

Village of Tijeras

Personnel Ordinance

No. 175



**AN ORDINANCE ADOPTING PERSONNEL ORDINANCE NO. 175
AND REPEALING PERSONNEL ORDINANCE NO. 157**

WHEREAS, the Governing Body of the Village of Tijeras, New Mexico previously adopted Personnel Ordinance No. 157 and

WHEREAS, the Governing Body wishes to repeal Personnel Ordinance No. 157 and adopt a new Personnel Ordinance No. 175.

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE VILLAGE OF TIJERAS AS FOLLOWS:

Section 1. Personnel Policy. Attached hereto and incorporated herein by reference is the Personnel Policy, the contract of employment between the Municipal Corporation Village of Tijeras and its employees.

Section 2. If any section, subsection, sentence, clause, word or phrase of this Ordinance is for any reason held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Ordinance, the Village Council of Tijeras New Mexico, hereby declares that it would have passed the Ordinance and each section, subsection, sentence, clause, word or phrase thereof irrespective of any one or more sections, subsections, sentences, clauses, words or phrases being declared unconstitutional or otherwise invalid.

Section 3. Repeals Village of Tijeras Ordinance No. 157.

PASSED, ADOPTED AND APPROVED BY THE GOVERNING BODY OF THE VILLAGE OF TIJERAS, THIS 22nd DAY OF June 2020.

By: 

Mayor Jake Bruton

ATTEST: 

Clerk/Manager Michael Wismer

PERSONNEL ORDINANCE

NO. 175

TABLE OF CONTENTS

**SECTION 1. RESPONSIBILITIES OF THE MAYOR FOR
PERSONNEL FUNCTIONS**

**SECTION 2. RESPONSIBILITIES OF THE GOVERNING BODY
FOR PERSONNEL FUNCTIONS**

SECTION 3. RESPONSIBILITIES OF THE VILLAGE CLERK/MANAGER

SECTION 4. EMPLOYMENT BY THE VILLAGE OF TIJERAS

SECTION 5. VOLUNTEER FIRE DEPARTMENT PERSONNEL

SECTION 6. PROBATIONARY PERIOD

SECTION 7. PERFORMANCE EVALUATIONS

SECTION 8. COMPENSATION

SECTION 9. WORK HOURS

- A. FULL TIME HOURLY EMPLOYEES**
- B. PART TIME HOURLY EMPLOYEES**
- C. OVERTIME**

SECTION 10. EMPLOYEE BENEFITS

- A. HOLIDAYS**
- B. VACATION AND SICK LEAVE**
- C. BEREAVEMENT LEAVE**
- D. SICK AND EMERGENCY LEAVE**
- E. INSURANCE AND RETIREMENT BENEFITS**
- F. JURY DUTY**
- G. RETIREMENT**
- H. ANNUAL AND EMERGENCY MILITARY LEAVE**
- I. LEAVE TO VOTE**
- J. INJURIES IN PERFORMANCE OF DUTY**
- K. LEAVE WITH PAY**

**L. PERSONAL LEAVE WITHOUT PAY
M. MATERNITY/PATERNITY LEAVE**

SECTION 11. TERMINATION OF EMPLOYMENT

SECTION 12. CONFLICT OF INTEREST

SECTION 13. DRUG POLICY

SECTION 14. SEXUAL HARASSMENT POLICY

SECTION 15. PROHIBITIONS

SECTION 16. DISCIPLINARY ACTION

- A. TYPES OF DISCIPLINARY ACTION**
- B. AUTHORITY TO DISCIPLINE**
- C. ADMINISTRATIVE LEAVE WITH/WITHOUT PAY**
- D. EMPLOYEE RESPONSE**
- E. TEMPORARY EMPLOYEES**

SECTION 17. APPEAL FROM PROBATIONS AND DISMISSALS

- A. PROCEDURES**
- B. SCHEDULING THE APPEAL**
- C. CONDUCT OF HEARING**
 - 1. Closed Hearings**
 - 2. Open Hearings**
 - 3. Legal Representation**
 - 4. Evidence**
 - 5. Witnesses**
 - 6. Subpoena Power**
 - 7. Opening Statements**
 - 8. Cross Examination**
 - 9. Examination by Governing Body**
- D. FAILURE OF APPELLANT TO APPEAR**
- E. RECORD OF APPEAL**
- F. FACT FINDINGS AND CONCLUSIONS**
- G. DECISION OF THE GOVERNING BODY**
- H. SIMULTANIOUS HEARING**
- I. APPEAL FROM THE DECISION OF THE GOVERNING BODY**

SECTION 18. GRIEVANCE

- A. DEFINITION**

- B. PRELIMINARY PROCEDURE**
- C. SUPERVISOR RESOLUTION**
- D. THE GOVERNING BODY HEARING**
- E. TERMINATION OF GRIEVANCE**

SECTION 19. HOURLY/SALARY EMPLOYEES

- A. EXEMPT EMPLOYEES**
- B. TEMPORARY AND SEASONAL EMPLOYEES**
- C. ELECTED OFFICIALS**

SECTION 20. COMPUTER AND CELL PHONE USE

SECTION 21. SEVERABILITY CLAUSE

**PERSONNEL ORDINANCE
NO. 175**

**SECTION 1. RESPONSIBILITIES OF THE MAYOR FOR PERSONNEL
FUNCTIONS**

The Mayor is the Chief Executive Officer of the Village and shall:

- A. Cause the ordinances and regulations of the municipality to be obeyed;
- B. Exercise, within the municipality, powers conferred upon sheriffs of counties to suppress disorders and keep the peace;
- C. Perform other duties, compatible with his office, which the governing body may require;
- D. At organizational meeting of the governing body, which shall be scheduled pursuant to Section 3-8-33 NMSA 1978 of the Municipal Election Code, submit, for confirmation by the governing body, the names of persons who shall fill the appointive offices of the municipality and the names of persons who shall be employed by the municipality;
- E. Subject to the approval of a majority of all members of the governing body, appoint all officers and employees except those holding elective office;
- F. Designate an employee to perform any service authorized by the governing body;
- G. Supervise the employees of the municipality;
- H. Examine the grounds of reasonable complaints made against any employee;
- I. Examine the grounds of any Clerk/Manager recommended promotion, demotion, termination, or disciplinary action;
- J. Cause any violations or neglect of the employees' duties to be corrected promptly or reported to the proper authority for correction and punishment;
- K. With the approval of a majority of all the members of the governing body discharge an appointed official or employee;
- L. With the approval of a majority of all the members of the governing body suspend an appointed official or employee until the next regular meeting of the governing body;

- M. Upon request by any appointed official or employee who is discharged, be given in writing, a list of reasons for their discharge or discipline;
- N. Sign all commissions, licenses and permits granted by the governing body, and other acts that law or ordinances may require, or the commissions, licenses and permits may be authenticated as authorized under the Uniform Facsimile Signature of Public Officials Act [6-9-1 to 6-9-6 NMSA 1978];
- O. Specify employee work hours
- P. Approve leave with/without pay.
- Q. Determine if an employee may be required to bring in a doctor's excuse in support of sick leave.
- R. Hear or appoint a hearing officer or upon receipt of a grievance complaint.
- S. Decide upon grievance complaints in accordance with the grievance procedure.
- T. Designate a Deputy Clerk to assume the duties of the Village Clerk in the event of his or her inability to act or in the event his or her absence.
- U. Maintains an effective system of personnel administration.

SECTION 2. RESPONSIBILITIES OF THE GOVERNING BODY FOR PERSONNEL FUNCTION

The Village Governing Body shall:

- A. By vote of a majority of all members, approve or disapprove Mayoral appointments, dismiss or suspend with or without pay any employee or appointed official, and decide any proper appeals of employees or appointed officials under the personnel ordinance.
- B. Elect one of its members to act as mayor pro tem in the absence of the mayor;
- C. Possess all powers granted by law, and other municipal powers not conferred by law or ordinance on another officer of the municipality;
- D. Manage and control the finances and all property, real and personal, belonging to the municipality;

- E. Determine the time and place of holding its meetings, which shall be open to the public;
- F. Determine the rules of its own proceedings;
- G. Keep minutes of its proceedings, which shall be open to examination by any citizen;
- H. Adopt rules and regulations necessary to affect the powers granted municipalities;
- I. Prescribe the compensation and fees to be paid municipal officers and employees;
- J. Prescribe the powers and duties of those officers whose terms of office or powers and duties are not defined by law and impose additional powers and duties upon those officers whose powers and duties are prescribed by law.
- K. Appoint a Claims Review Board if necessary.
- L. Oversee the procedures and expenditures of the Volunteer Fire Department.
- M. Sit as a Personnel Board, if necessary, in accordance with the grievance and disciplinary procedures.
- N. By vote of a majority or all members adopt personnel policy work rules by Resolution.

SECTION 3. RESPONSIBILITIES OF THE VILLAGE CLERK/MANAGER

The Village Clerk/Manager, under the directions of the Mayor, shall have the day-to-day responsibility for the administration of personnel matters including the following:

- A. Will supervise all Village of Tijeras employees.
- B. Prepares and recommends to the Mayor such changes in the Ordinance as may be considered necessary and appropriate.
- C. Maintains a job classification plan and assures that job descriptions are prepared and maintained for each job classification and submits such to the Mayor and Governing Body for approval.
- D. Establishes and maintains a roster of all officers and employees. Maintains a personnel file on each employee which will include job classification, supporting background, performance records and other relevant data.

- E. Develops **written** procedures for the evaluation of employees and submits such for approval of the Mayor and Governing Body.
- F. Develops forms to document approval to attend training and submits such for review and approval of the Mayor and Governing Body.
- G. Initiates in **writing with documentation** the promotion or disciplinary action of employees.
- H. Approve job classifications, descriptions and pay scales.
- I. Determine salaries, fees and overtime compensation.
- J. Appoint a Personnel Board as needed, in accordance with the provisions of NM STAT. ANN. Sections 3-13-4, 1978 and all amendments hereto.
- A. Prepares and recommends Village of Tijeras Personnel Policies for Council approval. Those polices include, but are not limited to such topics as:
 - a. Internet use.
 - b. Cell Phone Use.
 - c. Harassment.
 - d. Personnel Feedback and Evaluations.
 - e. Maintaining a Safe Work Environment.
 - f. Workplace Violence.
 - g. Weapons in the Workplace.
 - h. Protection and inventory of Village property.

SECTION 4. EMPLOYMENT BY THE VILLAGE OF TIJERAS

- A. Vacant or new positions shall be filled as per requirements and qualifications specified from:
 - 1. Within any Village of Tijeras Municipal Department.
 - 2. The general public as an Equal Opportunity employer.

- B. The Village of Tijeras is an Equality Opportunity employer and does not discriminate against any employee or applicant for employment because of race, color, religion, national origin, ancestry, age, sex, handicap or veteran status provided the individual is otherwise qualified to perform the work available.

SECTION 5 **VOLUNTEER FIRE DEPARTMENT PERSONNEL**

- A. Volunteer Fire Personnel will comply with the By Laws adopted by the Mayor and Governing Body and as mandated by the State Fire Marshal.
- B. All Volunteer Fire Personnel will submit to a background check.
- C. At an interval determined by the Fire Chief, all Volunteer Fire Personnel shall be subject to regular written evaluations that shall be forwarded to the Village Clerk/Manager within fourteen (14) days after their completion.

SECTION 6 **PROBATIONARY PERIOD**

- A. New and promoted employees hired for part time or full-time positions shall serve a probationary period of six (6) months. A performance evaluation shall be conducted by the Village Clerk/Manager at regular monthly intervals during the probationary period. Employees in a probationary status may be terminated or demoted at any time with, or without cause, or if they receive a negative performance evaluation. Upon written submission of a satisfactory job performance evaluation from the department head new employees will obtain a regular status at the end of their probationary period. New employees on probationary status are not entitled to vacation, parental and/or sick leave.
- B. New employees on probationary status are not entitled to rights and benefits provided under the disciplinary and grievance procedures of the Ordinance.

SECTION 7 **PERFORMANCE EVALUATIONS**

- A. It is required that the supervisor utilize the performance evaluations of previous periods to review and discuss the overall progress of the employee with respect to Village employment. A performance evaluation form approved by the Village Governing Body will be completed annually per year for each employee evaluated.

SECTION 8. COMPENSATION

- A. Compensation of employees shall be based on job classifications. Job classifications shall be based on authority, responsibility and duties of positions in the Village of Tijeras.
- B. An annual and/or merit increase in pay may be granted to employees based on performance evaluation and other relevant factors.
- C. Employees shall not be paid less than the State and Federal minimum wage.
- D. In the event the Village offices are closed due to unusual circumstances, all employees will be paid for their scheduled work hours.

SECTION 9. WORK HOURS

A. FULL TIME HOURLY EMPLOYEES

The normal schedule for full time hourly employees shall consist of forty (40) hours to be worked in five (5) days each week. The normal workday for full time hourly employees shall consist of eight (8) hours of work. The exact schedule of working hours shall be determined by the Clerk/Manager, and the employees shall be informed of their daily work schedule. Employees may not clock in more than 5 minutes before their official start time.

B. PART TIME EMPLOYEES

Part time employees will work the hours designated by the Clerk/Manager. Employees may not clock in more than 5 minutes before their official start time.

C. OVERTIME

There may be occasions when employees will be required to work more than their normal schedule. Overtime will be assigned by the supervisor to employees performing the particular job functions which require the overtime. However, no employee is permitted to work overtime unless authorized in advance by the supervisor with the approval of the Clerk/Manager. **Failure to comply may result in a write up and/or dismissal.**

Employees whose jobs are not exempt from the Federal Fair Labor Standards Act and who work more than forty (40) hours in any work week shall be paid for overtime work at one and one half (1 ½) times their hourly rate of pay.

SECTION 10. EMPLOYEE BENEFITS

HOLIDAYS

A. Legal holidays as observed by the State of New Mexico will be posted annually and include the following:

- New Year's Day
- Martin Luther King Jr. Birthday
- President's Day
- Memorial Day
- Independence Day
- Labor Day
- Indigenous People's Day
- Veteran's Day
- Thanksgiving Day
- Day after Thanksgiving
- Christmas Day

If any employee calls in sick the day before or the day after a holiday, the employee may be required to bring in a doctor's excuse as determined by the Clerk/Manager, to be eligible for holiday pay.

Employees working a regularly scheduled 40-hour work week will be eligible for holiday pay. Part time employees working twenty (20) hours per week, are entitled to holiday pay for the number of hours normally worked.

All full-time employees, under this Ordinance, called to work on holidays will be paid time and a half.

B. VACATION, PTO & SICK LEAVE

Full time employees working forty (40) hours per week shall receive pay in accordance with the following schedule:

	VACATION	PTO	SICK
183 days but less than 5 years	10 Days	2 Days	10 Days

5 years but less than 10 years	15 Days	2 Days	10 Days
10 or more years	20 Days	2 Days	10 Days

Vacations will be scheduled based on seniority status. A maximum of two (2) weeks of vacation will be allowed at any one (1) time.

In the event of dissolution of the Village of Tijeras, or any major reorganization of programs as may be determined appropriate by the Village Council, all or any employees which shall be affected will be compensated for all authorized compensation time, or vacation time as of the established date of termination.

Employees are encouraged to use their vacation by June 30th of each year. With permission from the Clerk/Manager, employees may carry over vacation annually for the maximum set by the Clerk/Manager. Employees will forfeit any remaining time. Under special circumstances, the Mayor with the approval of the Governing Body may grant extra carry over or payment.

Employees may carry over sick leave for a maximum of 500 hours. There will be no payout of sick leave upon termination. Mayor and Council may allow for additional carry over time in special circumstances.

Employees who use 5 or less sick days in a fiscal year will receive an additional PTO day the following fiscal year. Maximum of 5 PTO days may be carried over.

Vacation and sick time use will be deducted in increments of 15 minutes.

Two (2) weeks' notice must be given upon termination in order to receive vacation pay.

C. BEREAVEMENT LEAVE

Full time and non-temporary part time employees shall receive five (5) days administrative leave with pay in the event of death of the employee's spouse, child, stepchild, father, mother, brother, sister, step parents, grandparents, father in law, mother in law or significant other.

Extended leave may be granted at the discretion of the Village Clerk/Manager and will be charged to the employee's time or may be granted as leave without pay.

D. SICK LEAVE AND EMERGENCY LEAVE

Employees utilizing sick leave for three (3) or more consecutive days will be required to submit a doctor's certificate. Whenever the supervisor believes an employee has abused sick leave, a doctor's written excuse may be required. Sick leave may be used for doctor appointments.

Upon the death of an employee from natural or accidental causes, 100% of the employee's vacation and PTO leave shall be converted to a cash payment. This will be paid to the employee's current designated beneficiary.

Holidays which occur during an employee's sick leave will not be charged to their sick leave time.

Employees, who exhaust their sick leave, may use their vacation time or may be granted leave without pay up to one (1) year, with the approval of the Mayor.

Employees shall receive five (5) days emergency leave with pay in the event of a terminally ill spouse, significant other, child or stepchild. Three (3) days absence with pay shall be granted due to terminal illness of a father, mother, brother, sister, stepparents or grandparents with the Mayor's approval.

E. INSURANCE BENEFITS

Employees shall be eligible for life and health insurance benefits after a 90-day period.

Subject to the Village right to make changes in benefits and employer contributions, all regular employees are eligible to participate in the Village employee benefit insurance program (as described in materials provided by the carrier).

Regular Village employees with insurance coverage shall have COBRA continuation rights and may self-pay in the event their pay is not sufficient to make the required employee contribution.

Upon receiving Worker's Compensation benefits, the Village may continue to pay the employee's health insurance premiums for one month. After that the employee may choose to self-pay insurance premiums under COBRA.

Upon termination an employee may elect to self-pay all health insurance premiums under COBRA.

COBRA continuation rights are contingent on the former employee's timely paying directly to the carrier when due an amount equal to 102% (or whatever is in effect at the time) of the employer/employee contribution.

F. JURY DUTY

Any full time or non-temporary part time employee who is called to serve required jury duty, may be paid his or her regular pay for the employee's scheduled work time while serving on jury duty .The Village shall not deprive an employee of employment or threaten or otherwise coerce the employee because the employee receives a summons for jury service, responds to the summons, serves as a juror or attends court for prospective jury service. The Village shall not require or request an employee to use annual, vacation or sick leave for time spent responding to a summons for jury service, participating in the jury selection process or serving on a jury. Nothing in this subsection requires The Village to provide annual, vacation or sick leave to employees who are not otherwise entitled to those benefits under company policies.

G. RETIREMENT

The Village does not discriminate on the basis of age. The Village participates in the Public Employees Retirement Association Fund.

H. ANNUAL AND EMERGENCY MILITARY LEAVE

Military leave without pay will be authorized for regular employees who are members of the National Guard or Air National Guard of New Mexico, and/or who are members of any organized reserve unit of the Armed Forces of the United States, including Public Health Services, when ordered to active duty training with such units. Employees called to active duty in emergencies declared by the President may be granted military leave. A copy of all orders must be attached to all requests for annual and/or emergency military leave.

I. LEAVE TO VOTE

Employees who are registered voters shall be granted two (2) hours without pay between the opening and closing of the polls to vote on election days. Department heads must schedule and grant this time off for voting as requested by employees. Any voter who is enrolled as a member of the Indian nation, tribe or pueblo and is qualified to vote in the election are entitled to the same considerations. This does

not apply to an employee whose work day begins more than two hours subsequent to the time of opening the polls, or ends more than three hours prior to the time of closing the polls. Any time which is taken off for voting cannot be used for any other purposed.

J. **EARLY DISMISSAL**

The Village Clerk/Manager has the authority to declare an early dismissal or late reporting due to hazardous weather conditions.

K. **INJURIES IN PERFORMANCE OF DUTY**

An employee who is disabled due to an on the job injury or occupational illness may elect to use sick leave for the scheduled hours lost, until weekly disability benefits commence in accordance with the provisions of the New Mexico Worker's Compensation Act.

On the job injury must be reported to his/her supervisor immediately. Failure to report may jeopardize disability benefits.

Any employee who witnesses or suffers an on the job injury or occupational illness has a duty to report said injury or illness to their supervisor immediately.

Supervisors who witness or suffer an on the job injury or occupational illness have a duty to report said injury or illness to the Village Clerk/Manger immediately.

Any member of the Governing Body who witnesses or suffers an on the job injury or occupational illness has a duty to report said injury or illness to the Village Clerk/Manager immediately.

The Mayor who witnesses or suffers an on the job injury or occupational illness has a duty to report said injury or illness to the Village Council or Villager Clerk/Manager immediately.

In the absence of sick leave, the employee may request vacation time for this period. Otherwise, such hours will be without pay.

In the event of such disability, the employee must provide to the supervisor, a written statement from his/her physician verifying the medical reason for the disability and indicating the estimated length of disability.

Employees will be eligible to maintain their benefits during the period of such disability provided they make the appropriate benefit payment to the Village on a timely basis.

The Village will hold the disabled employee's position open, unless, due to business necessity, it is necessary to fill the position on a regular basis. In such event, when the employee is released by his/her physician to return to normal duties, the employee will be reinstated to a position of like status and pay, if available. If no such position is available, the employee will be terminated from employment with the Village but will be given preferential consideration for re-employment for a period of six (6) months.

The Village has the right to request a statement from a designated qualified professional to verify the disability. Employers who have been disabled for five (5) working days or longer may be required to provide a statement from their physician releasing them to return to their normal duties, as stated in their job description.

L. LEAVE WITH PAY

Leave with pay may be granted to employees for the purpose of participation in conferences, training, examinations and institutes directly related to the employee's work duties, provided advance approval is granted by the Village Clerk/Manager.

M. PERSONAL LEAVE WITHOUT PAY

For compelling personal reasons, an employee may request and may be granted a personal leave of absence without pay, not to exceed ninety (90) consecutive calendar days, provided such absence does not conflict with the interests of the Village's operations.

An employee must submit a request in writing, setting forth the inclusive dates and reason(s) for the leave requested to the Village Clerk/Manager. Such a request must be approved by the Governing Body.

N. PARENTAL LEAVE (MATERNITY/PATERNITY LEAVE)

Employees are entitled to maternity/paternity leave.

1. PARENTAL LEAVE

It shall be the policy of the Village, in line with the Office of the Governor, to provide twelve (12) workweeks of fully paid parental leave to Eligible Employees following the birth or adoption of a child. Paid parental leave shall be paid based upon the Eligible Employees base salary (excluding temporary increases of pay, such as

temporary promotion increases, temporary recruitment differentials, temporary retention differentials, or temporary salary increases) determined by the employee's regularly scheduled work hours.

An Eligible Employee, as used in this Section, means a full-time classified employee who has completed the 6-month probationary period as defined herein, or an exempt employee who has been employed with the Village 6-months, prior to the start of paid parental leave, excluding temporary, emergency, and term appointments. Paid parental leave may not be donated and any such leave not utilized within the six-month period explained below shall be forfeited. Domestic partners as defined by the State Personnel Board rules are eligible for paid parental leave when children join their household via birth or adoption. If both parents, including a Domestic Partner of a parent, are Eligible Employees, each parent or partner is eligible to receive Paid Parental Leave under this policy.

Eligible Employees must take paid parental leave during the first six (6) months following the birth or adoption of a child. Eligible Employees may utilize one (1) term of paid parental leave (up to 12 workweeks) per birth or adoption event. Employees utilizing paid parental leave shall continue to accrue vacation and sick leave in accordance with state rules and regulations during the period of parental leave. If an official holiday occurs during the Eligible Employee's paid parental leave, the Eligible Employee will receive holiday pay in lieu of paid parental leave, provided the Eligible Employee is in pay status the day before and the day after the official holiday.

Paid parental leave shall run concurrently with leave under the federal Family Medical Leave Act (FMLA) as applicable.

Eligible Employees cannot receive short-term disability benefits and paid parental leave benefits at the same time.

Eligible Employees shall be required to notify their employer at least thirty (30) days in advance of their intention to use paid parental leave so that the employer may secure backfill coverage as necessary. When thirty (30) days' notice is not possible, the employee must provide this notice as soon as practicable.

SECTION 11. TERMINATION OF EMPLOYMENT

Termination of employment with the Village of Tijeras may be brought about by the employee's resignation, release, layoff or dismissal.

RESIGNATION

An employee will be considered to have resigned if the employee:

- A. Submits a letter of resignation to his/her supervisor setting forth the reasons for leaving and designating the last day of work. To maintain a good standing with the Village, employees must give notice at least ten (10) working days prior to their last day of work. The Mayor may elect to have the employee work the notice period or to pay the employee, not to exceed two (2) weeks' pay and have the employee leave immediately.
- B. Leaves job without authorization.
- C. Is absent from work for three (3) consecutive days without prior approval.
- D. Takes unauthorized sick leave.

RELEASE

No notice is required for the release of an employee at the end of temporary employment or any probation period.

LAYOFF

A layoff is the termination of an employee due to a reduction in force because of a lack of funds, lack of work, or other compelling reasons. Selection of employees for layoff shall be based on qualifications and performance as determined by the Governing Body, but if such are substantially equal, length of service shall be a determining factor.

DISMISSAL

Employees may be dismissed for unsatisfactory performance, misconduct or other reasons deemed appropriate by the Village.

RETURN OF VILLAGE PROPERTY

At the time of termination, release or layoff, employees must return all tools, uniforms, keys, employee rule books, identification badges and/or any other items of Village property issued to them. The employee's final pay may be withheld until the Mayor certifies that all Village property has been returned.

SECTION 12. CONFLICT OF INTEREST

A. Compliance with State Law

The Village of Tijeras elected officials, employees, contractors, volunteers, and appointees (hereinafter "**PUBLIC OFFICERS**") shall comply with the Law governing ethical principles of public service requiring them to:

Treat **PUBLIC OFFICER'S** or positions or contracts as a public trust.

- (1) Use the powers and resources of the Village only to advance the public interest and not to obtain personal benefits or pursue private interests.
- (2) Conduct themselves in a manner that justifies the confidence placed in them by the people.
- (3) At all times maintain the integrity and discharge ethically the high responsibilities of public service.
- (4) In the Village of Tijeras public service, disclose all real or potential conflicts of interest and at all times avoid undue influence and abuse of office, and
- (5) Never offer, request or receive any money, thing of value or promise thereof that is conditioned upon or given in exchange for promised performance of an official act. (Conviction of such being a fourth-degree felony see §31-18-15 NMSA 1978)
- (6) Never engage in an official act for the primary purpose of directly enhancing the **public officer's** financial interest or financial position.
- (7) Never acquire a financial interest when the **public officer** believes or should have reason to believe that the new financial interest will be directly affected by the **public officer's** official act.

- (8) Never request or receive an honorarium for a speech or service rendered that relates to the performance of public duties.
- (9) Never participate directly or indirectly in the contracting process to become or to be, while a Village **public officer**, an employee of any person or business contracting with the Village.
- (10) Never use or disclose confidential information acquired by virtue of the **public officer's** position with the Village for the **public officer's** or another's private gain and the Village shall not enter into a contract with a **public officer**, with the family of the **public officer**, or with a business in which the **public officer** or the family of the **public officer** has a substantial interest unless the **public officer** has disclosed through public notice the **public officer's** substantial interest and unless the contract is awarded pursuant to a competitive process.
- (11) Never enter into a contract with, or take any action favorably affecting, any person or business that is represented personally in the matter by a person who has been a **public officer** of the Village within the preceding year if the value of the contract or action is in excess of one thousand dollars (\$1,000) and the contract is a direct result of an official act by the **public officer**.
- (12) Never assist in the transaction by a former **public officer** of the Village while a **public officer** directly resulting in the Village making that contract or taking that action.
- (13) Never for a period of one year after leaving the Village service represent for pay a person before the Village.
- (14) Never accept a bid or proposal from a person who directly participated in the preparation of specifications, qualifications or evaluation criteria on which the specific competitive bid or proposal was based.

B. Applicability

This policy applies to Village **public officers** which includes Village elected officials, employees, volunteers and contractors providing professional services to the Village.

C. Administration of Policy

The Director of Human Resources or the Village Clerk/Manager, under the direction of the Village Mayor or his/her designee, shall have the responsibility and authority to ensure that all provisions of the Governmental Conduct Act NMSA 1978 §10-16-3 et. seq. and this CONFLICT OF INTEREST POLICY are followed. The Director of Human Resources and the Village Clerk/Manager, shall create and submit to the

Mayor, for his/her approval any form deemed necessary for the execution and enforcement of this policy.

D. Individual Responsibility

It is the responsibility of each Village **public officer** to be familiar with and to follow the CONFLICT OF INTEREST POLICY.

E. Conflicts and Interpretation

If any provision of this policy is in conflict with State law or regulation applicable to the Village, then the provisions of State law or regulation shall control. The Director of Human Resources or Village Clerk/Manager, in consultation with the Village Attorney, is authorized to interpret any provision of this policy that is vague or unclear under the circumstances presented, and may provide a written interpretation of the provision, which shall be implemented consistently by all **public officers**.

Conflict of Interest

F. Official Influence

Village of Tijeras **public officers** are in a unique position to influence the public's confidence and trust in village government.

G. Benefit Village Only

The people of the Village of Tijeras expect all **public officers** to act for the benefit of the Village of Tijeras as a whole and not to favor a few individuals.

H. Conflict of Interest

A conflict of interest occurs when a Village **public officer** takes direct official action on a matter before the Village in which the **public officer**, or their immediate family member, business associate, or an outside employer has a substantial financial, contractual, or employment interest.

- a. Family member means an individual's spouse, parents, children, siblings by consanguinity or affinity.
- b. Financial interest means an interest that is an ownership interest in a business or property.
- c. Contractual interest means being a party to a contract that involves the business of the Village, except when such contract is a condition of employment with the Village.
- d. Employment interest means current or anticipated future employment.

I. Federal Awards

No Village **public officer** may participate in the selection, award or administration of contracts supported by a Federal award if he or she has a conflict of interest.

J. **Gifts**

A. A gift is anything of value one receives without giving adequate and lawful compensation for it. A gift may include meals, tickets to events, travel expenses, honoraria, services, loans, rebates, and discounts (unless offered to the public or all Village officials, employees, volunteers, and appointees on the same terms and conditions).

II. A Village **public officer** shall not accept a gift if:

- (1) If they are in a position to take direct official action toward the giver, and
- (2) The giver has or is about to have a business, contract or regulatory relationship with the Village.

III. However, the following may be accepted even if in a position to take direct official action with regard to the giver.

- (1) Gifts from another Village **public officer** or their family members on appropriate occasions, i.e. birthdays and funerals.
- (2) Campaign contributions as permitted by law.
- (3) Nonmonetary awards for public service that are presented by an organization as long as the award is not extraordinary given the recipient's position.
- (4) Unsolicited items valued at \$25.00 or less, cash or gift cards are specifically prohibited.
- (5) Reasonable expenses paid by a non-profit organization or government for one to participate in a meeting if one is scheduled to make a speech, presentation, participate on a panel, or represent the Village.

K. **Violation**

Village **public officers** shall not participate in any official action that directly benefits themselves or their families.

L. **Penalty**

If a Village **public officer** violates this policy, the person may be subject to censure and/or discipline up to termination of employment, appointment, or contract. This penalty does not preclude a referral to the Attorney General or District Attorney for review, possible action to remove from office, employment, appointment or contract benefits and prosecution of criminal violations.

SECTION 13. DRUG FREE WORKPLACE POLICY

The Village of Tijeras intends to help provide a safe and drug free work environment for our employees and citizens. With this goal in mind and because of the serious drug abuse problem in today's workplace, the Village is establishing the following policy for existing and future employees of the Village.

A. The Village expressly prohibits:

1. The use, possession, solicitation for or sale of narcotics or other illegal drugs, alcohol or prescription drugs without a prescription on Village premises or while performing Village business.
2. The presence of any detectable amount of prohibited substances in the employee's system while at work, while on Village premises or while on Village business. "Prohibited substances" include illegal drugs, recreational marijuana, alcohol or prescription drugs without a prescription.

B. The Village will conduct drug and/or alcohol testing under any of the following circumstances:

1. **RANDOM TESTING:** Employees may be selected at random for drug and/or alcohol testing at any interval determined by the Village.
2. **FOR CAUSE TESTING:** The supervisor may ask an employee to submit to a drug and/or alcohol test at any time the Mayor or the Village Clerk/Manager feels that the employee may be under the influence of drugs or alcohol, including but not limited to the following circumstances: evidence of drugs or alcohol on or about the employee's person or in the employee's vicinity, unusual conduct on the employee's part that suggest impairment or influence of drugs or alcohol, negative performance patterns or excessive and unexplained absenteeism or tardiness.

3. **POST ACCIDENT TESTING:** Any employee involved in an on the job accident or injury under circumstances that suggest possible use of influence or drugs or alcohol in the accident or injury event will be asked to submit to a drug and/or alcohol test. "Involved in an on the job accident or injury" means not only the employee who was injured, but also any employee who contributed to the accident or injury event.
- C. If an employee refuses to submit to testing under this policy, the employee may be subject to appropriate disciplinary action, up to and including discharge from employment. In such a case, the employee will be given an opportunity to explain the circumstances prior to any final employment action becoming effective.
 - D. An employee who test positive for illegal drugs, alcohol or prescription drugs without a prescription will be discharged from employment. In such a case, the employee will be given an opportunity to explain the circumstances prior to the final employment action becoming effective.

SECTION 14. SEXUAL HARASSMENT POLICY

Sexual harassment is defined as:

Unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when:

1. Submission to such conduct is made either explicitly or implicitly as a term or condition of an individual's employment.
2. Submission to, or rejection of, such conduct by an individual is used as the basis for employment decisions affecting such individual.

Unwelcome sexual conduct, whether it is verbal or physical, which directly or indirectly interferes with another person's work performance or creates an intimidating, hostile and offensive working environment.

SECTION 15. PROHIBITIONS

Violation of provisions of this section by an employee shall be grounds for disciplinary action up to and including dismissal.

Employees must in all instances maintain their conduct at the highest standards. No employee shall continue employment with the Village,

if engaged in any activity diminishing the integrity or efficiency of their position. The following is a partial and non-exhaustive list of items which may be considered by the village as causes for suspension, demotion or dismissal.

No employee shall participate in any type of political activity which uses their position or employment to influence the support of other officials or employees of the Village, or to influence support for or against any candidate or issue in any election, provided however, that nothing herein shall deny the right of any official or employee of the Village to express their views on any issue whatsoever.

No person shall willingly or knowingly make any false statement with respect to any test, certification or appointment or in any manner commit any fraud in connection with their employment with the Village or with the employee's official duties.

No person seeking appointment to, or promotion in the service of the Village shall either directly or indirectly give, render, or pay any money to perform services, or give other items of value to any person for, or on account of, or in connection with any test they may be required to pass, appointment, proposed appointment or proposed promotions, provided however, that this provision shall not apply to payments made to duly licensed employment agencies.

No reward, favor, gift or other remuneration in addition to regular compensation and employee benefits shall be received by any employee for the performance or non-performance of their duties or in anticipation of such performance or non-performance of their duties from any vendor, contractor, individual or firm doing business with the Village in the future, or from any other source having or proposing to have any relationship with the Village, provided however, that this provision shall not apply to occasional non-pecuniary gifts insignificant in value, awards publicly presented in recognition of public service, acts of heroism, or for solving of crimes or commercially reasonable loans made in the ordinary course of business by an institution authorized by the laws of the State to engage in the business of making loans to individuals.

No employee shall continue outside employment if it is determined by the Mayor that such employment has a negative impact on an employee's job performance, and it is not the subject of a grievance as defined in this policy.

No relative of any employee, Mayor, or Council Member, by blood or marriage, may be employed in any position as a regular employee with the Village in which the employee may be able directly to supervise, control or influence the work or employment status of the relative or the affairs of the organizational unit in which the relative is employed.

SECTION 16. DISCIPLINARY ACTION

Reasonable rules of employee conduct are necessary for the orderly and effective operation of the Village as well as to protect the rights of employees and to inform them of what behavior the Village expects from the employees. It is the responsibility of each supervisor to keep employees informed concerning Village policies and rules of conduct.

The Village promotes a system of progressive discipline to be used with employees who violate or fail to comply with Village policies, procedures and rules or who have other performance problems. This disciplinary procedure is designed to correct the infraction rather than penalize employees. Progressive discipline is used to give employees notice that:

- A. They will not be treated in an arbitrary manner for making a mistake.
- B. Repeated violations of rules and policies will not be tolerated.
- C. Unacceptable performance may result in discharge.

The Village will pursue a fair and consistent approach warranting disciplinary action. Each situation which requires some form of disciplinary action shall be judged on its own merits. It is not mandatory to follow the types of progressive action as outlined below. The appropriate form of discipline should be determined based upon the circumstances surrounding the situation and the severity of the interaction. Situations may arise, for example, in which immediate discharge is warranted. Supervisors who desire guidance relative to the appropriateness of any form of discipline are encouraged to contact the Village Clerk/Manager or the Mayor.

In every situation involving any form of employee discipline, it is at the utmost importance that the proper documentation be prepared. Documentation is required to accurately record the facts of the

situation while they are fresh in the minds of all concerned in case future reference becomes necessary.

A. TYPES OF DISCIPLINARY ACTION

Depending upon the nature and severity of the cause for disciplinary action, an employee may be subject to any of the following types of disciplinary action. The employee will receive a copy of documentation, however, if no longer an employee they must pay for the copy:

- I. Documented verbal warnings
- II. Documented written reprimands
- III. Probation
- IV. Dismissal

B. AUTHORITY TO DISCIPLINE

Supervisors may take appropriate disciplinary action and must maintain written documentation in support of the action and may recommend suspensions, demotions, and dismissal. However, the Mayor or a majority of all the members of the Governing Body, may proceed with approving any administrative leave with or without pay pending possible disciplinary action of proposed and final disciplinary action that includes suspensions, demotions or dismissal.

C. ADMINISTRATIVE LEAVE WITH/WITHOUT PAY PENDING DISCIPLINARY ACTION

Administrative leave with/without pay may be granted by the Mayor, subject to the approval of the Governing Body, in those instances in which the nature and severity of the employee's conduct warrants disciplinary action up to and including suspension, demotion or dismissal.

This administrative leave may be granted for the period of time until the written notice of final decision of the disciplinary action is issued, but not to exceed twenty (20) working days.

Further extensions of administrative leave shall be granted only upon the approval of the Mayor and Governing Body.

D. EMPLOYEE RESPONSE

In the event of disciplinary action involving suspension, demotion with a decrease in pay or discharge, the employee will be given the reasons for the disciplinary action including documentation and an opportunity to respond before the action becomes final.

E. TEMPORARY/PART-TIME EMPLOYEES

Temporary and part-time employees may be dismissed, demoted or suspended for any reason. Personnel actions under this section are not subject to appeal.

SECTION 17. APPEAL OF SUSPENSIONS AND DISMISSALS

In the event disciplinary action involving suspension, a substantial change in working conditions, demotion with a decrease in pay or discharge has been issued to an employee, the employee, has the right to appeal such action to the Governing Body within ten (10) working days following the effective date of the action. It is the intent of the Village to provide for a fair and impartial hearing before the Governing Body render a decision based on the available facts and applicable rules or mandates.

The following appeal process shall be observed:

A. PROCEDURE

1. Notice of the appeal shall be given in writing to the Village Clerk/Manager, or the Mayor within ten (10) working days following the effective date of the disciplinary action.
2. The employee appellant or the employee's representative shall file a notice of appeal of disciplinary action in writing with the Village Clerk/Manager within twenty-four (24) hours of receipt of the pre-termination meeting decision of the Mayor. The notice must state:
 - I. A description of the problem and the specific policy or procedure the employee believes has been violated or misapplied.
 - II. The effective date of the disciplinary action.

III. Any evidence of supporting documentation may be attached to the notice of appeal

B. SCHEDULING THE APPEAL

In case of appeal of a suspension or discharge, the Village Clerk/Manager, within seventy-two (72) hours, excluding Saturdays, Sundays, or legal holidays shall schedule a hearing before a quorum of the Governing Body pursuant to NMSA 3-11-6. This requirement acknowledges there may be special circumstances existing at the time which necessitate a longer scheduling period and nothing in this section is to preclude an extension of the scheduling period as determined by the Village Clerk/Manager.

- I. Upon determination of the hearing date, the Village Clerk/Manager shall notify the appellant or the appellant's representative by certified mail/return receipt requested.

C. CONDUCT OF HEARING

The Mayor or Legal Staff will conduct the Hearing as follows:

1. CLOSED HEARING

The hearing shall be conducted as a closed session.

2. OPEN HEARING

If the appellant or the appellant's representative provides a written request for a public hearing, the hearing shall be conducted as an open session.

3. LEGAL REPRESENTATION

All parties are entitled to legal representation at their own expense.

4. EVIDENCE

All parties may present written or oral evidence in support of testimony.

5. WITNESSES

All parties may present testimony and call witnesses to testify in support of their position. All

such witnesses shall make an oath or affirmation of truthfulness before testifying.

6. **SUBPOENA POWER**

No subpoenas shall be issued to compel testimony in person.

7. **OPENING STATEMENTS**

Each party is entitled to cross examine other parties and witnesses

8. **CROSS EXAMINATION**

Each party is entitled to cross examine the other parties and witnesses.

9. **EXAMINATION BY GOVERNING BODY**

Any member of the Governing Body may direct questions to any of the parties and/or witnesses at the end of each witness statement.

D. FAILURE OF APPELLANT TO APPEAR

If the appellant fails to appear at the scheduled hearing, the Governing Body has no obligation to continue the appeal process and the previous decision will stand.

E. RECORD OF APPEAL

The Village Clerk/Manager shall be present throughout the duration of the hearing and shall record the proceedings. This section does not preclude the hiring of a court reporter to transcribe the hearing at the request and payment of either party. A request for a court reporter shall be made in writing and submitted to the Village Clerk/Manager or the aggrieved party ten (10) days before the hearing is scheduled.

1. The tape recording may be ceased or interrupted, and the Village Clerk/Manager excused, if so, ordered by the Governing Body.
2. All recordings and written evidence shall be held by the Village Clerk/Manager for six (6) months following the date of the hearing.

F. DECISION OF THE GOVERNING BODY

Within fourteen (14) calendar days after hearing an appeal contesting a suspension or discharge the Governing Body shall make its determination and decide the appeal as follows:

1. The decision shall be issued in writing to all parties.
2. The decision shall be issued by a majority of the members of the Governing Body who attended the hearing.
3. Non attending members of the Governing Body are not entitled to participate in the decision.
4. Attending members representing the minority opposing the decision, may write a statement of dissention, which may include facts and conclusions.
5. As part of this decision, the Governing Body may do any of the following:
 - i. Uphold the disciplinary action.
 - ii. Set aside the disciplinary action.
 - iii. Modify the disciplinary action appealed.
 - iv. Consider any evidence at appellant's mitigation of evidence.
 - v. Make other appropriate recommendations or orders.

G. SIMULTANIOUS HEARING

When two (2) or more appeals involving a common question or issue arises, from the same circumstances, the Governing Body may order those appeals consolidated into one (1) hearing.

H. APPEAL FROM THE DECISION OF THE GOVERNING BODY

Any party aggrieved by the decision of the Governing Body may pursue a record appeal to the district court.

SECTION 18. GRIEVANCE

Addressing employee grievance on their merits and the internal resolution of these grievances is important to the efficient operation of the Village. Reasonable efforts will be made to resolve all employee grievances at the lowest possible level and all grievances are required to pass through all appropriate levels of procedures. Employees who employ the grievance procedure will not be subject to any retaliation for such participation but shall not be exempt from disciplinary action for violations proven or admitted.

A. DEFINITION

With the exception of involuntary suspension, demotions and dismissals, a grievance is an expression of dissatisfaction by an employee of any inconsistency in the application of any Village rule, regulation, policy or condition of employment. Grounds for grievance include but are not limited to religion, sex or ethnicity, or acts arising from hiring, training; recruiting, promotions and disciplinary action not otherwise excluded. The grievance process is available to all employees.

B. PRELIMINARY PROCEDURE

Within five (5) days following the date of the incident giving rise to the grievance, an employee will seek to informally resolve any grievance directly with the party or parties involved including supervisors or co-workers.

C. SUPERVISOR RESOLUTION

If the grievant determines that the preliminary procedure is not satisfactory, the grievant may pursue the grievance by submitting a written statement within ten (10) business days of the incident with the details to the Supervisor setting forth the grievance with the desired resolution.

1. The Supervisor shall note the date and time received. Review the written statement and any documentation. Interview and investigate

as appropriate and report to the Village Clerk/Manager if the Village Manager/Clerk was not the supervisor the grievance was originally reported to.

2. Within ten (10) business days of the receipt of the grievance the Village/Clerk Manager shall make the following decision with the Mayor's approval in writing, setting forth the reason for the action:
 - I. Accept the desired grievance resolution.
 - II. Deny the desired grievance resolution.
 - III. Modify the desired resolution.

D. THE GOVERNING BODY HEARING

If the Grievant is unsatisfied with the decision of the Village Clerk/Manager, they may request the Governing Body to provide them with a hearing on the matter within thirty (30) calendar days of receipt of such notice. Written notice of the hearing shall be given to the employee whether personally or by certified mail/return receipt requested. The hearing conducted by the Mayor is limited to the employee stating why they are dissatisfied with the decision of the Village Clerk/Manager and the Village Clerk/Manager's response as to why the Village Clerk/Manager's decision is appropriate.

Within ten (10) business days after the Hearing, the Governing Body shall render its decision in writing to all appropriate personnel. The decision of the Governing Body shall be the final step in the grievance process provided by this Ordinance.

E. TERMINATION OF GRIEVANCE

If the grievant resigns from employment with the Village, the grievance previously filed and in process at the time, shall be considered terminated. All pertinent documentation shall be given to the Village Clerk/Manager for filing in the grievant personnel file.

SECTION 19. HOURLY/SALARY EMPLOYEES

All hourly Village employees are entitled to all the rights and benefits described in the Personnel Ordinance, except where specifically stated otherwise

Salaried employees are entitled to all the rights and benefits of hourly employees, except that they are terminable at will, with or without cause, have no recourse under the disciplinary or grievance procedure outlined in this Ordinance. Elected officials, members of board, commissioners and authorities who are not regular employees of the Village shall not be covered by the Personnel Ordinance. Salaried employees shall also be eligible to participate in the life and medical insurance benefits authorized for hourly employees. All temporary and seasonal employees, along with part-time employees shall be also be classified as at will, terminable with or without cause, having no recourse under the disciplinary or grievance procedure outlined in this Ordinance.

A. EXEMPT EMPLOYEES

All employees are deemed to be non-exempt except those who are specifically placed in an exempt position these include:

I. Village Clerk/Manager

B. TEMPORARY AND SEASONAL EMPLOYEES

Temporary and seasonal employees are not entitled to any of the rights and benefits to which other employees may be entitled to.

C. ELECTED OFFICIALS

Elected Officials shall have the option of participating in Village of Tijeras medical benefits.

SECTION 20. COMPUTER AND CELL PHONE USE

Cell phone: Village employees who are issued a cell phone shall stay within allowed minutes and data. Any exceeded minutes or data shall be reimbursed by the employee to the Village. Abuse of the cell phone policy may result in disciplinary action and/or termination.

Computers: Village employees who utilize Village computers should use the computers for Village business. Personal use of Village computers while on Village time is prohibited.

Village time shall be considered any time in which a public official is receiving wages paid by the Village.

Abuse of the computer use policy may result in disciplinary action and/or termination.