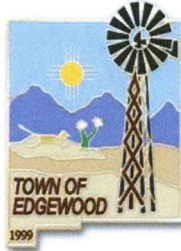


**TOWN OF EDGEWOOD
PERSONNEL ORDINANCE
NO 2003-5
AS AMENDED
February 6, 2013**



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2.28.010 Title of provisions.

This chapter shall be known as the "Town of Edgewood Personnel Ordinance."

2.28.020 Authority.

The Town of Edgewood operates under a Mayor-Council form of government. As such, The Town council adopts the ordinance in this chapter pursuant to Section 3-13-4 NMSA, 1978 Compilation, *et seq.* The Town council may modify, alter, delete or add to the policies and benefits specified within this ordinance at any time. As the chief Executive of the Town, the Mayor is delegated authority to direct the day-today operations of the Town. The Clerk-Treasurer and Town Department Heads have the responsibility and are delegated specific authority to administer the Personnel policies set forth in this ordinance.

2.28.030 Purpose of provisions.

It is declared that the goals of the personnel policy are:

- A. To recruit, select and promote employees on the basis of knowledge, skills and abilities regarding their jobs, regardless of race, sex, age, creed, national origin or political affiliation;
- B. To train employees to ensure high quality performance;
- C. To retain employees on the basis of adequate job performance, to when possible correct inadequate performance and to terminate employees where inadequate performance is not corrected;
- D. To provide an equitable and adequate compensation program;
- E. To assure equal treatment of all employees and applicants;
- F. To assure that employees are protected against coercion for political reasons and that politics do not play any part in hiring or firing an employee;
- G. To establish conditions of employment;
- H. Determine classified and unclassified status for employees;
- I. To establish due process procedures that will be utilized in cases involving employee discipline.

2.28.040 Applicability.

All positions in the service of the Town are covered under the provisions of this chapter and the rules proclaimed under this chapter, except as follows:

- A. Elected officials or those appointed to fill vacancies in elected offices;
- B. Members of town boards and commissions who are not employees;
- C. Clerk-Treasurer;
- D. Professional consultants;
- E. Independent contractors;
- F. Temporary employees and employees working less than twenty hours per week;
- G. Departments Heads as determined by the Town council at the time of their appointment;
- H. Employees of the Municipal Court.¹

¹ Amended 4/06/2006 to add H. Employees of the Municipal Court.

2.28.050 Recruitment and Hiring.

A. Purpose and Policy. It shall be the policy of the Town to recruit, select and promote employees on the basis of knowledge, skills and abilities regarding their jobs, regardless of race, sex, age, creed, national origin or political affiliation.

B. Procedures.

1. When a position becomes vacant or whenever a new position is to be created, an Employee Requisition form shall be completed by the supervisor and transmitted to the Clerk-Treasurer's office.
2. The Clerk-Treasurer will then be responsible for completing a "Notice of Position" form, which shall include a job description. Before to the posting of the Notice of Position form, the salary shall be determined by the appropriate job description and shall be approved by the Town Council. This form shall be distributed and posted in the Town Offices and on other bulletin boards in local centers and community buildings. This form shall be posted for a minimum period of five working days before filling the vacancy or new position. If appropriate, advertisement of a job vacancy may be made in employment agencies, trade journals or the appropriate news media. Casual labor can temporarily fill any vacancy.

C. Application.

1. Application Procedure. Each applicant for employment with the Town shall obtain the required form and fill it out completely. Any false statement made on the application shall be grounds for rejection or automatic dismissal from employment.
2. Application Retention. Applications shall be accepted only for approved vacant positions or designated standing files. Standing file applications remain in an active file for six months. Persons desiring to extend this active status may do so by requesting extension from the Clerk-Treasurer.
3. General Requirements. Evidence of job performance and capability, experience, education, training, skills and other abilities shall be carefully considered in evaluating the qualifications of applicants.
4. Basic Qualifications. Basic qualifications and other criteria for employment shall be contained in the job description for each position. Qualifications and criteria for employment shall include minimum requirements for training, education, skills and experience relating particularly to that individual position.
5. Testing. Performance or other tests may be required by the Town to ascertain competency for the position. Mastery of standards for operations may be required.
6. Interview. Applicants shall be interviewed to further determine qualifications for the position.
7. Non-Discrimination. The Town makes every effort to see that its policies:
 - a. Do not discriminate on the basis of race, age, handicap, color, sex, religion, political affiliation or marital status;
 - b. Do not grant special favors to any employee or group of employees. Individuals will be considered for appointment on the basis of bona-fide occupational qualifications only.
8. Basis for Final Selection. Approval of the final selection for a position will be made by the Town Council upon recommendation of the Mayor and Department

Head, after consultation with the Clerk Treasurer and the supervisor before making a recommendation and will be based upon the following:

- a. Qualification on skills and/or proficiency tests;
- b. Education, backgrounds and experience;
- c. Personal interview; and
- d. Physical examination when required by the job description.
- e. Other job related selection criteria.

D. Ineligibility. Applicants will be considered ineligible for employment by the Town for any of the following reasons:

1. Proof of fraud or intentional false statements in an application;
2. Failure to complete the testing requirements;
3. Failure to appear for processing or for work after notice of appointment.

2.28.060 Employment Categories and Probationary Periods.

A. Employees shall be assigned under the following categories for the purpose of this chapter:

1. Probationary employees are all newly hired employees, those renewing employment after a fully terminated absence of sixty days who have not served more than one year prior to renewing employment and/or employees promoted, transferred and/or reassigned to a new position. Probationary employees shall be subject to Section 2.28.070, herein below.²
2. Regular Full-Time. Regular full-time employees are employees who have successfully completed their probationary period and who work regularly in excess of thirty-five hours per week.
3. Regular Part-Time. Regular part-time employees are employees who have completed their probationary period and who work less than thirty-five hours per week on a permanent basis.
4. Temporary. Temporary employees may be either full-time or part-time, depending on the nature of employment, but who are considered temporary employees if the work being performed has a specified duration, not to exceed six consecutive months, such as employment during peak periods, summer and students under vocational education programs.
5. Limited-Term. An employee whose employment term is for a continuous fixed period of time normally in excess of six (6) months and generally less than one (1) year and who works a basic work period. The employment term may only be extended upon the approval of the Town Council. The term may be measured by the completion of a specific activity or funding, not necessarily by an ending date. Limited-term employees are not regular employees and do not have recourse to grievance procedures, however may participate in employee benefit plans otherwise afforded regular employees. Limited-term positions must be reviewed annually in the budget process to determine future status.

B. Probationary Period Purpose. The purpose of the probationary period is to provide an adequate period of time to effectively evaluate the employee's ability to function in the position.

² Amended 10/04/06 and reworded, to accommodate 12 month probation period for all employees

C. Probationary Period Considerations and Procedures.

1. The probationary period for police officers shall begin on the date of employment and shall continue for 12 months thereafter.³ All other Town employees shall have a probationary period of 6 months.⁴
2. A new employee can be discharged during this period with or without cause and without regard to disciplinary action procedures.
3. A new employee dismissed during the probationary period is not eligible to utilize appeal procedures.
4. All regular employees will be eligible for fringe benefits such as retirement and life and health insurance. Sick leave shall accrue from date of employment.
5. An Employee Evaluation Report, which shall be approved as to form by the Clerk-Treasurer, shall be completed by the employee's Department Head (15) fifteen days before to the end of the probationary period.
6. In cases where employee performance is marginal, neither clearly unsatisfactory nor clearly satisfactory, the probationary period may be extended for a period of up to one (1) year in three (3) month increments to allow further evaluation of the employee performance.⁵
7. Any time a decision is made to terminate a probationary employee, a notice of discharge shall be given in writing.

D. Promotional Probationary Period

1. An employee promoted to a higher level position or laterally transferred shall serve a six (6) month probationary period from the initial promotion or transfer date.
2. This probationary period shall be an integral part of the evaluation of the employee's performance in the new position. At the end of the probationary period, the employee shall be removed from probation unless certification is made by the Department Head to the Clerk-Treasurer that the employee's performance is unacceptable. An employee on probation who is unable to perform satisfactorily in the new position will be returned to the original title, pay grade, and salary, or if this is not possible, to a position at the original pay grade and salary occupied before the promotion or transfer.

E. Performance Reassignment Probationary Period

1. An employee reassigned to an alternative position due to an inability to satisfactorily or fully perform the duties of a position to which the employee was hired, promoted, or transferred shall serve a one (1) year probationary period from the reassignment date.⁶

³ Amended 12/16/09 from "6 months to 12 months"

⁴ Amended 9/05/2007 from "12 months" to read "6 months"

⁵ Amended 10/04/06 number "6" is new text, reference to police officers has been removed.

⁶ Amended 10/4/06 letter "E" is new text.

2.28.070 Job Classification and Pay Plan

A. Job Classification Purpose: All positions shall be grouped into classes and each class shall include those positions sufficiently similar in character, difficulty, and responsibility considering:

1. The similarity of the worked performed;
2. Comparable level of education, experience, knowledge, ability, and other qualifications may be required of incumbents;
3. Comparable tests of fitness may be required of incumbents;
4. The same general range of compensation will apply with equity under substantially the same employment conditions.

B. Job Descriptions: The Clerk-Treasurer shall maintain and publish a complete set of descriptions for all job classes. Such descriptions shall include title, typical duties and/or task statements, minimum qualifications, and working conditions. Such descriptions shall be reviewed regularly, but not less than once every four (4) years to maintain their accuracy. The establishment of new or revised classes, or the abolishment of existing classes, shall be recommended or action taken as recommended by the Clerk-Treasurer to the Mayor, for approval by the Town Council.

C. Position Classification Studies: The Clerk-Treasurer shall make position-classification studies of individual positions whenever he/she deems it necessary, or whenever requested by the Mayor, Town Council, Department Head, or supervisors.

D. Pay Plan Purpose: The Pay Plan includes the basic salary schedule adopted by the Town Council, together with the assignment of job classes to ranges or rates in the plan as approved by the Town Council.

E. Pay Plan Provisions: The Pay Plan is intended to provide equitable compensation for all job classes in relation to the pay for other job classes, general rates of pay for similar employment, the financial condition of the Town, and other factors. To this end, the Clerk-Treasurer shall regularly, but not less than biannually make comparative studies of all the factors affecting the level of pay and recommend such changes as may be justified. Such adjustments shall be made by increasing or decreasing the pay ranges provided in the basic pay schedule as approved by the Town Council.

F. Pay Ranges: Pay ranges are intended to furnish administrative flexibility in recognizing job content differences among positions allocated to the same class, in providing employee incentive for growth and improved performance, and in rewarding employees for meritorious service.

2.28.080 Performance evaluation.

A. Purpose. The purpose of the performance evaluation is to establish a program of performance appraisal that will encourage objective, systematic review and analysis of each Town employee's performance.

B. Basic Policy. It shall be the responsibility of the supervisor to conduct performance evaluations. The Clerk-Treasurer will provide that the performance of each employee is

reviewed by the employee's supervisor at the end of each fiscal year. Failure to provide a performance evaluation shall be reported to the Mayor and the Town Council. This evaluation shall become part of the employee's permanent personnel record.

C. Performance Evaluation Procedures.

1. Responsibility. It shall be the responsibility of the Clerk-Treasurer's office to see that the performance evaluation program is operated as required by this chapter.
 - b. Supervisors shall conduct a performance evaluation of each employee as provided in this chapter. A complete performance evaluation form will be sent to the Clerk-Treasurer by each supervisor each year. The Clerk-Treasurer shall provide a status report of all Town employees at the first council meeting in July of each year.
 - c. Employees have the right to review their performance evaluation and review the contents of their personnel folder at any time. Employees must sign and may attach comments to the completed performance evaluation. Such signature shall not signify concurrence by the employee as to the contents of the evaluation, but only notice that the employee has read and been made aware of the evaluation's contents. If an employee refuses to sign the completed evaluation, the supervisor shall obtain a management witness to certify the employee has read and been made aware of the evaluation's contents.
 - d. All performance evaluations shall be confidential and the contents shall not be disclosed, except within the employee's chain of command including the Clerk-Treasurer, or prospective supervisor and Department Head, in cases of internal transfers or as provided for under law, without the written consent of the employee.
 - e. Citizen's complaints should not be part of the employee's personnel record unless, after investigation, they have been determined to be founded on fact.

2.28.090 Conditions of Employment.

A. Hours of Work.

1. Regular full-time employees are expected to work forty (40) hours per week. Working hours may fluctuate at the discretion of Department Heads.
2. Breaks. Lunch breaks are normally one (1) hour, except for those departments with established thirty (30) minute lunch breaks. Such meal time shall be unpaid time unless the employee is required to remain at the work site, in which case the Department Head may authorize a meal period as part of time worked.

B. Attendance and Absenteeism. Employees will be expected to report for work promptly and be in attendance as scheduled. Absence for any reason should be reported to the supervisor or Department Head one (1) hour before the time the employee is to report to work or as soon as practical. Unauthorized absence from work for three (3) consecutive work shifts will be considered abandonment of the job and automatic termination will result. Employees will be paid for time actually worked unless absences fall under leave provisions.

C. Dress and Personal Appearance. It is important that Town employees present the best possible image to the public. Employees should be as neatly dressed as work assignments allow.

D. Pay Periods. Each pay period shall be bi-weekly, with checks issued every other Wednesday. Under unusual circumstances checks may be issued early, but only upon the request of the Department Head and with the concurrence of the Clerk-Treasurer.

E. Time Sheets. Time sheets approved to form by the Clerk-Treasurer, for each pay period shall be kept by the Department Head and shall be forwarded to the Clerk-Treasurer on Monday morning before to the pay day.

F. Payroll Deductions. Deductions from an employee's check are mandatory for Federal Withholding, P.E.R.A. and State Income Tax. Employees may choose to have deducted from each check their contribution for medical health care, life insurance, credit union savings, or other benefits available to employees.

G. Transfers. Transfers must be approved by the Clerk-Treasurer and will only be considered upon the approval of the receiving Department Head. Should an employee request a transfer, the employee's salary may be reduced, if necessary, to conform to the pay range appropriate to the new position. Any transfer which results in an over-all increase in salary and wage expenditure must be approved by the Town Council. The employee shall be advised of any changes in pay that will occur as a result of the transfer.

H. Resignations. A Town employee who wishes to resign in good standing must submit a letter to his immediate supervisor at least fourteen calendar days before leaving. All Town equipment and property is to be turned in to the department upon termination. If this is not done, the employee's paycheck may be reduced by the value of the unreturned items.

I. Reductions in Force. It may, at any given time, be necessary and appropriate for the Town to reduce the number of its employees or abolish some positions because of economic conditions, reorganization, and/or lack of work.

When a position is to be discontinued or abolished, the Mayor or a majority of the members of the Town Council shall submit a written proposal shall contain a recommendation of an order of layoff based on:

1. A determination whether the employee whose position is being eliminated is qualified to perform one or more other jobs with the Town; and
2. If the immediate supervisor of the position determines this employee is qualified to perform one or more alternate jobs, the application of the rules used to determine reductions in force.

When the Town wishes to reduce the number of employees without abolishing a position, the Mayor or a majority of the members of the Town Council shall submit a written proposal to the council for final approval containing recommendations for the order of layoff. In determining the order of layoff, the following rules shall apply:

1. Temporary and/or probationary employees will be laid off first from positions for which a regular employee, subject to reduction in force, is at least as equally qualified;
2. Reduction of regular employees will be determined by department, based on ability to perform work, job performance, and seniority;

3. Regular employees to be terminated as a result of a reduction in force shall be provided written notice at least two calendar weeks in advance of the effective date of the termination or shall be granted equivalent severance pay;
4. A regular employee terminated as a result of a reduction in force or the elimination of a position shall receive preference in hiring for any position for which they are at least as equally qualified over external employment candidates.
 - a. Terminated Regular employees seeking reemployment must follow the established hiring procedures of the Town.
 - b. This privilege ends after six (6) months after the employee declines an offer of employment from the Town, whichever comes first.

And

5. A regular employee rehired or reinstated within one (1) year of termination as a result of a reduction in force shall be entitled to service credit accrued prior to termination.⁷

J. Outside Employment. All Town employees who wish to engage in outside employment are required to complete a request for permission to engage in outside employment on an annual basis and have it approved before such employment will be authorized. It shall be the responsibility of the employee's Department Head to assure compliance with this rule.

2.28.100 Vacation—Holidays—Leave.

A. Vacation. All tenured and probationary employees earn and are eligible to use paid vacation from the date of hire as follows:⁸ Eight (8) hours a month are accumulated for employees who have served less than five years in the Town. In no event shall such leave total more than twelve (12) days per year.

1. Ten (10) hours a month are accumulated for employees who have served more than five (5) years in the Town. In no event shall such leave total more than fifteen (15) days per year.
2. Four hours a month are accumulated for part-time regular or limited term employees.
3. Vacations should be scheduled with the Department Head as early as possible. Vacations may be taken all at one time or broken down into one-day intervals and are subject to supervisory approval. Regular employees shall be allowed to accumulate up to two hundred (200) hours of leave, equal to, but not greater than, twenty-five (25) regular working days. Accumulations above this amount shall not be allowed unless specifically approved by the Clerk-Treasurer. Employees terminated before attaining permanent status shall be paid for accrued vacation time. Paid holidays which occur during vacation time are not counted as a day of vacation. Upon termination, an employee shall be paid for any unused vacation time.

B. Holidays.

1. The holiday schedule shall be designated by the Town Council each year.

⁷ Amended 09/19/2005 and removed "1. Probationary employees will be laid off first.

² Reduction of regular employees will be determined by department based on seniority, ability to perform work, and job performance."

⁸ Amended 11/15/06, inserted first sentence, removed probationary status from vacation exclusion.

2. Regular full and part time, and limited term employees shall be paid for the holiday the same amount the employee would have earned for a regularly scheduled workday, provided the holiday falls on a day that employee would have normally worked.
3. Employees scheduled to work an approved Town Holiday shall receive eight (8) hours of pay at straight time, and shall receive pay at one and one-half (1.5) times their regular hourly rate for actual time worked during the Holiday.⁹

C. Sick Leave. Sick leave benefits are accrued at the rate of eight hours per month. Part-time employees accrue sick leave at the rate of four hours per month. Unused sick leave shall be accumulated from year to year. Employees on probationary status shall be credited with sick leave for each pay period worked.

1. Sick leave should only be used as needed, and abuses of sick leave will be grounds for disciplinary action. If an employee has used all accrued sick leave, the employee may choose to use his accrued vacation as sick leave with approval of his supervisor. The employee must be able to justify the use of vacation leave as sick leave.
2. Employees using sick leave shall notify the Clerk-Treasurer's office before to the start of their scheduled work shift. Sick leave of more than three days duration will require certification by a physician as to the nature of the illness. Persons on sick leave for more than five (5) consecutive work days may be required to have a physical examination but shall be required to be certified fit to return to work by a physician. Physical examinations performed at the insistence of the Town will be paid for by the Town.
3. In extenuating circumstances, an employee may use accrued sick leave to care for members of the employee's immediate family. A doctor's certification may be required stating the family member's condition before to sick leave being granted.
4. In order to receive sick leave donated from another employee, all of the following criteria must be met. The receiving employee must:
 - a. have a continuing disability resulting from personal illness or injury and be unable to perform job duties;
 - b. have used all accumulated sick, annual, and other paid leave and;
 - c. not be receiving any other form of compensation including social security disability benefits, any workers' compensation benefits, or disability compensation through any retirement plan.
5. The maximum amount which an employee may receive is limited to 90 days for which the employee would not otherwise be paid per separate illness or recurring diagnosed illness or accident. Before an employee is eligible to receive donated leave, his or her physician must certify that the employee has a disability resulting from personal illness or injury and is unable to perform job duties. Once medical certification is received, the employee is eligible to receive up to 20 consecutive days (160 hours) of leave for which he or she would otherwise be without pay. From this point forward, the employee will

⁹ Amended 10-19-2011

be authorized to use donated sick leave in up to 20-day increments, with additional medical certification documenting the employee's continued disability required after each 20-day period.

6. If any sick leave is granted but not used by the employee, the unused portion of the amount of sick leave transferred is subsequently returned to the donating employee or employees. This would apply in the case of an employee's death or recovery from the illness or injury.

Criteria for Donating Leave to Another Employee

In order to donate sick leave a full-time employee must have a minimum balance of 160 hours of sick leave and agree to donate a minimum of 20 hours of leave. The maximum amount of sick leave an employee may donate during his or her employment is a total of 320 hours. An employee may donate more than one time to a single individual or to multiple individuals. At any time, the employee may not donate more than one-half of his or her leave balance in effort at the point leave is deducted.

Procedural Guidelines

D. Sick leave transfer between employees requires the following procedures:

- a. An employee donating leave to another employee must complete and sign a **SICK LEAVE TRANSFER REQUEST FORM** providing the name of the employee to whom leave is being donated and the amount of leave the employee is agreeing to donate. The form must state the conditions under which the leave is being donated and that the leave is being donated by the employee of his or her own free will. Once completed, the employee should send this form to the Administrator or designee.
- b. The Administrator or designee must sign the form acknowledging receipt. After verifying that the employee has the leave balance to cover the amount of leave being donated and is not donating more than one-half of that balance, a copy of the agreement should be placed in the donating employee's personnel file.
- c. Donor forms will be date and time stamped in the order received. This will determine the order in which sick leave will be deducted from donating employee's leave balances in situations where there are multiple employees agreeing to donate to a single individual.
- d. The Administrator or designee will notify the employee to whom leave is being donated. Before sick leave is officially transferred, the employee receiving the leave must submit a current medical form from his or her health care provider certifying that the employee continues to be unable to perform job duties. A new medical form will be required for every 20 days of donated sick leave.¹⁰

D. Family and Medical Leave of Absence. The Town shall provide up to twelve (12) weeks unpaid leave per year (a rolling 12 month period), to eligible employees for the

¹⁰ C.5 thru D.d added 7-9-07

birth or adoption of a child, to care for a spouse or an immediate family member with a serious health condition, or when unable to work because of a serious health condition. Employees must have worked at least 1250 hours in the 12 months immediately preceding the start of FMLA leave. An employee may elect, or management may require the employee to substitute any of the employee's accrued annual or sick leave, for any part of unpaid FMLA leave. During the period of an employee's leave, pre-existing health benefits coverage will be maintained; if the FMLA leave is unpaid, the employee will be responsible to make payment to the Town for his or her share of the premiums for the health benefits. Upon completion of the leave period the employee will be eligible for reinstatement to the same or equivalent job the employee held before going on leave. No part of FMLA leave shall be considered a break in service, and it shall not change an employee's anniversary date. Employees shall not accrue sick or annual leave, nor be paid for observed holidays while on unpaid leave.

E. Leave Without Pay. The Clerk Treasurer may grant a regular employee leave without pay for a period not to exceed one year. Leave without pay may be granted only when it is in the best interest of the Town, and only following consideration of the employee's performance and disciplinary history, and the potential disruption of Town operations.

1. For leave without pay a written request indicating the reason for the leave, duration, and dates of departure and return, must be approved by the Clerk-Treasurer before leave is taken.
2. Employees on leave without pay shall not accrue annual or sick leave for those hours on leave without pay, nor be paid for observed holidays.
3. During an employee's approved leave of without pay, his/her position may be filled by temporary appointment, a temporary promotion, limited term employee or detail to another employee. At the expiration of a leave without pay, the employee has the right to and shall be reinstated in the position he/she vacated if the position still exists; or, if not, to any other vacant position of like seniority, status and pay. If no vacancy exists, the employee will be offered the first available position for which he/she qualifies. If no position is found within a period of one-hundred twenty (120) days, the employee will be terminated.

F. Bereavement Leave. In the event of a death in the employee's immediate family, (employee's spouse or ex-spouse, live-in partner, children, step-children, parents, step-parents, siblings, grandparents, step-grandparents, grandchildren, step-grandchildren, aunts, uncles, first cousins, nieces, nephews, and the like relations of the employee's spouse. This definition shall cover any person so related to the employee by birth, adoption or marriage)¹¹ the employee will be permitted three days leave with pay per occurrence not chargeable under any benefits. After three days, bereavement leave will be charged against the employee's sick leave. An employee must notify the employee's department head before taking such leave.

G. Military Leave. Leave with pay will be granted for a period of two weeks per year to permanent full time employees and permanent reserve part time employees enrolled in the National Guard or military reserve units to attend training camp or exercises. In cases

¹¹ Amended 10/21/11