug free work place is to require testing if there is a suspicion of an employee not working at their top performance due to the use of a controlled substance.
- G. The penalties that may be imposed upon employees for drug abuse violations occurring in the work place could include termination of employment and prosecution under the law.
- H. Each employee of the Mountainair Housing Authority Agency will be required to sign a Certification for a Drug Free Work Place Statement HUD for 50070.

To be an employee of Mountainair Housing Authority Agency you must:

- a. Abide by the terms of the statement
- b. Notify the employer of any criminal drug statute conviction for a violation occurring in the work place no later than five days after such conviction.

The Albuquerque Field Office must be notified within ten days after conviction. Appropriate personnel action will then be taken against the employee. In order to retain their position of employment the employee must successfully participate in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or Local Health Law Enforcement, or other appropriate agency.

Employees must make a good faith effort to continue to maintain a drug free work place through implementation of this statement in its entirety.

11-1-4 PURPOSE

These policies and procedures are prescribed for the purpose of providing a personnel system, which promotes efficiency in the conduct of public business and assures fair and impartial treatment of all applicants for employment and all employees of the Town.

11-1-5 COVERAGE

Those on professional services contract shall not be covered by the Personnel Ordinance. All other employees of the Town of Mountainair shall be subject to the terms of this Ordinance.

11-1-6 MERIT PRINCIPLES

The Town of Mountainair adopts the following merit standards, which shall govern in all personnel practices.

- a. Recruiting, selecting and advancing Employees will be on the basis of their relative ability, skill and effort.
- b. Equitable and adequate compensation will be provided;
- c. Employees will be retained on the basis of the adequacy of their performance, provisions will be made for correcting inadequate performance and separating employees whose inadequate performance cannot be corrected.
- d. Fair treatment of applications for employment and employees in all aspects of personnel administration without regard to race, color, religion, sex, national origin, political affiliation, age, handicap or other non-merit factors and with proper regard for their primary and constitutional right as citizens, will be assured; and

11-1-7 DEPARTMENT REGULATIONS

Additional personnel regulations not in conflict with these policies and procedures may be drafted by Department Heads to meet specific needs of their areas of responsibility but must be filed with the Office of the Town Clerk and approved by the Governing Body.

11-1-8 PENALTIES

Any employee who violates any provision of the Town of Mountainair Personnel Policy, in addition to any other penalty imposed for such violations, is subject to reprimand, suspension or dismissal.

11-1-9 RECRUITMENT, SELECTION AND APPOINTMENT

a. There are three types of positions defined as follows:

1. Fulltime regular position – a position established with the expectation of indefinite continuity, which requires performance of 40 hours of work per week.
2. Part-time regular position – a position established with the expectation of indefinite continuity, which requires performance of less than 40 hours of work per week.
3. Temporary or seasonal position - a full time or part time position established for a definite period of time not to exceed six months.

b. Employment Status. An employee will have the status of one of the following:

1. Full time or part time regular position employee - an employee, appointed or hired to a regular position, who has successfully completed a probationary period. A full-time employee cannot be removed from a position without just cause and has the right of an appeal.
2. Probationary employee – an employee appointed to a regular position who has not completed a probationary period. A probationary employee may be terminated without cause and has no right to appeal dismissal.
3. Temporary or seasonal employee – an employee appointed to a full or part time position for a period less than six months. A temporary or seasonal employee has no right to appeal dismissal.

c. Recruitment. When a vacancy occurs and the Governing Body wishes to fill the vacancy, a promotion of a qualified employee from within the department is to be made, if a qualified individual is available. If there is no one qualified, the Town Clerk shall advertise the opening in a newspaper of general circulation and post the notice in the official posting places of the Town. The posting shall remain in place for at least five days. Each announcement shall stay in place for at least five days. Each announcement shall state that the Town of Mountainair is an Equal Opportunity Employer and has the right to refuse any and all applications.

d. Application acceptance. Applications for regular positions shall be accepted at any time in the Office of the Town Clerk during established Office Hours. Applicants shall be considered for all positions for which they qualify. Applications shall be submitted on the forms prescribed by the Town which will include, but not limited to, personal data, educational history, prior work record, prior work performance, reference and in the case of public safety employees, prior medical history.

e. Examinations. All applicants for positions in the service of the Town shall be subject to competitive examination. When administered, examinations shall be confined to those matters that are directly job related and that fairly, validly and reliably test the capacity and fitness of the applicant to successfully discharge the duties of the class for which the examination is held. Examinations may be written, oral, physical performance tests, **medical examinations**, rating of training and experience or any combination of these. The Department Head will be responsible for determining the need for testing subject to the approval of the Mayor or Governing Body.

- f. **References.** The Mayor or their designee shall check personal references and other information provided by the applicant. Applicants shall be advised on the application form that they are subject to such reference checks and data verification and sign a release of information form. All such inquiries whether made in person, by telephone or in writing, shall be documented and made a part of the applicant's file. All such responses that constitute personal statements, which are matter of opinion, shall be held confidential and not be open to the public's inspection.
- g. **Disqualification of applicants and employees.** Any applicant for employment with the Town of Mountainair may be disqualified from gaining such employment and the Town employee's employment may be terminated if that person has committed any of the following violations:
 1. Lack of minimum qualifications;
 2. Below the legal minimum age for employment in the position applied for;
 3. Does not complete the application;
 4. The applicant is unwilling to under go a background and reference check or substance abuse test if required;
 5. The applicant fails to meet statutory requirements on clearance from felonious crime or crimes of moral turpitude;
 6. The applicant is not bondable and the position requires a bond;
 7. The applicant is determined to have provided false information on an employment application;
 8. It is determined that there has been fraudulent conduct in connection with an employment examination;
 9. The applicant refuses to submit, cooperate or complete any medical examination or fails the substance abuse test duly authorized to administered by a licensed physician;
 10. Is not legally entitled to e mployment in this country.

Applications and results of personnel investigations will be retained for a period of three (3) years. A candidate disqualified under items "1 through 6" above will not necessarily be disqualified from seeking or filling other Town positions for which they are qualified, disqualified under items "7" through "10" may not be considered for employment in another Town position.

- h. **Notice of disqualification.** Applicants, who have been disqualified, shall be promptly notified by the Town Clerk except where insufficient address makes such contact impractical. Applications whether accepted or disqualified will be retained for a period of three years.
- i. **Evaluation of Law Enforcement Candidates.** After the deadlines for application submission, an oral board will be assembled to interview all potential new hires. This board shall consist of members of the Town Council, and regional law enforcement officals. This board shall review all applications, background checks, and psychological evaluations. In making this evaluation, the board shall rank applicant in order of fitness for the position and data may include oral performance, physical ability, psychological and physical examinations, as well as work history and previous employment. All candidated for the position shall be evaluated against the same qualification requirements.
- j. **Evlauation of Non-Law Enforcement Candidates.** After the deadline for application submission, an oral board, consisting of two members of the general public, at least one member of the town supervisory position, and at least one member of the Town Council. The oral board ranking committee shall evaluate the application and rank them in order of estimated fitness for the position in question. In making this evaluation, the ranking committee may make use of any combination of written or oral performance, physical ability or medical examination, as well as

analysis of work history and previous employment, together with such other techniques of evaluation as deemed appropriate. All candidates for a vacant position shall be evaluated against the same qualification requirements. After ranking, candidates will be referred to the Mayor for interview or selection.

- k. **Background investigations.** For the positions required by New Mexico State Statutes to be clear of felonies or crimes of moral turpitude, to be bondable or where professional integrity is imperative, an examination of a candidate's arrest and conviction record and a background investigation will be conducted. Recruitment announcements for such positions will notify applicants that they are subject to such as investigation and will be required to sign an authorization for such an investigation. If a substance abuse test is required, results must be obtained by the Town Clerk before any appointments are made; the drug policy of the Town is attached hereto as Exhibit C.
- l. **Processing the appointment.** Upon completion of interviewing the candidate, the Mayor will recommend to the Council, at the next regular meeting, the candidate they feel are best qualified for the job. If the council concurs with the Mayor's recommendation, the employment of the candidate will be confirmed. Upon notification of selection, the Town Clerk will process the selected candidate's appointment papers. No employee shall begin work until properly signed up by the Clerk.
- m. **Probationary period.** All new employees hired to fill a full time or part time regular position shall serve a six- month probationary period. During the probationary period, the employee may be terminated at anytime without cause, pursuant to Section 3-11-6D, NMSA 1978. Upon submission of a satisfactory job performance evaluation from the Department Head to the Governing Body at the end of the employee's probationary period, the employee will obtain regular position status subject to council approval.
- n. **Full time status.** Once an employee has successfully completed the probationary period and has been confirmed by the Mayor and Council for the employee, they shall be considered a regular position employee, except Officers of the Public Safety Department will be required to successfully complete the New Mexico Law Enforcement Academy, as required by State law.
- o. **Employment date.** The employment date of all municipal employees for the computation of FICA deduction, workmen's compensation and any other benefits provided, shall start on the employee's first day of work.

11-1-10 CONDITION OF EMPLOYMENT

- a. **Public Employees as a Public Trust.** Town employees away from the job shall exercise the same rights and privileges as other private citizens insofar as their actions do not interfere with their performance on the job or undermine the public confidence in themselves, other Town employees or the Town Government as a whole.
- b. **Attendance.** Employees shall arrive promptly and be prepared to work at the scheduled time and place. In the event that illness or other conditions prevent their arrival or punctuality, they shall notify their immediate Supervisor as soon as possible, giving the reason for failure to report and estimating when they will be able to report for duty. If employees see in advance that they will be unable to report, they should advise their Supervisor prior to starting time. Employees who leave their duties before the scheduled ending time, because of illness or other reasons, shall inform their Supervisor prior to leaving and state their reason for not completing their regular shift. Employees who are hourly, rather than on a salary basis, will be paid according to the time recorded on their time sheet. All hourly employees must submit time sheets, using the time sheets provided by the Town. Salaried employees must turn in a time sheet to the Town Clerk

two (2) days prior to the end of the pay period for the recording of hours worked, vacation, sick leave and compensatory time, when applicable.

- c. **Political participation.** No Town employee shall campaign, distribute literature or solicit political contributions while on the job. No Town employee shall prohibit the right of another employee to have and express a personal choice of political commitment. No Town employee shall be expected, required or coerced to contribute to any campaign. No Town employee shall represent or all themselves to be inferred as officially representing the Town at any political meeting or in any political publicity. No one shall prohibit any Town employee from voting or exercising his or her political rights as a private citizen during non-working hours. A Town employee who chooses to run for political office shall not campaign during their scheduled working hours with the Town upon taking their oath of office for their elected position.
- d. **Voting time.** A Town employee who is properly registered to vote shall be granted time off to exercise this right by the Department Head. Absence for voting shall be requested and approved in advance. The amount of time taken to vote shall be in accordance with State and Federal Laws.
- e. **Dress and appearance.** While it is not the Town's intention to dictate the personal wardrobe of employees, the appearance and dress of employees are important in creating a favorable image supportive of public confidence. Employees shall dress appropriately for the task at hand and be guided by their Supervisor.
 - 1. Utility Department. The Utility workers will always wear the following:
 - a. Hard Hat
 - b. Safety Vest
 - c. Eye Protection
 - d. Safety Steel Toe Boots

The Town will furnish the Utility Employee with items "a", "b", and "c" along with rubber boots and raincoats, when needed, which will belong to the Town. Excluding temporary or seasonal employees, the Town will reimburse Utility Employees up to \$600.00 per year for clothing and safety steel toe boots upon the return of receipts to the Treasurer, by order of the Town Auditors. It will be the responsibility of the Utility Supervisor to ensure that the Utility Department Employees follow OSHA Regulations.

- 2. Police Department. A newly hired Police Officer will be allotted \$700.00 (per Ordinance 1-2017) initial issue, to purchase uniforms. **All purchases above the allotted \$700.00 shall be paid for by the newly hired Police Officer.** If the Police Officer leaves the Department prior to completing their probationary period, all patches will be removed from any uniform and returned to the Town. The Police Officer will be reimbursed up to \$300.00 per year for their expense for uniforms after their employment anniversary date of one year.
- f. **Telephones.** Employees are expected to use rules of every day courtesy in using Town owned phones.
 - 1. Employees should always identify themselves;
 - 2. If the inquiry had been misdirected, every reasonable effort should be made to direct the call to the proper person and department;
 - 3. If the person who the telephone call is for is out of the office, a message should be taken. There are five items to be put on the message:
 - a. Whom the message is for;

- b. Date and time message was received;
 - c. Callers name and number;
 - d. Nature of the call and any special instructions;
 - e. Who took the call?
4. The Town telephone and cell phone are for business purposes and local personal calls **or texting** should be kept to an absolute minimum. Long distance call are prohibited unless they are work related, if it is a personal long distance call the charges are to be charged to the employee's personal phone number.
5. **Internet use on Town cell phones are only for town business.**
6. Illegal or unauthorized use of the Town telephone or cell phone shall subject the employee to disciplinary action.
- g. **Travel Expense.** Town employees required to travel on Town business will be reimbursed for expenses within limits described in the State's traveling expense regulations.
- h. **Employee permanent record.** Each employee may examine his or her own permanent personnel record in the presence of the Personnel Clerk at any reasonable time during established office hours in the Town Clerk's Office. Employees are encouraged to notify the Personnel Clerk of additional skills and training that they have acquired since employment and to update dependent, beneficiary and similar benefit information with the Clerk as they occur. If a copy is required, it will be at the employee's expense, unless it is for the Town's benefit.
- i. **Employment references.** References for Town application that were gathered from former employer, in connection with employee selection and appointment, shall not be considered public records and shall not be revealed to future employers or potential employers nor to any investigator or other person except one so empowered by Federal and State Law.

11-1-11 CLASSIFICATIONS OF POSITIONS

All positions shall be grouped into grades and each grade shall include those positions sufficiently similar in character or work, required performance and level of responsibility so that;

1. An equivalent level of training, experience, knowledge, ability and other qualifications may be required of incumbents;
 2. Comparable test of such qualifications may be used to select incumbents; and
 3. The same salary range will apply with equity under substantially equal working conditions.
- a. **Grade Specifications.** Each grade of positions shall be described by a composite or generic grade specification, which shall include the title, qualifications, duties and responsibilities and minimum or desirable qualifications applicable to all positions in the grade. The grade specification as a whole shall be considered in determining the classification of any individual position. The listing of examples of work typical of position in the grade is intended to be descriptive only, not limiting. All work performed by each position is not described, nor do all examples apply to each position in the grade. Supervisors may alter the detailed tasks involved in the duties of a position without necessarily affecting its grade.
- b. **Grade Scale.** The Town Clerk shall maintain and publish the Grade Scale, which shall consist of the written grade specifications for all grades in a competitive service, arranged in logical sequence by occupational or departmental groups and by level of skill or responsibility. The establishment of new or revised grades shall be recommended by the Department Head for approval or denial as deemed appropriate by the Mayor and Council.
- c. **Certification Compensation.** Utility employees who hold a Water Supply Level 1 (WS1) certificate will earn \$.75/hour above their grade scale pay. Those who hold a Water Supply Level

2 (WS2) will earn \$1.00/hour above their grade scale pay. Those who hold a Wastewater Level 1 (WW1) will earn \$.75/hour above their grade scale pay. Water Sampler Tech 1 will earn \$.50/hour above their grade pay. Natural gas certification holders will earn \$.25/hour above their grade scale pay for every 25 course certifications they hold.

- d. **New Positions.** In order to establish a new position, the Department Head shall submit a written job description setting out, in detail, the duties of the position. The Mayor shall there upon investigate the proposed duties and shall recommend a grade proportionate to the duties of other employees in that grade, if any.
- e. **Change in Duties.** Department Heads shall notify the Town Clerk, in writing, of each permanent change of duties, responsibilities or work assignments, for positions under their supervision. If the new duties are being removed from one employee and assigned to another, both positions shall be reviewed and reclassified to a grade requiring comparable skills. The Mayor and Council shall approve all changes.
- f. **New Positions.** The compensation plan includes the basic pay schedule adopted by the Governing Body, together with the assignment of each class or position to pay range in the schedule. The pay scale, as revised from time to time, shall be attached to this Personnel Ordinance as Exhibit A.
- g. **Pay Range.** Each pay range consists of a Probation Rate, Mid Performance, Full Performance and Top Performance. Upon completion of the specified probationary period and achieving an overall “meets job standards” job performance evaluation, the employee will move from Probation Rate to Regular Rate. Any employee who receives an overall “needs improvement” on any regularly scheduled Performance Appraisal will be re-evaluated in three (3) months to verify fulfillment of the goals outlined in the Performance Appraisal. Failure to meet established criteria at that time will result in placing the employee on probation for another six (6) month period. The employee’s immediate supervisor will meet with the employee on a monthly basis during this probationary period to evaluate and guide the employee toward the goals outlined. Documentation of these meetings will be made a part of the employee’s personnel file.

An employee will be eligible for Mid Performance after completing a satisfactory probationary period and having been employed by the Town in their current position for at least one (1) year. To achieve Mid Performance, an employee must get an overall “meets job standard” on their performance appraisal for that employee, with written justification from the Department Head or Supervisor.

An employee will be eligible for Full Performance after having been employed by the Town in their current position for at least eighteen (18) months. To achieve Full Performance, an employee must meet “all job standards” or above on their performance appraisal, with written justification from the Department Head or Supervisor.

An employee will be eligible for Top Performance after having been employed by the Town in their current position for at least two (2) years. To achieve Top Performance, an employee must get an overall “exceeds job standards” on their performance appraisal by receiving high scores in the majority of the categories applicable for that employee, with written justification from the Department Head or Supervisor.

All completed appraisals will come before the Mayor. If the Mayor agrees with the performance appraisal, the mayor will bring the appraisal before the Council for approval.

- h. **Pay Rate is Total Compensation.** A pay rate assigned to the employee class shall constitute total remuneration of the employee for the regular hours of work, exclusive of employee benefits, overtime and compensatory time.
- i. **Salary Total Compensation.** Salaried employee shall not receive pay from the Town in addition to the pay rate authorized under the pay plan for any services rendered by them either in the discharge of their ordinary duties or any additional duties, which may be imposed upon them or which they may undertake or volunteer to perform. An individual employee shall receive no reward, gift or other form of remuneration in addition to the regular compensation from any source other than the Town. Nothing in this paragraph prohibits employees from accepting part-time positions separate from the Town, as long as it does not interfere with Town Employment.
- j. **Revision of Compensation Plan.** When the pay range assignment of a class is changed, the rates of all employees in that class shall be adjusted in the same manner. When the pay schedule, as a whole is changed, the rate of all employees in the compensation plan shall be adjusted by the same method formula or percentage. Cost of living adjustments, if approved by the Governing Body, are revisions to the pay schedule as a whole.
- k. **Authority to Revise the Compensation Plan.** The Governing Body may from time to time, as it deems appropriate, revise or amend (increase or decrease) the pay plan for the Town as a whole in keeping with current trends, including cost of living, inflation, and area economy of municipal appropriation.
- l. **Working Hours.** The Department Heads shall specify the working time of the Town Employees respectively.

11-1-12 EMPLOYEE PAY AND PERFORMANCE EVALUATION

- a. **Pay Days.** All employees shall be paid biweekly. By 12:00 noon **Monday**, two (2) days prior to payday (**Wednesday**), all Department Heads will turn in time sheets for each employee to the Treasurer/Clerk. The time sheets will show regular and ~~compensatory~~ **overtime** time worked and all absences for each employee during the pay period. Payroll checks will be issued after 10:00 am on payday or after the payroll deposit has been made. **A workweek is defined as seven (7) days from Monday to Sunday.**
- b. **Exempt Positions.** The position of Town Clerk, Police Chief and Utility Supervisor are exempt from payment for overtime. ~~An exempt employee shall not be eligible for compensatory time off on an hour to hour basis. (“At Will Employees”)~~
- c. **Non-Exempt Positions.** ~~The majority of Town positions are non-exempt. Employees in such positions shall be paid for each hour worked on straight time by compensatory time.~~ Non-exempt employees shall not be paid for unauthorized absences or unauthorized hours worked or for time on approved leave without pay.
- d. **Overtime.** Employees of the Town of Mountainair, other than those exempted, shall be compensated for all overtime worked. ~~Overtime work shall be compensated by paid time off during the standard assigned hours.~~
 - 1. ~~Compensatory time off shall accrue at the rate of 1 ½ hours of paid time off for each hour of authorized overtime worked.~~
 - 2. ~~All employees eligible for overtime compensation may accrue a maximum balance of 240 hours of compensatory time owed (160 overtime hours worked).~~
 - 3. ~~Compensatory time may be used at any time with the prior approval of the Department Head authorized to approve time off but approval shall be subject to the work needs of the Municipality.~~
 - 4. Any overtime worked, ~~which exceeds the maximum authorized balance,~~ shall be paid to the employee on the next regular pay day at the rate of 1 ½ times the employee’s regular

- hourly pay rate for each hour of overtime worked any portion of an hour in excess of ~~five~~ **(5) fifteen (15)** minutes shall be computed and paid to the closest ½ hour.
- ~~5. Upon termination, any unused balance of compensatory time owed shall be paid at a rate not less than the employee's final hourly pay rate or the employee's average hourly pay rate over the last three (3) years of employment, whichever is higher.~~
 - ~~6. Department Head shall monitor overtime worked, and compensatory time accrued and shall encourage the use of compensatory time as the opportunity arises, in order to minimize the Municipality's overtime pay liability. Authorization of excessive overtime or failure to encourage use of compensatory time balances within the calendar quarter earned will be considered as a negative grading factor of a performance evaluation of the Department Head.~~
 - 7. Police Chief shall incorporate officer's court appearances into the regular schedule, to ensure officers are not required to appear in court during their scheduled days off, or potentially accruing overtime. In the event that court appearances do fall on officer's scheduled day off, they shall be paid regular pay for the hours they are in court (including transportation time to and from court.)**
 - 8. Compensation for overtime begins when forty (40) hours in a work week has been acquired. Work performed in excess of eight (8) hours in a work day will NOT be considered overtime.**
 - 9. Exempt from overtime compensation as stated herein are: The Town Clerk, Chief of Police and Utility Department Supervisor and Commissioned/Contracted Police Officers.**
- e. **Stand-By.** All Utility Personnel are required to perform "stand-by" duty on a rotating schedule.
- 1. Stand-by duty will require that the employee on call (Monday 10:00 am to the next Monday 10:00 am) is available for response to an emergency and assure proper operation of water pumping equipment and maintaining of water storage levels.**
 - 2. Available for response to an emergency does not require that the employee remain at home, but leave work at his home, with the Utility Supervisor, Mayor or other Town Official in that order, where they may be reached.**
 - 3. Notice of response to an emergency will be given to and authorized by the Utility Supervisor no later than the next working day.**
 - 4. Work performed in the maintenance of water storage levels in excess of two hours per day (Saturday and Holidays) in the absence of equipment malfunction, lightning, and/or emergency will be considered abusive and not re-compensated. Overtime worked by all employees will be charged to the nearest five (5) minutes that no call while on stand-by will be for less than fifteen (15) minutes.**
 - 5. Actual time worked in excess of forty (40) hours per week in performance of stand-by duties will be compensated for overtime by paid time off.**
 - 6. Personnel not designated as on stand-by for that week are not authorized overtime for maintenance of water storage levels, unless authorized by the Utility Supervisor, in writing.**
 - 7. Compensation for stand-by duty will be one hundred dollars (\$100.00) per week. Additional compensation equivalent to two (2) hours of straight time will be paid for stand-by duty on an observed holiday occurring within the standard workweek.**
- f. **Pay for Holiday Work. Not applicable.** Employees who are on probationary period and those hired, as part time will not receive holiday pay. Full time police officers who work on a town holiday will earn a rate of ~~1½~~ **2x** hours for each hour worked. **Full time utility personnel, see Stand-by, Number 7.**

- g. **Continuous Service Required.** Eligibility for salary increases, leave accrual and similar provisions specified in these policies and procedures shall be based upon the requirement of continuous service. In calculating such services, leaves of absence with pay and leaves without pay for thirty (30) days or less do not constitute breaks in service and are creditable time. Leaves without pay of more than thirty (30) days or unauthorized absence are breaks in service and are not creditable time. A break in employment caused by layoff, resignation or other termination is not creditable service.
- h. **Performance Evaluation.** The overall work performance of each full time employee shall be evaluated two (2) times each year, once in October and once in March, by the immediate Supervisor. The Supervisor and the Employee shall sign the completed evaluation. Each employee shall be given a final signed copy, and a copy shall also be given to the Personnel Director for inclusion in the Employee's personnel file. The Supervisor will use the performance evaluations of previous periods to review and discuss the overall progress of the employee with respect to Town employment. The performance evaluation will be attached to this Personnel Ordinance as Exhibit "B". **At the October performance evaluation, The Supervisor will review this Personnel Policy and additional attached exhibits, with the Employee. The Employee shall sign the acknowledgement pages and they will be included in the Employee's personnel file.**

11-1-13 DISCIPLINE.

Whenever a permanent employee's performance, work habits or personal ~~consele~~ conduct falls below a desirable level, their immediate Supervisor shall inform the employee promptly and specifically of such lapses and shall give counsel and assistance. If such lapses and shall give counsel and for improvement will be allowed before initiating disciplinary action. In some instances, a specific incident may justify immediate disciplinary action; however, the action taken shall be based upon the seriousness of the incident and the employee's past performance and conduct.

- a. **Authority to Discipline.** The Mayor and/or Department Heads have the authority to discipline employees under their supervision with oral or written reprimands. In accordance with the New Mexico State Statutes, 1978 Annotated, Section 3-11-6, the Mayor has the authority to appoint, supervise and discharge employees subject to the approval of a majority vote of all member of the Governing Body.
- b. **Time for Improvement.** A full-time employee whose work performance becomes less than satisfactory may be given a specific period of time for improvement, not to exceed six (6) months. Any such period exceeding one (1) month shall be accompanied by a written reprimand with the employee's acknowledgment, by signing the reprimand. If the employee's performance improves to a satisfactory level, a performance evaluation will be prepared by the Supervisor, acknowledge by the employee, and filed with the Personnel Director, together with a written reprimand, in the employee's personnel file. A copy shall be given to the employee. If, however, the performance does not return to a satisfactory level by the end of the trial period, the employee shall be dismissed or otherwise disciplined by the Mayor with the advice and consent of the Council.
- c. **Causes for Discipline.**
 - 1. Conviction for violation of any criminal, civil, Federal, State or Town Law, on or off the job, which, if committed on the job site, would adversely affect the employee's performance in Town service, with reasoning from the employee's Supervisor.
 - 2. Negligence in the performance of duty, including negligence in the operation of Town vehicles and equipment.
 - 3. Failure to meet prescribed standards of work.

4. Unauthorized absence from work.
 5. Physical or mental unfitness for duty due to intoxication from alcohol or drugs or any other cause.
 6. Insubordination by failing to follow provisions of this Ordinance or Lawful Instructions of a Supervisor.
 7. Falsification of records.
 8. Misuse, theft, or destruction of the Town property.
 9. Engaging in non-job related activities.
 10. Willfully falsifying a job application.
 11. Internee with other on the job.
 12. Any other conducts on the job that adversely affect the employee's ability to perform his or her work, in the opinion of the employee's Supervisor.
 13. Sexual harassment.
 14. Testing positive on a confirmed drug or alcohol test result (as per Chapter X Exhibit C - Drug and Alcohol Policy and DOT Compliance Plan, page 77).
- d. **Disciplinary Actions.** The Governing Body may suspend, demote, reprimand, place on probation, dismiss, or discharge any full time or part time employee for disciplinary purposes, inefficient work performance or for cause.
- e. **Methods of Discipline.** The recognized methods of disciplinary actions include any of the following:
1. Verbal Reprimand
 2. Written Reprimand
 3. Change of work Assignment; (which shall also be a non-disciplinary management prerogative.
 4. Disciplinary Probation
 5. Suspension without pay up to ten (10) working days
 6. Suspension without pay up to twenty-five (25) working days
 7. Demotion
 8. Dismissal
- f. **Notification of Disciplinary Action.** A written statement of the reason for disciplinary actions shall be submitted to the employee affected at the time the disciplinary action is imposed. A copy of the statement shall be signed by the employee and placed in their personnel file. The only exception to this would be in the case of a verbal warning and at the department for the employee's file that such a reprimand or warning was provided to the employee. A pre-determination hearing will be held prior to proposed discharge.
- g. **Suspension Without Pay.** Suspension without pay shall not exceed ten (10) working days without written approval of the Governing Body, who may authorize up to an additional fifteen (15) working days suspension.

11-1-14 TERMINATION.

- a. **Return of Town Property.** At the time of termination for any reason, and prior to final payment of employee's earnings, the employee shall return all records, uniforms, keys, badges, or other items of Town property in the employee's possession to their immediate Supervisor. The departing employee shall execute a certificate that all such property known to be in their custody has been returned. Where the employee has signed for such property, any shortage shall be reimbursed to the Town as a lawful deduction from the employee's final paycheck.
- b. **Termination Pay.** Permanent employees who terminate in good standing shall receive payment for all earned wages (less deductions), for unused accrued annual leave, and for unused accrued

compensatory time. Probationary, temporary, or seasonal employee shall receive all wages earned (less deductions) but no annual leave pay. Final payment shall be ~~no later than the fifth (5th) day after the employee's last day of work.~~ **on the next pay period.**

- c. **Abandonment.** An employee who is away from the job for two (2) days or more without official leave shall be considered to have voluntarily resigned not in good standing. Notice of termination shall be sent by registered mail to the last known address of the employee along with notice of when the final paychecks will be available.
- d. **Layoff.** A layoff may occur when one or more positions must be discontinued or abolished because of lack of work, reorganization or change of duties. No regular position employee shall be laid off while there is a probationary, temporary or seasonal employee in any position for which the regular position employee is minimally qualified. Regular position employees who must be laid off shall be notified in writing at least two (2) weeks prior to the effective date or shall be granted the equivalent severance pay. Applications of employees who are laid off shall, upon request, be added to the active file of candidates for employment.
- e. **Dismissal During Probation.** A probationary employee may be dismissed at any time without cause. Dismissal of a probationary employee will be done in writing. An employee dismissed during probation may request a hearing pursuant to grievance and appeal procedures.
- f. **Dismissal for Cause.** Any permanent employee may be dismissed at any time for cause. A copy of the dismissal notice will be furnished to the employee and a copy shall be filed in the employee's personnel file. The employee is entitled, upon request, to a hearing before the Governing Body. The fact that the employee was dismissed and the cause therefore will be furnished to potential subsequent employers, if the Town is given as an employment reference. An employee who is dismissed for cause will not be considered for re-employment with the Town.
- g. **Termination in Good Standing.** Any employee wishing to terminate his or her employment with the Town in good standing shall submit a written statement setting forth the date the resignation will become effective. This must be at least two (2) weeks or ten (10) working days prior to the date it is to become effective. Failure of an employee to comply with this procedure may be deemed justifiable cause to deny them future employment with the Town of Mountainair, as well as a poor employment reference. An employee may use accrued, unused vacation time in lieu of, or in conjunction with, termination notification. Upon receipt of a resignation submitted in good standing, the Town, may, upon request of the Department Head, elect to conclude resigns employment immediately by requiring the employees to take any accrued vacation or compensatory time.

11-1-15 GRIEVANCE AND APPEAL PROCEDURES.

The Grievance Board of the Town of Mountainair will consist of the Mayor and Council.

- a. **Duties of the Grievance Board.**
 - 1. Represent the public interest in the improvement of personnel administration;
 - 2. Make any investigation which it may consider necessary or desirable concerning the administration of personnel;
 - 3. Recommend such personnel rules as are necessary and desirable to carry out the personnel policy. Such rules may include provisions governing appointment, promotions, transfers, separations and employee's evaluations. Rules concerning fringe benefits, hours and conditions of works, holidays, retirement and any other personnel matter may also be recommended. Personnel rules may be enacted by Resolution of the Governing Body.
- b. **Employee Grievance Procedures.**
 - 1. Any aggrieved employee may submit a written request for hearing to the Governing Body (Town Clerk, or Mayor) on any alleged grievance under this policy, provided, however,

that any such statement must be presented to the Grievance Board within fifteen (15) days of the occurrence of the alleged violation. The hearing request should contain a statement of what action the employee is requesting.

2. When an employee has filed a statement or presented in compliance with the preceding paragraph, the Grievance Board shall, within fourteen (14) days from the filing such a statement, hold a hearing concerning the allegation(s) in the statement. Within fourteen (14) days from the date of the hearing, the Grievance Board shall issue its decision in writing. If the Grievance Board finds that a violation of these policies and procedures has occurred, it may grant relief to the affected employee, as it may deem appropriate.
 3. All records related to the grievance filed shall be kept in the employee's personnel file, including the stated grievance, the concerns of the involved parties, any agreements between the involved parties and any remedial action taken by the Grievance Board.
- c. **Coverage.** The provisions of these grievance procedures cover all regular position employees of the Town.
- d. **Appeal of Discharge From Service.** An employee who has been suspended pending discharge is entitled to a hearing and the right to appear on their own behalf or be represented by legal counsel before the Governing Body. The request for hearing before the Governing Body must be submitted in writing within fifteen (15) days of the notice of suspension or discharge. This request must be filed with the Town Clerk, Mayor or Deputy. The suspended employee shall receive a written acknowledgment of receipt of request and the time and place where the hearing will take place.
- e. **Reinstatement.** If an employee is reinstated by the Governing Body after their period of suspension, pay for the suspension period shall be granted, if the grounds for suspension were found to be unreasonable, or of a nature which was not caused by the misconduct or neglect of duty of the employee. If the employee is reinstated pending correction of previous grounds for suspension, their salary will resume on the day they are reinstated.
- f. **Action Reversal.** Where an administrative or disciplinary action is reversed through the grievance appeal process, a copy of the reversal shall be made part of the employee's file.

11-1-16 EMPLOYEE BENEFITS.

- a. **Holidays.** It is the policy of the Town to ~~insure~~ ensure that all Regular Employees are provided ten and a half (10 ½) days of paid holidays per year. They include the following:

New Year's Day
Martin Luther King Day
President's Day
Good Friday (1/2 day)
Memorial Day
Independence Day
Labor Day
Veteran's Day
Thanksgiving Day (2 days)
Christmas Day

1. For the convenience of operating the Town Offices, these full day holidays shall be observed on the same day as the State of New Mexico Holidays, unless a change is requested by the majority of the Town's Employees and approved by the Mayor and Council.

2. Employees who are on any leave with pay on a designated holiday will not be charged leave time for that holiday.
 3. Only regular position employees shall have holiday benefits.
- b. **Leave Defined.** Leave is any authorized absence, with or without pay, during regularly scheduled work hours, that is approved by the Department Head or Supervisor. Absence without leave is an unauthorized absence, subject to disciplinary action or dismissal.
- c. **Authorized Leave With Pay.** Leave with pay shall be authorized prior to utilization for employees occupying covered positions, in the following categories:
1. Annual Vacation leave;
 2. Sick Leave;
 3. Jury Leave'
 4. Official Meetings;
 5. In-Service Training;
 6. Other Events Where the Good of the Town Services are Involved
- d. **Authorized Leave Without Pay.** Leave without pay may be authorized in the following categories:
1. Personal Business;
 2. Temporary Disability Beyond Sick Leave
 3. Court Appearance as a Private Citizen
- e. **Leave Approval.** Leave shall be granted in accordance with these policies on the basis of the work requirements of the department, and whenever possible, the personal wishes of the employee.
1. Request for leave that are anticipated shall be requested sufficiently in advance to permit scheduling and work reassignment by the Department Head.
 2. Requests for leave shall be submitted in writing for approval by the Department Head **and Mayor**, and submitted to the Town Clerk.
 3. If a conflict exists between leave requested by two or more employees, seniority should be the governing factor.
- f. **Annual Leave.** ~~(Amended 07-14-2015).~~
1. Regular positioned employees will not be eligible for vacation the first six (6) months of employment. After six (6) months of employment, employees will be allotted eighty (80) hours of vacation for the fiscal year (July 1st to June 30th).
 2. ~~An employee who has not used all of the allotted vacation time of eighty (80) hours at the end of the fiscal year shall not receive cash payment. If the time is not used the employee will lose it.~~ **Employees are encouraged to use their vacation time. In the event employees do not use their allotted time, they will be paid out before the end of the fiscal year.**
 3. Each employee shall take a mandatory vacation time of at least forty (40) hours, total of one work week, during a fiscal year period with approval of the Supervisor and Administrative Personnel.
 4. Leave up to three (3) days may be granted without notice at the Supervisors' discretion. Beyond three (3) days, two (2) weeks' notice must be given to the employee's Supervisor so vacation time may be scheduled.

5. Employees who are hospitalized because of an injury or illness while on vacation may charge the time in the hospital to accrued sick leave.

- g. **Sick and Off the Job Accident Leave.** In order to provide employees protection against loss of pay in the event of illness or accident, sick leave is granted as follows:

Six (6) days on the first day of employment with one additional day each month after the completion of six (6) months for the first year. Sick Leave may be accrued to a maximum of twenty-four (24) days. Sick leave will not be accrued while an employee is taking sick leave.

Regular position employees working other than a standard forty-hour workweek (either more or less) shall accrue sick leave in direct proportion of rates stated in the policy.

Sick leave of three or more consecutive days must be substantiated by a statement from a doctor.

Unused sick leave is the employee's guarantee during periods of injury or illness. Consequently, it is paid only during such periods and not upon termination.

Unused sick leave can be donated to another employee who has exhausted their sick leave benefits with the express written consent of the mayor on a case by case basis and on an hour by hour basis.

Three days of the employee's sick leave may be used for sickness of a member or their immediate family. However, a statement from a doctor will be necessary or time will be charged to vacation or leave without pay.

Funeral leave shall be granted as sick leave with pay not to exceed three (3) working days per occurrence.

Immediate family, for funeral purposes, consists of the following: Father, Father-in-law, Mother, Mother-in-law, husband, wife, son, daughter, grandchild, brother, brother-in-law, sister, sister-in-law, grandparents or grandparents-in-law, aunts and uncles.

- h. **On the Job Accident Compensation.** If an employee is absent from work due to an accident that occurred while on the job, the employee will receive the following compensation from the Town:
 1. Any injury, no matter how minor, occurring on the job, shall be reported to the Supervisor on the required form no later than twenty-four (24) hours after the incident occurred.
 2. If they have any sick leave, the employee may use it at their option.
 3. After all sick leave has been exhausted, they may use annual leave (vacation) at their option.
 4. After all sick leave has been used, the employee will not be paid any additional compensation by the Town.
 5. Sick leave will be coordinated with Workman's Compensation so that weekly benefits will equal, but not exceed the base wage.
 6. In the application of provision 4, accrued sick leave will be translated to dollars of compensation accrued and will be diminished by the dollars paid until the employee returns to work, or the employee exhausts his accrued leave benefits, whichever is first.

7. Employees returning to work from an extended medical leave, with or without pay, must submit a written statement from a physician listing the date the employee is able to return to work and any limitation imposed on the work that can be performed by the employee.
 8. The Town may elect not to allow an employee to return to work until such time that are no limitations or restrictions placed upon the employee's work ability, if, in the Town's opinion, such restrictions would adversely affect the employee's ability to perform their assigned duties.
- i. **Notification of Supervisors.** Employees who are unable to come to work because of one of the above reasons shall promptly notify their immediate Supervisor so that duties may be reassigned or temporary help may be engaged. A formal application for sick leave shall be submitted for post-approval is cause for disciplinary action.
 - j. **Maximum Balance.** Sick leave may be accrued to maximum of twenty-four (24) working days, or 192 hours. If a period of leave without pay or break in employment exceeds one month, additional sick leave will not be accrued during such period. Sick leave continues to accrue during paid leave. Use of sick leave shall be charged only in multiples of one half (1/2) hour.
 - k. **Exhaustion of Sick Leave.** An employee who has used all accrued sick leave may use accrued annual leave for sick leave prepossess until paid leave is exhausted. Subsequent approved absences for sick leave purposes will be leave without pay.
 - l. **Court Leave.** An employee who is subpoenaed or directed by proper authority to appear in an official capacity as a witness for the Federal Government, State of New Mexico, or a political subdivision, shall be compensated at their regular rate of pay. An employee subpoenaed to testify not in an official capacity, but as a private individual in private litigation brought by a party other than the above, shall take annual leave or leave without pay for the time absent from duty. An employee who is called to jury duty shall be paid at their straight time rate for work time missed to perform such duty, less any jury duty pay.
 - m. **Short Term Educational Leave.** An employee may be granted leave with pay at the straight time rate for short terms to engage in formal education or training directly related to the job and intended to improve the quality of service within the Town. Such leave must be recommended by the Department Head and approved by the Governing Body. Such leave shall be creditable service toward seniority, salary increases, and benefits.
 - n. **Approval.** Leave without pay will normally be granted only when the accrued annual and sick leave is exhausted, or in the case of probationary and temporary employees, where such leave is unavailable. Department Heads and the Governing Body must approve all requests for leave without pay, exceeding ten (10) days.
 - o. **Effect of Leave Without Pay.** Leave without pay does not constitute a break in service; however, leave without pay in excess of thirty (30) days is not creditable toward salary increase eligibility or change in leave accrual rate and sick leave.
 - p. **Temporary Disability Leave.** Temporary disability leave is leave of absence without pay following exhaustion of accrued sick leave and annual leave, for a period during which an employee is actually physically or emotionally unable to work due to job related activities.
 - q. **Eligibility.** Full time employees who have exhausted all accrued paid leave are eligible for Temporary Disability leave for an agreed upon period not to exceed six (6) months. Requests for such leave must be accompanied by a physician's statement estimating the amount of leave needed and the date of the last day upon which the employee is or was able to work.
 - r. **Approval.** The Governing Body must approve all disability leave.
 - s. **Return from Temporary Disability Leave.** An employee who returns from temporary disability leave without the specified time period shall be reinstated to the same position and

salary, provided the employee is physically and mentally capable of performing the duties of the position involved, which shall be documented by a physician.

- t. **Group Health Insurance.** All **full-time** regular employees are eligible to join the Town’s group health insurance plan.

11-1-17 EFFECTIVE DATE.

PASSED, APPROVED and ADOPTED this _____ day of _____, 2018.

This Ordinance shall become effective on the _____ day of _____, 2018.

Mayor

Town Clerk
Attest

I have received a copy of the Town of Mountainair’s Personnel Policy. I further state that I have read and understand this policy, as it pertains to me as a Town of Mountainair Employee.

Employee Signature

Date

Department and Position