

TOWN OF ANDES

EMPLOYEE HANDBOOK

Adopted By Resolution of the Town Board on June 10, 2003

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Town of Andes Employee Handbook

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100 INTRODUCTION

101 *Welcome Message*

We would like to welcome you and congratulate you on your appointment to a position with the Town of Andes. As a part of our team, you take on an extremely important role, that of serving the members of our community. Together, our mission is to provide cost-effective services that conform to the highest standards of quality.

This Employee Handbook is designed to familiarize you with your employment and to help ensure government compliance, foster positive employee relationships, and contribute to the overall success of the Town in delivering services to the public effectively and efficiently.

Please keep in mind that this is only an overview of the Town's policies and procedures, employee benefits, and the Civil Service System. Specific questions concerning employment matters should be addressed to your Department Head.

We trust that you will find service with the Town of Andes rewarding both personally and professionally.

102 *A Message from Our Union*

This Employee Handbook has been developed by the Town of Andes to assist you in getting acquainted with your employment with the Town. A cooperative labor-management relationship not only lends to a positive work environment but also helps ensure a fair treatment in the workplace.

It is important that each member understand the personnel policies and procedures outlined in this Employee Handbook as they pertain to employee benefits and work rules. You are encouraged to obtain a copy of your collective bargaining agreement from your union representative.

We hope that your career with the Town of Andes will be an enjoyable experience.

103 **Definitions**

Town of Andes - For purposes of this Employee Handbook, the Town of Andes may be referred to as the "Town".

Town Board - For purposes of this Employee Handbook, "Town Board" will mean the Town Board of the Town of Andes.

Elected Official - For the purposes of this Employee Handbook, "Elected Official" will mean and refer to any of the following elected officials of the Town of Andes:

- Town Supervisor
- Town Board Members
- Town Justices
- Town Clerk
- Superintendent of Highways
- Receiver of Taxes
- Assessor

Town Supervisor - For purposes of this Employee Handbook, "Town Supervisor" will mean the Town Supervisor of the Town of Andes.

Department Head - For purposes of this Employee Handbook, "Department Head" will mean the person in charge of any department, agency, bureau, unit, or subdivision of the Town of Andes. This definition will be applicable in the event such person is serving in an acting, temporary, or provisional status in the position of Department Head.

Supervisor - For purposes of this Employee Handbook, "supervisor" will mean the individual so designated by the Department Head to direct and inspect the performance of employees.

Employee - For the purposes of this Employee Handbook, "employee" will mean a person employed by the Town, including, but not limited to, an appointed official, an appointed member of a board or commission, Department Head, managerial employee, confidential employee, supervisory employee, provisional employee, probationary employee, temporary employee, seasonal employee, trainee, or student intern, but not an independent contractor.

Civil Service Law – For purposes of this Employee Handbook, "Civil Service Law" shall mean the New York State Civil Service Law and shall include the *Delaware County Civil Service Rules*.

104 *The Purpose of this Employee Handbook*

Statement of Purpose - The purpose of this Employee Handbook is to communicate the Town's personnel policies and practices to all employees and Elected Officials. It is extremely important that each employee understand the policies that relate to rules, regulations, procedures, practices, work standards, employment classifications, compensation, and benefits. **This Employee Handbook is not a contract of employment, express or implied, and should not be construed as such.** That is, employment can be terminated at any time at the will of either the employer or the employee, subject only to such procedural requirements as may be specified pursuant to New York State Civil Service Law, Town Law, or any other applicable law, rule, or regulation.

Unless otherwise required by law, the provisions of this Employee Handbook are for Town use only and do not apply in any criminal or civil proceeding. The Employee Handbook provisions shall not be construed as a creation of higher legal standard of safety or care. Notwithstanding the above, a violation of a Handbook provision may form the basis for administrative action by the Town and any subsequent judicial proceeding.

Changes or Modifications - The Town Board reserves the right to interpret, change, modify, or eliminate any provision contained in this Employee Handbook. In addition, this Employee Handbook is subject to alteration by resolutions of the Town Board, changes in Town and/or departmental rules, or changes in federal, state or local statutes, rules, or regulations. (This is not meant to be a comprehensive list).

Statutes, Laws and Ordinances – In the event a federal or state statute or a Town Law or ordinance should conflict with any provision contained in this Employee Handbook, then such statute, law or ordinance will prevail.

Collective Bargaining Agreements - In the event an expressed and explicit provision set forth in a collective bargaining agreement between the Town of Andes and an employee organization as defined by the Public Employees' Fair Employment Act (Taylor Law) should conflict with an employee benefit, personnel policy, personnel procedure, or other provision set forth in this Employee Handbook, the expressed and explicit provision of the collective bargaining agreement will control. Otherwise, unless expressly excluded herein, this Employee Handbook will be applicable to all employees.

Questions - Any questions regarding any topic covered in this Employee Handbook should be directed to the appropriate Department Head.

200 EMPLOYEE CLASSIFICATIONS

Except as otherwise provided in the collective bargaining agreement(s), for purposes of this Employee Handbook, the following terms shall be defined as follows:

201 *Full-Time Employees*

For purposes of this Employee Handbook, the term "full-time employee" will mean an employee who is regularly scheduled to work a minimum of forty hours per week.

202 *Part-Time Employees*

For purposes of this Employee Handbook, the term "part-time employee" will mean an employee who is regularly scheduled to work thirty hours or less per week.

203 *Temporary Employees*

For purposes of this Employee Handbook, the term "temporary employee" will mean an employee who is employed on an interim basis or employed to work on a special or emergency basis for a specified period, consistent with the Civil Service Law as applicable.

204 *Seasonal Employees*

For purposes of this Employee Handbook, the term "seasonal employee" will mean an employee who is employed to work for a given season.

205 *FLSA Non-Covered Employees*

For purposes of this Employee Handbook, "FLSA non-covered employee" will mean an employee not covered under the Fair Labor Standards Act (FLSA).

206 *FLSA Exempt Employees*

For purposes of this Employee Handbook, "FLSA exempt employee" will mean a covered employee who qualifies for an exemption from the minimum wage and overtime provisions of the Fair Labor Standards Act.

207 *FLSA Non-Exempt Employees*

For purposes of this Employee Handbook, the term "FLSA non-exempt employee" will mean a covered employee who is subject to the minimum wage and overtime provisions of the Fair Labor Standards Act.

300 THE CIVIL SERVICE SYSTEM

The following is intended as a guide. The Civil Service Law and the *Delaware County Civil Service Rules* shall govern regarding the jurisdictional classification of positions and the appointment and promotion of personnel.

301 *The Unclassified and Classified Services*

Unclassified Service - In accordance with Civil Service Law and for purposes of this Employee Handbook, the term "Unclassified Service" will include all individuals who are Elected Officials and/or members of boards or commissions.

Classified Service - In accordance with Civil Service Law and for purposes of this Employee Handbook, the term "Classified Service" as defined by the Civil Service Law and the *Delaware County Civil Service Rules* will include all Town employees who are subject to the *Delaware County Civil Service Rules*. The Classified Service is divided into four jurisdictional classes:

- **Exempt** - those positions, other than unskilled labor positions, for which competitive or non-competitive examinations or other qualification requirements are not practicable (Civil Service Law, Section 41);
- **Competitive** - those positions for which it is practicable to determine merit and fitness by competitive examination;
- **Non-Competitive** - those positions not in the exempt class or the labor class for which it is not practicable to determine merit and fitness by competitive examination, but rather by a review of training and experience; and,
- **Labor** – unskilled labor positions, except those positions which can be examined for competitively.

302 *Civil Service Appointments*

Competitive Class - In accordance with Civil Service Law, the following types of appointments may be made to positions in the Competitive Class:

- **Permanent** - an appointment to a vacant position in the Competitive Class from an eligible list established as a result of examination, following successful completion of a probationary term;
- **Provisional** - an appointment to a vacant position in the Competitive Class when there is not an appropriate eligible list. A provisional appointee must take an examination whenever it is scheduled. Thereafter, a permanent appointment will be made on the basis of the eligible list resulting from the examination; or
- **Temporary** - an appointment to a position in the Competitive Class for reasons including, but not limited to: emergency work projects; planned termination of the position after a limited time; to replace an employee who is on a leave of absence; to fill a position funded through a temporary grant; or to fill a position vacated by the promotion of another employee until the employee who has been promoted receives permanent status.

303 *Examinations and Promotions*

Examinations - In accordance with Civil Service Law, in the event there is a vacancy in a new or existing position in the Competitive Class which the Town intends to maintain, the Town will fill the vacancy by selection from the eligible list certified by the Delaware County Personnel Office of persons who have taken the appropriate Civil Service examination. The Delaware County Personnel Office will test and rank each candidate according to the individual's performance on the examination. In accordance with Civil Service Law Section 61, the Town will select one of the top three available candidates on the list to fill the position.

Promotions - The Town will offer opportunities for advancement for those employees who qualify. In the event the position is in the Competitive Class, a qualified employee must normally take a promotional examination and the above "one of three" will apply. An employee who wants to be promoted should become knowledgeable about the employee's present position and be aware of higher level positions for which the employee may be qualified.

304 *Veteran's Credits*

Summary - An employee who is a veteran as defined by the Civil Service Law may be eligible to apply for veteran's credits on a Civil Service examination. An employee who is a veteran should contact the Delaware County Personnel Office for details concerning these credits.

400 EMPLOYMENT MATTERS

401 *Oath of Office*

Requirement - Each Town Officer as defined in the Town Law and the Public Officers Law, must take the Oath of Office in accordance with Town Law Section 25 and Public Officers Law Section 10, which must be administered prior to commencing the duties of the office and must be filed in the office of the Town Clerk within thirty calendar days of commencement of the term of office. Each official who is re-elected or re-appointed to a subsequent term must take the Oath of Office for each term.

Filing of Oath - The Oath of Office must be filed in either the Office of the County Clerk or the Town Clerk within thirty days of commencement of the term of office.

402 *Procedure for Filling Vacancies*

Statement of Compliance - The Town of Andes complies with all applicable federal, state and local laws, rules, and regulations throughout the employee selection process, including, but not limited to, the Public Officers Law, Town Law, Civil Service Law, Title VII, Human Rights Law, and the Americans with Disabilities Act, and is an Equal Opportunity employer.

Notification of Vacancies - In the event there is a vacancy in a new or existing position which the Town intends to maintain, the vacancy will be advertised and/or posted and qualified individuals interviewed, unless a sufficient number of qualified applicants have previously been identified.

Residency Preference - In the event there is a vacancy in a new or existing position which the Town intends to maintain, the Town will give preference to qualified applicants who are residents of the Town.

Employment Applications - The Town relies upon the accuracy of information contained in the employment application, as well as the accuracy of other data presented throughout the hiring process. Any misrepresentations, falsifications, or material omissions in any of this information or data may result in the Town's exclusion of the individual from further consideration for employment or disqualification if the conduct is discovered after employment commences.

Employment Reference Checks - To ensure that individuals who join the Town are well qualified and have a strong potential to be productive and successful, it is the policy of the Town to check the employment references of all applicants.

403 *Probationary Period*

Purpose of Probationary Period - The probationary period is for an employee to become familiar with the specific duties and responsibilities of the employee's new position. The probationary period also provides the Department Head with an opportunity to evaluate the employee's job performance and potential for development in the position.

Length of Probationary Period (Competitive Class) - Except as otherwise provided in the *Delaware County Civil Service Rules*, an employee appointed from an open-competitive list must serve a probationary period of not less than eight weeks nor more than twenty-six weeks. The length of the probationary period may be extended in accordance with the *Delaware County Civil Service Rules*.

Length of Probationary Period (Other Classes) - Except as otherwise provided in the *Delaware County Civil Service Rules*, an employee's original appointment to a position in the exempt, non-competitive, or labor class shall be for a probationary period of not less than eight nor more than twenty-six weeks. The length of the probationary period may be extended in accordance with the *Delaware County Civil Service Rules*.

Successful Completion of Probationary Period - An employee's appointment will become permanent upon the retention of the probationer after completion of the maximum period of service or upon earlier written notice following completion of the minimum period of service that the probationary term is successfully completed. **Except as otherwise provided by law or a collective bargaining agreement, completion of the probationary period does not necessarily confer rights or privileges in the position.**

Failure to Successfully Complete Probationary Period - In the event the employee's performance or conduct is not satisfactory, the Town may dismiss the employee from employment at any time after the completion of the minimum probationary period and before completion of the maximum probationary period. If the performance or conduct of an employee serving a probationary period who has been promoted or transferred is not satisfactory, the employee shall be returned to the employee's former permanent position at the end of the probationary period.

404 *Performance Appraisal*

Except as otherwise provided by a collective bargaining agreement, the following shall be the procedure for performing employee performance appraisals.

Statement of Purpose - The purpose of a performance appraisal is to evaluate employee performance. The performance appraisal will take into consideration criteria that properly reflects the employee's performance including, but not limited to, the employee's work quality, job knowledge, initiative, attendance, teamwork, conduct, and communication skills. Except as otherwise governed by a collective bargaining agreement, the employee's performance appraisal may be considered in determining a pay increase and as a factor in promotion and disciplinary action.

Frequency - An employee will be formally evaluated at least once each year on a date determined by the employee's Department Head. Informal evaluations will occur on an as needed basis throughout the performance cycle.

Post-evaluation Conference - After an evaluation, the evaluator will meet with the employee to review the employee's performance appraisal report.

Deficiencies - Should deficiencies be recorded in the performance of the employee, the employee will receive specific, reasonable, written recommendations for improvement.

Employee Reply - An employee's written reply, if any, will be attached to the performance appraisal report.

405 **Corrective Discipline**

Policy Statement - It is the policy of the Town of Andes that certain rules and regulations regarding employee behavior are necessary for the benefit and safety of all employees, the efficient operation of the Town, and the delivery of services to residents of the Town. Any conduct that interferes with operations or that discredits the Town will not be tolerated. An employee must conduct oneself in a positive manner so as to promote the best interests of the Town.

Forms of Discipline – Employees covered by **Civil Service Law Section 75** shall be disciplined in accordance with the provisions contained therein. (Refer to Section 406 of this Employee Handbook). The disciplinary action for **union employees** will be in accordance with the applicable collective bargaining agreement. In **normal circumstances**, the Town endorses a policy of progressive discipline in which it attempts to provide employees with notice of deficiencies and an opportunity to improve. It does however, retain the right to discipline employees in any manner it sees fit. When appropriate, a counseling session will precede disciplinary action. Progressive discipline will include written warnings, suspension without pay, or termination of employment, depending on the circumstances. The Town does not guarantee that one type of discipline will precede another. Furthermore, the Town reserves the right to suspend an employee while an investigation is conducted.

Communication - Open and candid communications with all employees is an important aspect of the Town of Andes' on-going employee relations. When a rule, policy, or procedure is violated, the employee's Department Head, or other designated supervisor, will review the specific nature of the violation with the employee. The employee's input is extremely important to ensure that all of the facts have been considered. After such a review, corrective action is discussed with the employee and the management involved.

Corrective Action Notice - Employees are given the opportunity to agree or disagree with the results and write a brief statement on the corrective action notice, if desired. However, as a condition of employment, employees are required to sign the corrective action notice to indicate that a discussion of the issue has taken place. Failure to comply with this policy could result in further disciplinary action, up to and including termination of employment. Employees receive a copy of any written notice issued by the Town.

Prohibited Conduct - Any employee who, after investigation, is found to have violated the policies, procedures, rules, or regulations outlined in this Employee Handbook or those established by the employee's department, or is found to have engaged in misconduct will be subject to disciplinary action in accordance with this policy, Civil Service Law Section 75, or the collective bargaining agreement, as applicable. Employees will be subject to disciplinary action for engaging in misconduct including, but not limited to, the following:

- Falsification of any records or reports, employment applications, medical reports, time records, work-related records, absence from work, injuries on the job, claims for benefits provided by the Town;
- Intimidation, coercion, threatening, or assault of, or fighting or interfering with, other employees, Elected Officials, residents of the Town; or any other person;

- Engagement in any form of discrimination or harassment, including sexual harassment;
- Improper performance of job duties or repeated failure to perform assigned duties and responsibilities;
- Refusal to obey instructions of a Department Head or supervisor or any other form of insubordination;
- Careless or negligent use or operation of equipment, including vehicles and machinery;
- Willful or deliberate abuse, destruction, defacement, misuse, or theft of Town property or removal of Town property without permission;
- Illegal gambling on Town property;
- Sleeping on the job, unless authorized by a Department Head or supervisor;
- Violation and/or disregard of safety rules or safety practices, including failure to wear assigned safety clothing or equipment;
- Failure to adhere to the personal appearance policy;
- Repeated violations of Town policies, procedures or prohibited conduct;
- Leaving work area without permission, as defined by the Department Head;
- Excessive tardiness, considered to be three or more occurrences, and/or excessive absences except those absences covered by state and/or federal statutes;
- Unauthorized absences or repeated failure to give proper notice;
- Possession or use of controlled substances or alcohol while on Town property or in Town vehicles;
- Possession of illegal or unlicensed firearms or explosives on Town property or in Town vehicles; or
- Acts of sabotage.

The above list is illustrative and is not intended to limit the Town's right to impose discipline in other appropriate cases.

406 **Civil Service Law Section 75**

Summary - New York State Civil Service Law Section 75 establishes disciplinary procedures for covered employees. Section 75 affords a covered employee the opportunity for a hearing when charges of incompetence or misconduct have been made against the employee by the Town.

Union Employees – Employees covered by a collective bargaining agreement are disciplined in accordance with such agreement.

Employees Not Covered by Section 75 - The following employees are not covered under Section 75:

- Any employee in the **Unclassified Service** (such as Elected Officials and members of boards and commissions);
- A **newly hired employee** serving a required probationary period who has completed the minimum probationary period, but has not been made permanent, even if the employee is a veteran as defined by the Civil Service Law, or exempt volunteer firefighter, as defined by the General Municipal Law;
- An employee holding a position in the **Non-Competitive Class** who has less than five years of continuous uninterrupted service, unless the employee is an eligible veteran, as defined by the Civil Service Law, or exempt volunteer firefighter, as defined by the General Municipal Law, who has successfully completed the required probationary period;
- An employee holding a position in the **Non-Competitive Class** designated as **confidential** or **policy influencing**;
- An employee holding a position in the **Exempt Class**, unless the employee is an eligible veteran as defined by the Civil Service Law, or exempt volunteer firefighter, as defined by the General Municipal Law, who has successfully completed the required probationary period, or when the employee holds the position of private secretary, cashier or deputy of any office or department;
- An employee holding a position in the **Labor Class** unless the employee is an eligible veteran as defined by the Civil Service Law, or exempt volunteer firefighter, as defined by the General Municipal Law, who has successfully completed the required probationary period;
- An employee holding a position by **provisional appointment**; and
- A **Temporary** or **Seasonal** employee.

Covered Employees - In accordance with Civil Service Law, the following employees are generally covered under Section 75:

- A newly hired employee who has not completed the minimum probationary period as determined by civil service rules.
- An employee holding a position by permanent appointment in the **Competitive Class** of the classified Civil Service;
- An employee holding a position in the **Non-Competitive Class** who has been employed for at least five years of continuous uninterrupted service in the non-competitive class, except when such an employee holds a position designated as confidential or policy influencing. Even though the employee has completed the required probationary period and has received permanent appointment or employment in the non-competitive class, the employee is not covered under Section 75 until the employee has completed five years of continuous service in the non-competitive class;
- An employee holding a position by permanent appointment or employment in the Exempt, Competitive, Non-Competitive, or Labor Class who is a qualified veteran as defined by the Civil Service Law, or exempt volunteer firefighter, as defined by the General Municipal Law, except when such an employee holds the position of private secretary, cashier, or deputy of any official or department. Specifically, the employee must have been honorably discharged or released under honorable circumstances from the armed forces of the United States having served therein as such member in time of war as defined in Section 85 of the New York State Civil Service Law, or the employee must be an exempt volunteer firefighter as defined in the General Municipal Law.

Disciplinary Procedure – Except as otherwise provided by a collective bargaining agreement, the following disciplinary procedure shall apply to employees covered by Civil Service Law Section 75

- **Notice of Discipline** – An employee subject to discipline will be provided with a written Notice of Discipline (NOD) which will contain all charges and specifications.
- **Employee Answer** - The employee will have eight calendar days to respond to the charges. The employee's response must be in writing.
- **Disciplinary Hearing** - Unless there is a stipulation of settlement between the Town and the employee, the Appointing Authority will designate a hearing officer in accordance with Civil Service Law Section 75. The designation must be in writing. The hearing officer will set the time and place for the hearing. The hearing officer will make a record of the hearing which will be submitted to the Appointing Authority, with the hearing officer's recommendations, for review and decision.

Right to Representation - The employee may have representation by counsel or by a representative of a recognized or certified employee organization at the hearing and may summon witnesses on the employee's behalf.

Suspension Without Pay Pending Determination of Charges - Pending the hearing and determination of charges, the employee may be suspended without pay for a period not to exceed thirty calendar days.

Medical Insurance During Period of Suspension Without Pay – Insurance benefits will be continued during the period of unpaid suspension. The employee must continue to pay the employee's share of the premium (whether for individual or family coverage), or make a written statement that the employee agrees to payroll deduction for such premium contributions upon reinstatement after suspension. Failure to make payments will result in forfeiture of insurance benefits.

Penalties - In the event the employee is found to be guilty of the charges, the penalty may consist of one of the following:

- Written reprimand;
- Fine not to exceed one-hundred dollars which will be deducted from the employee's pay;
- Suspension without pay not to exceed two months;
- Demotion in grade and title; or
- Termination from Town employment.

Finding of Not-Guilty - In the event the employee is found to be not guilty, the employee will be restored to the employee's position with full pay for the period of suspension less the amount of any unemployment insurance benefits that the employee may have received during such period.

Limitations - Notwithstanding any other provision of law, no removal or disciplinary proceeding will be commenced more than eighteen months after the occurrence of the alleged incompetence or misconduct complained of and described in the charges. Such limitation will not apply where the incompetence or misconduct complained of and described in the charges would, if proved in a court of appropriate jurisdiction, constitute a crime.

Filing Requirements - In the event the employee is found to be guilty, a copy of the charges, the employee's written answer, a transcript of the hearing, and the determination will be filed in the office of the department in which the employee is employed. A copy will also be filed with the Delaware County Personnel Office.

407 Code of Ethics

Policy Statement - Pursuant to the provisions of Section 806 of the General Municipal Law, the Town Board of the Town of Andes recognizes that there are rules of ethical conduct for public officers and employees which must be observed if a high degree of moral conduct is to be obtained and if public confidence is to be maintained in our unit of local government. It is the purpose of this Code of Ethics to promulgate these rules of ethical conduct for the officers and employees of the Town of Andes. These rules shall serve as a guide for official conduct of the officers and employees of the Town of Andes. The rules of ethical conduct of this code shall not conflict with, but shall be in addition to, any prohibition of Article 18 of the General Municipal Law or any other general or special law relating to ethical conduct or interest in contracts of municipal officers and employees.

Definitions - For the purpose of the Town of Andes' Code of Ethics, the following terms shall have the meanings indicated:

- **Municipal Officer or Employee** - means an officer or employee of the Town of Andes, whether paid or unpaid, including members of any administrative board, commission or other agency thereof.
- **Interest** - means a pecuniary or material benefit accruing to a municipal officer or employee, unless the context otherwise requires.

Standards of Conduct - An officer or employee is subject to, and must abide by, the following standards of conduct:

- **Gifts** - An officer or employee shall not directly or indirectly solicit any gift or accept or receive any gift having a value of twenty-five dollars or more, whether in the form of money, services, loan, travel, entertainment, hospitality, thing or promise or any other form, under circumstances in which it could reasonably be inferred that such gift was intended to influence the officer or employee, or could reasonably be expected to influence the officer or employee, in the performance of official duties or was intended as a reward for any official action on the officer's or employee's part;
- **Confidential information** - An officer or employee shall not discuss close confidential information acquired in the course of official duties or use such information to further personal interest;
- **Representation before any agency for a contingent fee** - An officer or employee shall not receive or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any agency of the Town, whereby the officer's or employee's compensation is to be dependent or contingent upon any action by such agency with respect to such matter, provided that this paragraph shall not prohibit the fixing at any time of fees based upon the reasonable value of the services rendered;
- **Disclosure of interest in legislation** - To the extent that an officer or employee knows thereof, a member of the Town Board, and any officer or employee of the Town of Andes, whether paid or unpaid, who participates in the discussion or gives official opinion to the Town Board on any legislation before the Town Board shall publicly disclose on the official record the nature and extent of any direct or indirect financial or other private interest the officer or employee has in such legislation;

- **Investments in conflict with official duties** - An officer or employee shall not invest or hold any investment, directly or indirectly in any financial, business, commercial, or other private transaction which creates a conflict with official duties;
- **Private employment** - An officer or employee shall not engage in, solicit, negotiate for, or promise to accept private employment or render services for private interests when such employment or service creates a conflict with or impairs the proper discharge of official duties;
- **Future employment** - An officer or employee shall not, after the termination of service or employment with the Town, appear before any board or agency of the Town of Andes in relation to any case, proceeding or application in which the officer or employee personally participated during the period of service or employment or which was under the officer's or employee's active consideration.

Nothing herein shall be deemed to bar or prevent the timely filing by a present or former municipal officer or employee an any claim, account, demand, or suit against the Town of Andes, or any agency thereof, on behalf of the officer or employee or any member of the officer or employee's family arising out of any personal injury or property damage or for any lawful benefit authorized or permitted by law.

Penalties for Offenses - In addition to any penalty contained in any other provision of law, any person who shall knowingly and intentionally violate any of the provisions of this code may be fined, suspended or removed from office or employment, as the case may be, in the manner provided by law.

408 *Personnel File*

Policy Statement - It is the policy of the Town to balance its need to obtain, use, and retain employment information with a concern for each employee's privacy. To this end, the Town will endeavor to maintain only that personnel information necessary for the conduct of the Town's business or required by federal, state, or local law. Personnel records will be maintained for current and past employees in order to document employment related decisions and comply with government record keeping and reporting requirements.

Content - The personnel records maintained by the Town include, but are not limited to, Employment Applications, Report of Personnel Change Forms; copies of job-required licenses and certificates, Federal and State Withholding Tax Forms, Retirement Enrollment/Waiver Forms, Health Insurance Enrollment/Waiver Forms, disciplinary and grievance or dispute notices, counseling memoranda, letters of acclamation, and probationary reports.

Location of Files - All original personnel records for current employees will be kept in the Town Clerk's office and will be maintained and controlled by the Town Clerk.

Immigration (I-9) Forms - All Immigration (I-9) Forms will be kept in a separate file apart from the employee's personnel file.

Medical Records - All employee medical records will be kept in a separate file apart from the employee's personnel file in the Town Clerk's office and will be maintained and controlled by the Town Clerk. ***For security purposes, these files will be locked at all times.***

Substance Testing Records - All employee substance testing records will be kept in a separate file apart from the employee's personnel file in the Highway Superintendent's office and will be maintained and controlled by the Highway Superintendent. ***For security purposes, these files will be locked at all times.***

Change in Status - An employee must immediately notify the Town Clerk and Benefits Administrator of a change of name, address, telephone number, marital status, number and age of dependents, beneficiary designations, and individuals to notify in case of emergency.

Employee Access - An employee may inspect and copy the contents of the employee's own personnel file. Inspections by employees must be requested in writing to the Town Clerk and will be scheduled at a mutually convenient time. An authorized official must be present when the employee inspects the file. The employee may not remove or place any material in the file without the approval of the Town Clerk. Copies of records contained in an employee's personnel file may not be released to a third party without the written consent of the employee, unless federal, state or local laws require otherwise.

409 **Separation from Employment**

Notice of Resignation (Employees) - An employee who intends to resign from employment must submit a written resignation to the employee's Department Head at least two weeks before the date of resignation is to be effective. The Department Head must provide a copy of the resignation notice to the Benefits Administrator and the Town Clerk, who will in turn notify the Town Board.

Notice of Resignation (Town Officers) - A Town Officer (as defined by Public Officers Law) must resign by delivering a written notice to the Town Clerk. If no effective date is specified, the office becomes vacant immediately upon delivery of the notice to the Town Clerk. If a Town Officer wishes to resign at some future date, the Town Officer may specify a resignation date. However, if the resignation date is more than thirty days after delivery of the notice to the Town Clerk (ninety days for Justices), the resignation will become effective thirty days after such delivery (ninety days for Justices).

Notice of Resignation (Town Clerk) - The Town Clerk who intends to resign must submit a written resignation to the Secretary of State at least thirty calendar days before the date of resignation is to be effective.

Exit Interviews - Exit interviews are normally conducted by the Town Supervisor. The exit interview provides an opportunity to discuss a number of items including employee benefits, changing of computer passwords, and return of Town property. During the exit interview, employees are encouraged to give suggestions, concerns and constructive recommendations.

Final Paycheck - Employees receive their final paycheck on the next regularly scheduled payday. The final paycheck includes payment for accumulated vacation benefits, if applicable.

500 OPERATIONAL POLICIES

501 *Departmental Hours*

Normal Hours of Operation - The normal hours of operation are established by the Town Board at the annual organizational meeting. An employee's Department Head will establish the employee's work schedule, which may differ from the normal hours of operation depending upon the particular needs and requirements of the department. The Town Board reserves the right to approve all employee work schedules, except where otherwise prohibited by applicable State or Town Law.

Department Head Absences – Department Heads have duties that may require them to be absent from their offices at certain times during the day. In the event that a Department Head is absent from the office, basic departmental forms should be readily available for distribution and/or collection. It is the Department Head's responsibility to determine what services are to be provided and to schedule coverage of these basic services during scheduled business hours.

Union Employees – The work schedules of employees covered by a collective bargaining agreement shall be governed by the applicable collective bargaining agreement.

502 *Emergency Situations*

Closing Procedures - In the event that extraordinary weather conditions or other emergencies develop prior to the beginning of the workday, the Town Supervisor may authorize the closing of non-emergency operations, or, if extraordinary weather conditions or other emergencies develop during a workday, the Town Supervisor may direct that certain employees who perform non-essential services leave work.

Closing Affect on Compensation – Pay for employees paid on a salary basis will not be affected by an emergency closing. Pay for employees paid on an hourly basis will be in accordance with the provisions below:

- **During Work** – An employee paid on an hourly basis who is directed by the Town Supervisor to leave work due to an emergency closing will not be paid for the remainder of the employee's normal workday. The employee may charge such absence to available vacation or personal leave credits or make up the time at a later date if agreed to by the Department Head.
- **Prior to Reporting to Work** – An employee paid on an hourly basis who is directed by the Town Supervisor not to report to work due to an emergency closing will not be paid for that workday. The employee may charge such absence to available vacation or personal leave credits or make up the time at a later date if agreed to by the Department Head.

Union Employees - An employee who is a member of a collective bargaining unit is not covered by the Emergency Situations provision set forth above and should refer to the applicable collective bargaining agreement.

503 **Meal and Rest Breaks**

Meal Breaks - An employee who works more than six hours in a given day will receive an unpaid, duty-free meal break not to exceed thirty minutes.

Scheduling of Meal Breaks – Scheduling of meal breaks must be approved by the Department Head in accordance with the needs and requirements of the department. Meal breaks must normally be taken in the middle of the employee's workday. Unless otherwise directed by the Department Head, an employee may leave the work-site during the meal break.

Rest Breaks - A full-time employee will normally receive a paid, duty-free rest break of up to fifteen minutes to be taken approximately in the middle of the first half of the employee's workday and again during the middle of the second half of the workday. In the event an employee works beyond the employee's normal workday, the employee will normally receive an additional paid, duty-free rest break of up to fifteen minutes to be taken approximately in the middle of each four hours of work that is not interrupted by a meal break. An employee who chooses not to take a rest break will not be entitled to leave before the normal quitting time and will not receive extra pay for the time worked.

Approval of Rest Breaks - Rest breaks must be approved by the employee's Department Head in accordance with the needs and requirements of the department. Unless otherwise specified by departmental rules, all rest breaks must be taken at the work-site and may not exceed the time allowed.

504 Time Records

Policy Statement - All employees are required to complete an individual time sheet showing the daily hours worked. Employees in the Highway Department must punch a time card.

Procedures - An employee required to complete a time sheet or punch a time card must comply with the following procedures:

- All time worked, including the beginning and ending time, must be recorded;
- All paid and unpaid leaves of absence must be recorded;
- Employees must complete their own time sheet or punch their own time card;
- The time record must be signed and submitted to the Bookkeeper each Monday by 4:30 p.m.;
- The time record must be verified and signed by the Department Head;

Correction of Errors - An employee must immediately bring errors in time records to the attention of the employee's Department Head who will investigate the matter and make and initial the correction once the error has been verified. Notice of errors must be provided by the Department Head to the Bookkeeper within 72 hours of the normal time record submission deadline in order for corrections to be processed within the same payroll period.

Unauthorized "Flex-Time" - Unless prior approval has been obtained from the Department Head, arriving early or leaving late for the employee's own convenience is not to be included in working time, provided that the employee performed no pre-approved authorized duties for the Town during such intervals.

Falsification of Time Records - An employee who, after investigation, is found to have falsified or altered a time record, or the time record of another employee, or completed a time record for another employee, will be subject to disciplinary action. In extenuating circumstances where an employee is not able to complete the employee's own time record, the Department Head may complete the time record on behalf of the employee.

Historical Time Records - All prior year time records/time cards in the possession of a Department Head must be delivered to the Town Clerk by January 15 of each year for archival storage.

505 Bonding

Insurance - The Town will provide bonding insurance for an employee who is required to act in a fiduciary capacity.

506 Expense Reimbursement

Policy Statement - Upon proper authorization of the Town Board, an employee or Elected Official will be reimbursed for expenses associated with carrying out Town business, including, but not limited to, meals, lodging, mileage, parking, highway tolls, and training and membership fees. A voucher with all required documentation and corresponding receipts must be submitted to the Town Clerk in order for the reimbursement to be processed.

Mileage - An employee who is directed by the appropriate Department Head or supervisor to use the employee's own vehicle to conduct Town business will be reimbursed at the mileage rate established by the Town Board at the annual organizational meeting or the applicable collective bargaining agreement, as the case may be.

Education and Training - Upon proper authorization of the Town Board, an employee will be reimbursed for training courses that are directly related to the employee's present job. Employees must first seek approval from their Department Head before the request is presented to the Town Board.

Required Membership Fees - Upon proper authorization of the Town Board, an employee required to hold membership in a professional organization as part of the employee's job will be reimbursed for any required dues and/or fees.

Association of Towns Meeting - Upon proper authorization of the Town Board, an employee or Elected Official who attends the annual meeting conducted by the Association of Towns will be reimbursed for all reasonable expenses. Delegates to this meeting will be selected by the Town Board.

Union Employees - An employee who is a member of a collective bargaining unit is not covered by the Education and Training and Required Membership Fees provisions set forth above and should refer to the applicable collective bargaining agreement.

507 **Vehicle Usage**

Policy Statement - All vehicles and related equipment of the Town of Andes are owned and maintained for the purpose of conducting official business of the Town. Said vehicles and equipment may not be used for the personal use or private gain of any official or employee, nor for any other purpose which is not in the general public interest.

Standards - For the purpose of compliance with this policy, the following standards must be met at all times:

- Town vehicles and related equipment must remain under the general administrative jurisdiction and direction of the Department Head to which it is assigned;
- Town vehicles must be assigned to specific Town officials and employees for specific purposes and tasks. Said vehicles may not be used for any unauthorized purpose nor to conduct personal, private, or non-Town related business;
- Town vehicles must always be operated in a safe and responsible manner, and in compliance with all applicable motor vehicle and traffic laws in effect. Employees are responsible for any driving infractions or fines that result from their operation of Town vehicles, and must report them to their Department Head. In the event of an accident, regardless of severity, an accident report must be filed with the Town Supervisor's Office, by the applicable Department Head within twenty-four hours;
- Town vehicles may not be used to transport persons who are not officials or employees of the Town of Andes, nor material not related to the conduct of official Town business, without direct authorization by the appropriate Department Head or the Town Board;
- Town vehicles must always be maintained in a safe and secure condition when not in use, including being locked and/or under direct observation; and all keys maintained under controlled and authorized jurisdiction of the appropriate Department Head;
- No advertisements, signs, bumper stickers or other markings of a political or commercial nature may be displayed on Town vehicles at any time, except those of a limited community service nature which have been authorized by the Town Board.

508 Driver's License

Requirement - An employee who is required to drive either a Town-owned vehicle or the employee's own personal vehicle to conduct business on behalf of the Town, must possess at the time of appointment, and must maintain throughout employment, a valid New York State driver's license.

Commercial Drivers - An employee who operates a vehicle which requires a Commercial Driver's License (CDL), must maintain such license throughout employment. A new employee who will be required to drive such a vehicle must provide documentation of possession of with all proper endorsements and without any previous motor vehicle violations noted. In accordance with the federal Commercial Motor Vehicle Safety Act of 1986, a commercial driver must notify the Town within thirty days of a conviction of any traffic violation (except parking), no matter where or what type of vehicle the employee was driving. The above shall also apply to an existing employee who upgrades a regular or current driver's license to a Commercial Driver's License with all proper endorsements.

It is the policy of the Town to obtain, for each employee who operates a vehicle which requires a Commercial Driver's License (CDL), an annual verification of the driving record reflecting any traffic infractions. A copy of such verification will be maintained in the employee's personnel file, and will also be maintained by the Highway Superintendent.

Loss of Driver's License - An employee who is required to possess a driver's license or CDL license in order to perform certain job duties and responsibilities must immediately notify the appropriate Department Head in the event the license is suspended or revoked. The loss or suspension of the driver's license or CDL license may affect the employee's employment and/or job classification with the Town.

509 Supplies, Tools and Equipment, and Fuel Usage

Supplies - All Town owned supplies must be used efficiently and not wasted. An employee may not use any Town supplies including, but not limited to, postage, paper, or office supplies for personal use.

Tools and Equipment - The employee must repair or replace any Town-owned tool or piece of equipment lost or damaged by the employee as a result of negligence or intentional misuse. An employee may not use any Town-owned piece of equipment, including, but not limited to, fax machines, copiers and computer equipment for personal use. An employee may not use Town facilities or equipment to work on vehicles or trailers not owned by the Town, however, the Highway Superintendent may authorize an employee to use Town-owned tools for personal purposes on a case-by-case basis. The Highway Superintendent will maintain an accurate record of all Town tools loaned. This record will be consistent with the annual inventory taken by the Highway Superintendent of all Town-owned tools and equipment placed in his care.

Fuel - An employee may not use gasoline, fuel oil, or motor oil purchased by the Town for personal use.

510 Telephone / Cell Phone Usage

Guidelines - Telephone and cell phone usage must adhere to the following guidelines:

- An employee must answer promptly and speak in a clear, friendly and courteous tone;
- Collect calls may not be accepted;
- An employee may not make or receive personal telephone or cell phone calls during work hours, except in an emergency or to check briefly on family matters;
- An employee may not make or receive personal calls on a Town provided telephone or cell phone that will result in additional charges to the Town, except in an emergency and/or with prior approval from the Department Head. The employee must reimburse the Town for the cost of the call.

511 **Computer Systems and Internet/On-Line Service**

Policy Statement - The purpose of this policy is to provide guidance for the use of Town-owned computer systems and internet/on-line service.

Computer Systems

Property – All computer systems, hardware, software, and files are the property of the Town of Andes.

Authority – Department Heads have the authority to inspect the contents of any computer equipment, data/files, or electronic mail (“e-mail”) of their subordinates in the normal course of their supervisory responsibilities. In addition, the data/files of Department Heads and supervisors may be inspected by the Town Supervisor in the normal course of duty.

Usage – All computer systems, hardware, and software provided to an employee are provided for the purpose of aiding that employee in the performance of the employee’s job functions. All hardware and software used is to be supplied by the Town of Andes. No unauthorized or unlicensed hardware or software may be used or installed on any Town-owned computer. Any hardware or software necessary to perform job duties should be requested of the employee’s Department Head.

Backup – In order to safeguard electronic information, an employee who has been assigned a personal computer or component of a computer system must perform appropriate backup procedures *at least* on a weekly basis.

Prohibited Uses - In addition to the guidelines set forth above, the following uses of Town-owned computers and equipment are prohibited. This list is meant to be illustrative, and not exhaustive.

- Any illegal activity;
- Threats or harassment;
- Slander or defamation;
- Transferring of obscene or suggestive messages or graphical images;
- Any unauthorized commercial activity; Commercial activity is limited to designated terminals. If a user is unsure whether a terminal is available for commercial use, the employee should ask the Department Head;
- Accessing or attempting to access the data/files of another person;
- Using or aiding in the unauthorized use of another person’s password;
- Harming or destroying data/files (other than editing or deleting information in the normal course of one’s job duties);
- Use of non-business software;
- Use of entertainment software, such as games and puzzles;
- Installation or use of any hardware or software, not owned by the Town;
- Installation or use of Town-owned hardware or software for any use that is not Town related business;
- Installation or use of any unauthorized or unlicensed hardware or software;
- Installation of any software containing viruses.

Internet/On-Line Service

Eligibility – Internet/on-line service may be provided to employees who can demonstrate a work-related reason to have access. Approval must be given by the employee's Department Head or supervisor.

“Netiquette” (Internet Etiquette) – Employees are expected to communicate in a manner that will reflect positively on both themselves and the Town of Andes.

Prohibited Uses - In addition to the prohibitions set forth in the above paragraphs, any activities prohibited for any other general computer user are also prohibited with respect to Internet/on-line service usage.

Reliability – The Town of Andes is not responsible for loss or damage to a user's data or for the reliability of information that is obtained via the Internet/on-line service. Also, this information must be used in accordance with applicable copyright laws.

Security – There is no guarantee of privacy of data/files, including e-mail, on Town-owned computers. As stated herein, all files are subject to inspection by Department Heads and supervisors. Any employee who is required to have a password must submit that password to the employee's Department Head in a sealed envelope.

Procedure – Anyone with information as to a violation of this policy is to report said information to the employee's Department Head. Once the employee's Department Head is informed of the violation, a formal process, consistent with this Employee Handbook, applicable collective bargaining agreement and/or applicable law, will begin.

512 *Personal Appearance*

Policy Statement - It is the policy of the Town that each employee's dress, grooming and personal hygiene should be appropriate to the work situation.

Standards - An employee must maintain a personal appearance in a manner that reflects a good image to the public. Acceptable personal appearance is an ongoing requirement of employment with the Town. Radical departures from conventional dress or personal grooming and hygiene standards are not permitted. Employees should not wear suggestive attire. Shirts must be worn at all times.

Safety Clothing and Equipment - An employee may be required to wear safety clothing and equipment as directed by the Department Head. If such is the case, the employee must comply with all safety requirements.

Uniforms - An employee may be required to wear a uniform as directed by the Department Head and/or as provided in a collective bargaining agreement. If such is the case, the employee must comply with all requirements.

513 *Solicitations/Distributions*

Policy Statement - It is the policy of the Town to prohibit solicitation and distribution on its premises by nonemployees and to permit solicitation and distribution by employees only as outlined below.

During Working Hours - An employee may not distribute literature or solicit other employees during working hours without approval from the appropriate Department Head.

During Meal and Rest Breaks - With permission from the Department Head, an employee may distribute literature and solicit other employees during meal and rest breaks provided it does not interfere with the normal operations of the department, reduce employee efficiency, annoy fellow employees, or pose a threat to the Town's security.

514 *Visitors*

Policy Statement - It is the policy of the Town not to allow personal visitors during working hours, except for emergency situations. Visitors are allowed for brief visits during an employee's meal break as long as such visit does not interfere with Town operations or interrupt other employees who are still working.

515 Purchasing

Policy Statement - It is the policy of the Town to authorize certain individuals to make purchases on behalf of the Town. No employee shall make purchases for the Town, or use the Town's name to make purchases, unless so authorized by the Town Board.

516 Maintenance of Work Area

Policy Statement – It is the policy of the Town that work areas must be kept safe, clean and orderly at all times.

Employee Responsibility – Employees are responsible for maintaining their work area in a safe and orderly fashion. As such, each employee should, at a minimum, do the following:

- Place coats, boots, umbrellas and other items of clothing in designated areas so that work areas are not unnecessarily cluttered;
- Consume food or beverages only in designated areas so that work areas are kept free of food and related litter;
- Report any existing or potential workplace hazards and safety violations to the Department Head;
- Abide by the smoking restrictions established by Town policy and outlined in this Employee Handbook;
- Clean and store all tools and equipment and properly store any items, papers or confidential information in a manner prescribed by the Department Head;
- Ensure the proper disposal of all trash and waste every Wednesday and on an as needed basis;
- Make sure that aisles, floors and walls are free from unnecessary items, trash or debris, as this may create a safety hazard.

Supervisory Responsibility – Supervisors are responsible for having their employees maintain their work areas according to the requirements of this policy. Each supervisor should:

- Monitor the facilities and equipment and issue maintenance requests where appropriate;
- Arrange for the removal of any items from the workplace that are not needed for the flow of business or the enhancement of employee comfort;
- Abide by and enforce the Town's smoking policy;

517 Personal Property

Policy Statement - It is the policy of the Town to ask each employee to refrain from bringing unnecessary or inappropriate personal property to work. The Town recognizes that an employee may need to bring certain items to work. However, employees should take care to ensure that personal property brought to the workplace does not disrupt work or pose a safety risk to other employees.

Personal Liability - An employee is expected to exercise reasonable care to safeguard personal items brought to work. Except as otherwise provided by a collective bargaining agreement, the Town will not repair, replace, or reimburse an employee for the damage or loss of the employee's personal property. An employee bringing personal property to the workplace does so at one's own risk.

Security Inspections - Desks, lockers and other storage devices may be provided for the convenience of employees but remain the sole property of the Town. Accordingly, such storage devices, as well as any articles found within them, can be inspected by any agent or representative of the Town at any time, with or without notice. The inspection may be made in the presence of the employee. The Town is not responsible for loss or damage to personal property placed in such storage devices.

518 Town Property

Employee Responsibility - An employee will be responsible for any item issued by the Town which is in the employee's possession and/or control, such as, but not limited to the following:

- Equipment, including Protective Equipment
- Identification Badges
- Keys
- Uniforms
- Books or other Reference Materials, including this Employee Handbook

Return of Property - Except as otherwise provided by a collective bargaining agreement, all Town property must be returned to the Town before the employee's last day of work.

519 Unauthorized Work

Policy Statement - An employee may not perform work for any entity other than the Town during the employee's tour of duty, or claim that Town work was done when such is not the case.

520 **Outside Employment**

Policy Statement - It is the policy of the Town that an employee may engage in outside work as long as such outside work does not interfere with the employee's performance standards, pose an actual or potential conflict of interest, or compromise the interests of the Town.

Guidelines - The following guidelines have been established for an employee who engages in outside work.

- An employee will be judged by the same performance standards and will be subject to the Town's scheduling demands, regardless of any existing outside work requirements;
- If the Town determines that an employee's outside work interferes with the performance or the ability to meet the requirements of the Town as they are modified from time to time, the employee may be required to terminate the outside employment if the employee wishes to remain employed by the Town;
- No Town equipment, supplies, or other material may be used by an employee on other than Town work for monetary gain;
- Outside employment that does or may constitute a conflict of interest is prohibited. An employee may not receive any income or material gain from individuals outside of the Town for materials produced or services rendered while performing the employee's Town job;
- A Town employee who engages in outside work must notify the person for whom the work is being performed that such work is being done on the employee's own time and that the employee is not representing the Town while performing such work.

Employee Responsibility - A Town employee who wishes to engage in outside work is responsible for ensuring that the above guidelines are maintained. Questions should be directed to the Department Head.

Union Employees – In addition to the above guidelines, an employee who is a member of a collective bargaining unit may be subject to rules and/or guidelines regarding outside employment as set forth in the collective bargaining agreement or rules of the department to which the employee is assigned.

600 ABSENCE POLICIES

601 Attendance

Except as otherwise provided by a collective bargaining agreement, the following procedure shall apply regarding absence from work:

Tardiness - An employee must be ready and able to work at the time the employee is scheduled to begin work. In the event an employee is unable to report to work at the scheduled time, the employee must notify the employee's Department Head prior to the employee's scheduled starting time. The reason for tardiness and the expected time of arrival must be indicated to the Department Head.

Daily Notification - In the event an employee is unable to report to work, the employee must notify the employee's Department Head each day of the absence and state the reason for the absence. In the event the absence was pre-authorized, this requirement will be waived.

Scheduled Absences - All requests for time off are subject to approval by the employee's Department Head on a case-by-case basis. An employee should schedule personal appointments either before or after the employee's scheduled workday or on scheduled days off whenever possible.

Unscheduled Absences - An employee who is unable to report to work must personally contact the employee's Department Head prior to the employee's scheduled starting time. The employee must speak directly with the Department Head, indicating the reason for the absence and when the employee expects to return to work. Asking another person to call in on the employee's behalf is not permitted. Leaving a message on an answering device or with a co-worker is not permitted. Notification requirements may be waived in cases of emergency.

Unexcused Absences - Notification of an absence to an employee's Department Head does not automatically mean the absence is authorized. Any time off from work that is without approval of an employee's Department Head is considered an unexcused absence. An unexcused absence is without pay and may result in disciplinary action, up to and including termination.

Early Departure - In the event an employee must leave work during the workday, the employee must notify the employee's Department Head prior to leaving.

Leaving the Premises or Work-site - An employee must obtain prior approval from the employee's Department Head to leave Town premises or an assigned work-site during working hours due to a non-work related reason. An employee who leaves Town premises or an assigned work-site during the workday due to business reasons must notify the employee's supervisor in accordance with department policy.

Documentation of Absences - An employee who has frequent absences may be required to provide documentation of the reason for any future absences.

602 **Jury Duty Leave**

Except as otherwise provided by a collective bargaining agreement, the following procedure shall apply regarding jury duty:

Jury Leave - In the event a full-time employee is required to perform jury duty on a day the employee is scheduled to work, the employee will receive paid jury duty leave. Such leave will not be subtracted from any of the employee's leave credits. A part-time, temporary or seasonal employee shall receive paid jury duty leave if the employee is scheduled to work for the Town on the day the jury duty is served. An employee is obligated to notify the Commissioner of Jurors that the Town is paying the employee's full pay during jury duty. An employee can collect and keep any mileage expense reimbursement that may be issued by the court system for performing jury duty.

Notification of Jury Duty - When an employee receives notice to report for jury duty, the employee must immediately submit a copy of the notice to the employee's Department Head.

Return to Duty - In the event the employee is released from jury duty on a given day and there are two or more hours remaining in the employee's scheduled workday, the employee must report to work. The employee will be allotted time to return home and prepare for work.

Accrual of Benefits - The Town will continue to provide health insurance benefits for an eligible employee during the jury leave. Vacation leave, sick leave and holiday benefits will continue to accrue during jury duty leave.

603 **Military Leave and Military Leave of Absence**

Military Leave (New York State Law) - This section refers only to a paid leave for military service under New York State Law and does not effect an employee's entitlement to leave needed for military service under federal statute. The Town of Andes recognizes the importance of the Military Reserve and National Guard, and will permit any employee the use of military leave to perform ordered military duty or required training. The Town will grant such leave with pay for up to twenty-two workdays or thirty calendar days in a calendar year, whichever is greater. Such military leave beyond the twenty-two workdays or thirty calendar days in a calendar year will be unpaid, however accumulated vacation leave may, at the employee's option, be used at any time during the leave. In accordance with applicable New York State law, the employee may keep all pay received for military service.

Military Leave of Absence (Federal Law) - An unpaid leave of absence for a period of up to the federal statutory limits will be granted to an employee to serve in any of the Armed Forces of the United States. The employee's accumulated vacation leave may, at the employee's option, be used at any time during such leave of absence.

604 *Family and Medical Leave Act*

Statement of Compliance - The Town of Andes complies with the provisions of the Family and Medical Leave Act (FMLA). **The Town of Andes currently does not employ fifty or more employees who work twenty or more calendar workweeks per year. Therefore, Town employees are not presently eligible for leave under FMLA.** If at some point the Town of Andes should employ fifty or more employees for twenty or more calendar workweeks in the current or preceding year, eligible employees will be afforded leave in compliance with FMLA.

Summary - FMLA entitles an eligible employee to a maximum of twelve workweeks (defined by the employee's normal workweek) of job-protected, unpaid leave in any twelve month period for certain family and medical reasons. The twelve-month period is a rolling period measured backward from the date an employee uses any FMLA leave. At the conclusion of a leave of absence under the FMLA, the employee will be restored to the position the employee held when the leave began or to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment, provided the employee returns to work immediately following such leave.

Eligibility - To be eligible for an unpaid leave under FMLA, an employee must meet the following requirements:

- The employee must have worked for the Town for at least twelve months before the leave request (these need not be consecutive);
- The employee must have worked for the Town for at least 1,250 hours during the previous twelve months prior to the date the leave commences; and
- The employee must work at or report to a worksite which has fifty or more employees or is within seventy-five miles of worksites that taken together have a total of fifty or more employees.

Eligible employees will be afforded leave under **FMLA** under the following circumstances:

- Upon the birth of the employee's child and to care for the newborn child;
- Upon the placement of a child with the employee for adoption or foster care and to care for the newly placed child;
- To care for the employee's spouse, son, daughter or parent who has a serious health condition; and
- Because of the employee's own serious health condition which makes the employee unable to perform one or more of the essential functions of his or her job.

Return to Work - At the conclusion of the leave, the employee, provided that the employee returns to work immediately following such leave, will be restored to the position he or she held when the leave began, or an equivalent position with equivalent benefits, pay and working conditions.

605 **Family and Medical Leave Policy**

Policy Statement - It is the policy of the Town of Andes to grant a full-time employee a leave of absence without pay for a period of up to twelve weeks, under certain circumstances. If and when any employee meets the eligibility requirements under the *Family and Medical Leave Act*, the provisions of that Act will then take precedence over this policy.

Granting of Leave of Absence - The granting and duration of each leave of absence will be determined by the Town Board in conjunction with applicable federal and state laws, including Civil Service Law Sections 71, 72 and 73, as applicable, and the *Delaware County Civil Service Rules*.

Types of Leave - The following types of leaves of absence will be considered:

- **Sick Leave of Absence** - Employees who are unable to work because of a serious health condition or disability may be granted a sick leave of absence. This type of leave covers disabilities caused by pregnancy, childbirth, or other related medical conditions. The Town requires certification of an employee's need for sick leave, both before the leave begins and on a periodic basis thereafter, by the employee's health care provider.

In addition to leave provided under this policy, employees may be eligible for a leave of absence pursuant to Civil Service Law Section 71. Section 71 provides that **covered** employees shall be entitled to a leave of absence for at least one cumulative year (unless found to be permanently disabled) when disabled due to an occupational injury or disease as defined in the Workers' Compensation Law. This leave runs concurrently with the designated Family and Medical Leave. Employee should consult with their Department Head for further details regarding this provision.

- **Parental Leave of Absence** - Female employees, when not disabled by pregnancy or childbirth (see above), and male employees may be granted a parental leave of absence to care for a child upon birth or upon placement for adoption or foster care.
- **Family Care Leave of Absence** - Employees may be granted a family care leave of absence for the purpose of caring for a child, spouse or parent who has a serious health condition. The Town requires certification of the family member's serious health condition, both before the leave begins and on a periodic basis, by the family member's health care provider.

Eligibility - To be eligible, an employee must meet the following requirements:

- The employee must have completed at least one year of full-time, continuous service during the previous twelve months prior to the date leave commences.
- Spouses who both work for the Town of Andes are allowed a combined maximum of twelve workweeks of leave for the birth or care of a newborn child, adoption or foster care of a child and to care for such newly placed child, or the serious health condition of a child, spouse or parent, during any twelve month period.

Definitions - For the purpose of this policy, the following definitions will apply:

- **Serious Health Condition** will mean and refer to an illness, injury, impairment, or physical or mental condition that involves inpatient care in a hospital, hospice, or residential medical care facility, or any subsequent treatment in connection with such inpatient care; or continuing treatment by a health care provider, including, but not limited to:
 - * A period of incapacity of more than three consecutive calendar days and any subsequent treatment or period of incapacity that also involves continuing treatment by a health care provider;
 - * A period of incapacity due to pregnancy or prenatal care;
 - * A period of incapacity or treatment for such incapacity due to a chronic serious health condition;
 - * A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective; or
 - * A period of absence to receive multiple treatments, including any period of recovery, by a health care provider, or by a provider of health care services under orders of or on referral by a health care provider, for restorative surgery after an accident or other injury or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment.
- **Health Care Provider** will mean and refer to a doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the State in which the doctor practices; or any other person defined in the FMLA regulations capable of providing health care services.
- **Family Member** will mean and refer to:
 - * **Spouse** - husband or wife as defined or recognized under State law for purpose of marriage;
 - * **Parent** - biological parent or an individual who stands or stood in *loco parentis* to an employee when the employee was a son or daughter as defined in directly below. This term does not include an employee's parents "in law".
 - * **Child** - biological, adopted or foster child, a stepchild, a legal ward, or a child of a person standing in *loco parentis*, who is either under age eighteen, or age eighteen or older and "incapable of self-care because of a mental or physical disability". Persons who are "*in loco parentis*" include those with day-to-day responsibilities to care for and financially support a child or, in the case of an employee, who had such responsibility for the employee when the employee was a child. A biological or legal relationship is not necessary.

Notification Requirements – If the need for leave is foreseeable, the employee must give notice, in writing, to the Department Head at least thirty calendar days prior to the commencement date of the unpaid leave. The employee and Department Head must complete the Leave of Absence Request Form and forward the completed form to the Town Clerk for review. The failure of an employee to give thirty days' notice of foreseeable leave with no reasonable excuse for the delay may result in the delay of the employee taking the leave until thirty days from the date of notice. When the need for leave is unforeseeable, verbal notice to the employer will be sufficient.

Status Reports - The employee must periodically update the Department Head as to the employee's status and intent to return to work.

Medical Certification – The employee must produce a medical certification issued by a health care provider which supports the need for a leave under this policy. When required, the employee must provide a copy before the leave begins, or if the leave was unforeseeable, fifteen calendar days from the date the certification was requested. Failure to submit medical certification may jeopardize the employee's eligibility for an unpaid leave of absence and/or the ability to return to work. The medical certification must include:

- The date the medical condition began;
- The probable duration of the medical condition;
- Pertinent medical facts; and,
- An assertion that the employee is unable to perform the employee's essential job functions or that the employee is needed to care for a family member for a specified period of time.

The Town of Andes reserves the right to request a second opinion by another health care provider. The Town will pay for the second opinion. In the event a conflict occurs between the first and second opinion, the Town may, again at its own expense, obtain a third opinion from a health care provider approved jointly by the Town and the employee. This third opinion will be final and binding.

Leave for the Birth, Adoption or Foster Care Placement of a Child – Leave for the birth of a child or the placement of a child for adoption or foster care must be taken within twelve months from the date of the birth or placement.

Certification for Adoption/Foster Care – An employee must produce proper certification from the appropriate agency for an unpaid leave for the adoption or foster care of a child.

Employment Restrictions During Leave of Absence - While on an approved unpaid leave, the employee may not be employed by another employer during the same hours that the employee was normally scheduled to work for the Town of Andes.

Benefits During a Leave of Absence - For the purpose of this policy, the following will apply:

- **Use of Accrued Paid Leave Credits** - An employee taking leave for the **birth, adoption or foster placement of a child or to care for a spouse, child or parent with a serious health condition** must first use all vacation leave credits which will be included in the maximum twelve weeks of leave. The substitution of paid leave for unpaid leave for these types of leave does not extend the twelve-week period.

For leaves taken due to the **employee's own serious health condition**, the employee must first use all sick leave and vacation leave credits and short-term disability benefits (if applicable), which will be included in the maximum twelve weeks of leave. However, in the event that the paid leave credits available are greater than the maximum twelve-week period, an employee may use paid leave credits to extend the leave of absence beyond the twelve-week period, **up to a maximum of one year**. If, after the completion of the one-year leave of absence, the employee is medically unable to return to work (as determined by a health care provider) and the employee has leave credits and/or short-term disability benefits remaining, the Town Board may authorize an extension of the employee's leave of absence until such benefits are exhausted. However, **job reinstatement** beyond the one-year leave of absence is **not automatic** and will be dependent upon job availability, in accordance with Civil Service Law Sections 71, 72 and 73, as applicable, and the *Delaware County Civil Service Rules*.

- **Accrual of Paid Leave Credits** - An employee will continue to accrue vacation and sick leave and receive holiday pay during the portion of the leave that is paid. **Paid leave is defined as leave during which the employee continues to use accumulated paid vacation and sick leave.** After all such paid leave is exhausted, the remaining leave of absence is unpaid. An employee will not earn paid vacation or sick leave or receive holiday pay for any holidays that may occur during an unpaid leave of absence.
- **Health Insurance** - During the period of authorized paid or unpaid leave of absence, an employee's eligibility status for health insurance coverage will not change. All employee contributions (if any) must be paid on a timely basis in order to maintain the continuous coverage of benefits. Contributions will be at the same level as if the employee was working. Coverage will cease if payments are not made within a thirty-calendar day grace period of the due date. Premium payments or policy coverage are subject to change. In the event the employee fails to return to work after the authorized leave of absence period has expired, the Town may recover the premium that it paid for maintaining the coverage during any period of the unpaid leave except for the following circumstances:
 - * The continuation, recurrence, or onset of a serious health condition of the employee or the employee's eligible family member with proper medical certification; or,
 - * Circumstances beyond the employee's control, such as: parent chooses to stay home with a newborn child who has a serious health condition; employee's spouse is unexpectedly transferred to a job location more than 75 miles from the employee's work-site; the employee is laid off while on leave.

Return to Work - The following conditions for returning to work will apply:

- **Job Restoration** - At the conclusion of the leave of absence, (except for leaves beyond a one-year period) the employee, provided that the employee returns to work immediately following such leave, will be restored to the position the employee held when the leave began, or an equivalent position with equivalent benefits, pay and working conditions. For an authorized leave of absence beyond the one-year period, job restoration will be dependent upon job availability, in accordance with Civil Service Law Sections 71, 72 and 73, as applicable, and the *Delaware County Civil Service Rules*.
- **Medical Statement** - Before resuming job duties, an employee must submit a statement from the employee's health care provider indicating that the employee is able to return to work without restrictions, unless the Town is able to provide a "reasonable accommodation" (in accordance with the Americans with Disabilities Act). The Town reserves the right to have the employee examined by a health care provider selected by the Town, at the Town's expense, to determine suitability for return to work.
- **Early Return** - An employee who intends to return to work earlier than anticipated must notify the Department Head at least five business days prior to the date the employee is able to return. The Department Head shall in turn notify the Town Supervisor.
- **Extension of Unpaid Leave of Absence** - An employee who wants an extension of the leave previously requested must notify the employee's Department Head at least two business days from the date the change occurred which necessitates the change in leave time. The Town Board reserves the right to approve all leave extensions.

700 COMPENSATION

701 *Wage and Salary*

Rate of Pay - An employee's rate of pay will be established by the Town Board.

Merit Increases - An employee may receive a pay increase based upon the employee's past performance. The merit increase will be granted at the discretion of the Town Board.

Union Employees - An employee who is a member of a collective bargaining unit is not covered by the Wage and Salary provisions set forth above and should refer to the applicable collective bargaining agreement.

702 *Overtime*

Authorization - A Department Head may require an employee to work additional hours beyond the employee's normal workday and workweek. An employee must receive prior approval from the employee's Department Head or supervisor before working additional hours. An employee is not entitled to overtime pay for additional hours worked without proper authorization.

FLSA Non-Covered and Exempt Employees - In accordance with the Fair Labor Standards Act, FLSA non-covered and exempt employees will not be paid for overtime nor receive "compensatory time" for any hours worked in excess of the employee's normal workday or workweek.

FLSA Non-Exempt Employees - In accordance with the Fair Labor Standards Act, an FLSA non-exempt employee will be paid one and one-half times the employee's regular hourly rate of pay for all authorized time worked over forty hours in a given workweek.

Credit for Paid Leave - Personal leave, sick leave, vacation leave, bereavement leave, jury duty leave, military leave and holidays will be included as time worked for the purpose of computing overtime.

Union Employees - An employee who is a member of a collective bargaining unit shall receive overtime compensation in accordance with the provisions of the FLSA and is also subject to the overtime provision of the applicable collective bargaining agreement.

703 Pay Period and Check Distribution

Payroll Period – Normally, Highway Department employees are paid on a weekly basis. Other employees or Elected Officials are paid on either a bi-weekly or monthly basis, as established by the Town Board.

Payday - Under normal circumstances, paychecks for Highway Department employees will be issued on a Thursday. Paychecks for employees paid on a basis other than weekly will normally be issued on a Tuesday. In the event the payday is a designated holiday, paychecks will be distributed on the previous workday.

Distribution - The Town Clerk will deliver paychecks to the Department Heads for further distribution to employees, except that paychecks for Highway Department employees are given to the Town Supervisor or Deputy Town Supervisor, who in turn will provide them to the Highway Superintendent for further distribution to employees.

Authorized Check Release - The Department Head will not release a paycheck to anyone other than the employee unless the employee has submitted a signed, written authorization with the employee's Department Head.

704 Payroll Deductions

Statutory Deductions - The required portion of an employee's pay for federal and state taxes, and any other deduction required by law, will be deducted from the employee's paycheck. Such deductions will be noted on the paycheck.

Voluntary Deductions - Payroll deductions provided through the Town's payroll system will be made from an employee's paycheck when authorized by the employee. Such deductions will be noted on the paycheck.

705 Deferred Compensation Plan

Summary - The Town of Andes has established a Deferred Compensation Plan whereby a portion of an employee's salary may be voluntarily withheld and invested. The money saved is paid out to the employee at a later date, generally during retirement years. Neither the deferred amount nor earnings on investments are subject to current Federal and State Income Taxes. Taxes become payable when the deferred income plus earnings are distributed to the employee, presumably at retirement when the tax bracket may be lower. A description of the plan may be obtained from the Town Clerk's Office.

800 EMPLOYEE BENEFITS

801 *Holidays*

Designated Holidays - The Town of Andes will close normal operations in observance of the following holidays:

1. New Year's Day
2. Presidents' Day
3. Memorial Day
4. Independence Day
5. Labor Day
6. Columbus Day
7. Election Day
8. Veterans' Day
9. Thanksgiving Day
10. Christmas Day

Eligibility - A full-time union employee is eligible for paid holidays in accordance with the collective bargaining agreement in effect. Such employee should refer to the collective bargaining agreement for provisions applicable to this benefit. A part-time, temporary, or seasonal employee is not eligible for paid holidays.

802 *Vacation Leave*

Eligibility - A full-time union employee is eligible for paid vacation leave in accordance with the collective bargaining agreement in effect. Such employee should refer to the collective bargaining agreement for provisions applicable to this benefit. A part-time, temporary, or seasonal employee is not eligible for paid vacation leave but may be allowed to take time-off without pay provided the employee has prior approval from the Department Head.

803 Sick Leave

Eligibility - A full-time union employee is eligible for paid sick leave in accordance with the collective bargaining agreement in effect. Such employee should refer to the collective bargaining agreement for provisions applicable to this benefit. A part-time, temporary, or seasonal employee is not eligible for paid sick leave.

Accumulation - An employee may accumulate sick leave credits to a maximum of one hundred-eighty (180) days (1440 hours).

Accrual During Leaves of Absence - An employee will be credited with sick leave credits while on a paid leave of absence, but not while on an unpaid leave of absence.

Proper Use of Sick Leave - Sick leave is provided to protect an employee against financial hardship during an illness or injury. While on sick leave, the employee may not be employed by another employer during the same hours that the employee was normally scheduled to work for the Town. An employee may use sick leave credits for personal illness or injury that inhibits the employee's work. Sick leave credits may not be used in increments of less than one-quarter (1/4) hour.

Medical Verification - The Town may require medical verification of an employee's absence if the Town perceives the employee is abusing sick leave, or has used an excess amount of sick leave, or when an employee is absent for more than three consecutive workdays due to an illness or injury. If an employee is on an authorized leave of absence, the provisions of the Family and Medical Leave Policy in this Employee Handbook shall apply.

Abuse of Sick Leave - An employee who, after investigation, is found to have abused the use of sick leave or falsifies supporting documentation, will be subject to disciplinary action.

Separation of Employment - An employee whose employment with the Town is terminated for any reason, including retirement, will not receive cash payment for unused sick leave. Under certain circumstances, as outlined in the applicable collective bargaining agreement, unused sick leave may be credited towards the cost of continuing health insurance coverage. Please refer to the collective bargaining agreement for details.

804 Personal Leave

Eligibility - A full-time union employee is eligible for paid personal leave in accordance with the collective bargaining agreement in effect. Such employee should refer to the collective bargaining agreement for provisions applicable to this benefit. A part-time, temporary, or seasonal employee is not eligible for paid personal leave.

Proper Use of Personal Leave - An employee may use personal leave credits to conduct personal business which cannot be conducted outside of normal working hours, non-emergency medical and dental appointments, and for personal emergencies. Personal leave credits may not be used on the scheduled workday immediately prior to or following a holiday or vacation; in lieu of sick leave or other leaves of absences, except to extend bereavement leave. Personal leave credits may not be used in increments of less than one-quarter (1/4) hour.

Scheduling - An employee must receive prior approval from the employee's Department Head to take personal leave. The Department Head will have total discretion in the approval of personal leave.

Separation of Employment - An employee whose employment with the Town is terminated for any reason, including retirement, will not receive cash payment for unused personal leave.

805 Bereavement Leave

Eligibility - A full-time union employee is eligible for paid bereavement leave in accordance with the collective bargaining agreement in effect. Such employee should refer to the collective bargaining agreement for provisions applicable to this benefit. A part-time, temporary, or seasonal employee is not eligible for paid bereavement leave but may be allowed to take time-off without pay provided the employee has prior approval from the Department Head.

806 **Disclosure of Insurance Benefits**

Summary - The following is a brief description of the insurance benefits offered by the Town to eligible employees. Eligibility for benefits is dependent upon a variety of factors, including employment classification and length of service. The description of the benefits provided is only an overview. The plan documents or specific government regulation provide a full description of the specific benefit.

Plan Administrator – The Benefits Administrator serves as the Administrator of the Town's benefits plans. The Administrator is responsible for all communications and disclosures concerning Town benefits and is available to answer questions concerning the benefit plans. A description of each of the plans may be obtained from the Benefits Administrator.

Plan Documents - Benefits are administered according to applicable government regulation, benefit plan documents, insurance carrier master policy, or Town policy. Should there be a discrepancy between the information presented in this Employee Handbook and the benefit plan document, the Town Board has the discretionary authority to determine eligibility for benefits and to interpret the plan's terms. The Town Board is responsible for compliance with all applicable laws and regulations. The Town Board may, at its discretion, change carriers and/or offer alternative insurance plans for non-union employees. Changes in carriers and/or plans for union employees shall be in accordance with collective bargaining negotiations and/or procedures.

Changes in Benefits – Any benefit offered by the Town to non-union employees or Elected Officials is subject to change by resolution of the Town Board. Changes in benefits for union employees shall be in accordance with collective bargaining negotiations and/or procedures.

Waiver of Benefits - An employee who is eligible to participate in any of the available insurance plans but who elects not to participate must sign an appropriate waiver of enrollment form.

Enrollment Information - The Benefits Administrator will provide the employee with the enrollment forms and assist with the administrative and operational aspects of the various insurance plans. Enrollment in a benefit plan is not automatic. Employees must complete the appropriate enrollment forms and applicable payroll deduction authorizations in order to receive benefits.

Changes in Status - Employees whose status changes from full-time to part-time are notified of the changes to their Town benefits. This notification contains all legally mandated information regarding applicable benefits. An employee must immediately notify the Benefits Administrator in the event that the employee has a change in marital or family status that may affect coverage, such as marriage, divorce, legal separation, death of a spouse or dependent, acquiring or losing a dependent, changes in address.

Beneficiary – Under some of the Town's benefit plans, each employee must designate a beneficiary for the employee's death benefits. This designation must be made in writing and on the form provided by the plan Administrator.

807 **Health Insurance**

Eligibility - The Town will make available health insurance coverage to each full-time union employee, the Town Clerk, the Highway Superintendent, and their eligible family members. A part-time, temporary, or seasonal employee is not eligible for health insurance coverage.

Union Employees - An employee who is a member of a collective bargaining unit should refer to the collective bargaining agreement for provisions applicable to Health Insurance.

When Coverage Begins - Coverage will begin immediately upon assuming the position or Elected Office, provided all eligibility requirements of the insurance plan are met.

Premium Payment - The Town will pay the full premium for individual or family health insurance coverage, as the case may be, for the Town Clerk and the Highway Superintendent who occupy those Elected Offices as of the date of adoption of this Employee Handbook. Any person that assumes one of those Elected Offices after the date of adoption of this Employee Handbook will be required to contribute twenty percent (20%) of the premium cost.

Changes in Premium Contributions - The amount of the insurance premium an Elected Official is required to contribute is subject to change by resolution of the Town Board. The Town Board will provide a two-month written notice of such change.

Separation of Employment - Except as otherwise provided for under a collective bargaining agreement an employee whose employment with the Town is terminated for any reason, including retirement, or an Elected Official who leaves office for any reason, will no longer be eligible for coverage under the Town's health insurance program.

809 **Short-Term Disability Benefits**

Eligibility – A full-time employee is provided with short-term disability coverage in accordance with this policy. A part-time, temporary, or seasonal employee is not eligible for paid short-term disability coverage. This benefit is to supplement loss of time from work due to a qualified non-job related illness or injury.

When Coverage Begins - Coverage will begin on the employee's first day of employment, provided the employee meets all eligibility requirements.

Disability Payments – Disability payments will be in accordance with the terms of the policy. The duration of disability benefits is dependent upon a physician's certification and consistent with the terms of the policy. There may be a waiting period before an employee can become eligible for disability payments. Full details regarding the policy currently in effect are available from Benefits Administrator.

Premium Payment - The Town will pay the full premium for disability coverage for each eligible employee.

Reporting of Illness or Injury - The employee must submit a written report of the illness or injury on the proper application form to the employee's Department Head and the Benefits Administrator within twenty-four hours of the occurrence. The Benefits Administrator will provide the employee with the necessary forms. Proper medical certification will be required and must be submitted with the application form.

Use of Sick Leave Credits - An employee may draw from the employee's sick leave credits in conjunction with disability payments to equal, but not exceed, the employee's regular daily rate of pay.

Health Insurance Coverage – The Town will continue health insurance coverage for the employee in accordance with the provisions of the Family and Medical Leave Policy in this Employee Handbook.

Return to Work - Before resuming job duties, an employee must submit a statement from the employee's health care provider indicating that the employee is able to return to work without restrictions, unless the Town is able to provide a "reasonable accommodation" (in accordance with the Americans with Disabilities Act). The Town reserves the right to have the employee examined by a health care provider selected by the Town, at the Town's expense, to determine suitability for return to work.

810 Workers' Compensation Benefits

Coverage - The Town will make available Workers' Compensation benefits, including payment of medical costs and replacement of lost wages up to the regulated maximum, to each eligible employee who suffers an accidental injury arising out of and in the course of employment, as determined by the Workers' Compensation Board. Eligibility for coverage is determined by applicable Workers' Compensation regulations.

When Coverage Begins - Coverage will begin on the employee's first day of employment, provided the employee meets all eligibility requirements.

Premium Payment - The Town will pay the full premium for Workers' Compensation coverage for each eligible employee.

Reporting of Injury - The employee must report any accidental injury arising out of and in the course of employment to the Department Head immediately after the occurrence of the injury. The Department Head will notify the Benefits Administrator who will complete and submit the required forms.

Use of Sick Leave Credits - An employee may draw from the employee's sick leave credits in conjunction with Workers' Compensation payments to equal, but not exceed, the employee's regular daily rate of pay.

Health Insurance Coverage - The Town will continue health insurance coverage for the employee in accordance with the provisions of the Family and Medical Leave Policy in this Employee Handbook.

Return to Work - Before resuming job duties, an employee must submit a statement from the employee's health care provider indicating that the employee is able to return to work without restrictions, unless the Town is able to provide a "reasonable accommodation" (in accordance with the Americans with Disabilities Act). The Town reserves the right to have the employee examined by a health care provider selected by the Town, at the Town's expense, to determine suitability for return to work.

811 Unemployment Benefits

Coverage - The Town will make available unemployment benefits to each eligible employee ruled eligible for benefits under New York State labor law.

812 Social Security

Summary - Social Security benefits are available for retirement, survivor's benefits, and medical costs under qualifying conditions, as determined by the Federal Social Security Administration Office. Employee contributions to Social Security (FICA) are matched by the Town.

813 *The New York State Employees' Retirement System*

Summary - The Town will make available the New York State Employees' Retirement System pension plan to each eligible employee. An employee is eligible for service retirement benefits after five years of creditable public sector service. In the event an employee leaves after five years of service but prior to retirement age, such employee may receive a benefit at retirement age related to those years as a public sector employee.

Mandatory Membership - A full-time employee who began employment with the State of New York or with a participating employer, on or after July 27, 1976, must join the retirement system. An employee who is appointed to a permanent, full-time position on a probationary basis must join the retirement system on the effective date of the probationary appointment. Employment is considered full-time unless:

- The employee works less than thirty hours per week; or
- The annual compensation for the position is less than the State's minimum wage multiplied by 2,000 hours; or
- Duration of employment for less than one year or employment on less than a 12 month per year basis; or
- The position is either provisional or temporary under Civil Service Law.

Optional Membership - An employee who is not mandated to join may join the retirement system. Such employee will be informed, in writing, that the employee may join the Retirement System and will acknowledge receipt of such notice by signing a copy thereof and returning it to the Benefits Administrator. If the employee elects to join the retirement System, the employee must complete the application form and return it to the Benefits Administrator.

Waiver of Enrollment - An employee who is not mandated to join the retirement system, and who chooses not to join, must complete a waiver of enrollment form.

Application for Retirement Benefits - An employee planning to retire must contact the NYS Retirement System for details regarding the application process.

900 COMPLIANCE POLICIES

901 *The Americans with Disabilities Act*

Policy Statement – It is the policy of the Town of Andes to comply fully with the provisions and spirit of the Americans with Disabilities Act and ensure equal employment opportunity for all qualified persons with disabilities. All employment practices, such as recruitment, hiring, promotion, demotion, layoff and return from layoff, compensation, job assignments, job classifications, paid or unpaid leave, fringe benefits, training, employer-sponsored activities, including recreational or social programs, will be conducted so as not to discriminate unlawfully against persons with disabilities. This also extends to prohibit discrimination based on a person's relationship or association with a disabled individual. Qualified individuals with disabilities are entitled to equal pay and other forms of compensation (or changes in compensation) along with work assignments, classifications, seniority, leave, and all other forms of employment compensation or advantage.

Reasonable Accommodation - Reasonable accommodation is available to all qualified employees and applicants with disabilities, unless it imposes an undue hardship on the Town and/or operations of a program.

Pre-Employment Inquiries - Pre-employment inquiries are made only regarding an applicant's ability to perform the duties of the position and not any disabling condition. Pre-employment physical exams will only be requested when in compliance with the law. The Town of Andes intends to base employment decisions on principles of equal employment opportunity and nondiscrimination, as defined by law.

Notification of Policy Violations - An employee should immediately report any perceived violation of this policy to the employee's Department Head. In the event the employee is unable to discuss this matter with the Department Head, the complaint should be reported in writing to the Town Supervisor or any member of the Town Board. All complaints of discrimination will be investigated discreetly and promptly. An employee who reports discrimination will not suffer adverse employment consequences as a result of making the complaint. This procedure is not intended to restrict an individual's rights to make a complaint to a federal or state agency.

Application of Policy – This policy is for Town use only and does not apply in any criminal or civil proceeding. This policy shall not be construed as a creation of higher legal standard of safety or care in an evidential sense with respect to third party claims. Violations of this policy will only form the basis for Town administrative action. Violations of law will form the basis for civil and criminal sanctions in a recognized judicial setting.

902 *Equal Employment Opportunity*

Policy Statement - The Town of Andes is an Equal Opportunity Employer. The Town does not discriminate on the basis of race, religion, color, sex, age, national origin, disability, marital status, or military status. Discrimination based on any of the above is strictly prohibited. This policy applies to all terms and conditions of employment, including, but not limited to, hiring, placement, compensation, promotion, transfer, training, leave of absence, and termination.

Notification of Policy Violations - An employee should immediately report any perceived violation of this policy to the employee's Department Head. In the event the employee is unable to discuss this matter with the Department Head, the complaint should be reported in writing to the Town Supervisor or any member of the Town Board. All complaints of discrimination will be investigated discreetly and promptly. An employee who reports discrimination will not suffer adverse employment consequences as a result of making the complaint.

Application of Policy – This policy is for Town use only and does not apply in any criminal or civil proceeding. This policy shall not be construed as a creation of higher legal standard of safety or care in an evidential sense with respect to third party claims. Violations of this policy will only form the basis for Town administrative action. Violations of law will form the basis for civil and criminal sanctions in a recognized judicial setting.

903 *Fair Treatment*

Policy Statement - It is the policy of the Town to promote a productive work environment in which all employees are treated with fairness, respect, and dignity. The Town will not tolerate harassment or discrimination of any kind in the workplace.

Notification of Policy Violations - An employee should immediately report any kind of harassment or discrimination in the workplace to the employee's Department Head. In the event the employee is unable to discuss this matter with the Department Head, the complaint should be reported, in writing, to the Town Supervisor or any member of the Town Board. All complaints of discrimination will be investigated discreetly and promptly. An employee who reports harassment or discrimination in the workplace will not suffer adverse employment consequences as a result of making the complaint.

904 **Sexual Harassment**

Policy Statement – It is the policy of the Town of Andes to promote a productive work environment. As with discrimination involving race, color, national origin, religion, disability, age, marital status, or military status, the Town of Andes prohibits sex discrimination, including sexual harassment of its employees in any form. No form of harassment will be tolerated. The Town will take all steps necessary to prevent and stop the occurrence of sexual harassment in the workplace. The accompanying complaint procedure is intended to provide an effective mechanism for reporting and resolving promptly, complaints of sexual harassment without any risk of repercussion to a complaining employee for filing a complaint of sexual harassment in good faith.

Applicability of Policy - This policy applies to all Town employees and Elected Officials regardless of supervisory level, whether employed full or part-time, temporary or seasonal, whether elected or appointed and regardless of compensation level, and all personnel in a contractual relationship with the Town. Depending on the extent of the Town's exercise of control, this policy may be applied to the conduct of non-Town employees with respect to sexual harassment of Town employees in the workplace.

Supervisory Responsibility - Department Heads and supervisory personnel are responsible for ensuring a work environment free from unsolicited, unwelcome and intimidating sexual overtures. Supervisors must take immediate and appropriate corrective action, when instances of sexual harassment come to their attention, to assure compliance with this policy.

Definition of Sexual Harassment - Sexual advances that are not welcome, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

- Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; -OR-
- Submission to or rejection of such conduct by an individual is used as the basis for employment decisions, such as promotion, transfer, or termination, affecting such individual; -OR-
- Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

Sexual harassment refers to behavior that is not welcome, that is personally and objectively offensive, that fails to respect the rights of others, that lowers morale and that, therefore, interferes with an employees' work performance and/or effectiveness or creates an intimidating, hostile or offensive working environment. Exposure to such conduct that serves to alter the terms and conditions of employment is prohibited by this policy and state and federal law.

Forms of Sexual Harassment - Specific forms of behavior that the Town of Andes considers sexual harassment and which are prohibited include, but are not limited to, the following:

- Verbal harassment of a sexual nature related to an employee's gender, including sexual innuendoes, slurs, sexual slurs, suggestive, derogatory, insulting or lewd comments or sounds, whistling, jokes of a sexual nature, sexual propositions and/or threats.
- Sexually oriented comments about an employee's body that are unwelcome and/or unreasonably interfere with an employee's work performance or create an intimidating, hostile, or offensive working environment.
- Any sexual advance that is unwelcome or any demand for sexual favors.
- Sexually suggestive written, recorded or electronically transmitted material, showing or displaying pornographic or sexually explicit objects or pictures, graphic commentaries, leering or obscene gestures in the workplace such that it unreasonably interferes with an employee's work performance or creates an intimidating, hostile, or offensive working environment.
- Physical contact of any kind, which is not welcome, including touching, grabbing, hugging, fondling, jostling, petting, pinching, coerced sexual intercourse or sexual relations, assault or intentional brushing up against a person's body.

Reporting of Sexual Harassment - Employees are encouraged to report incidents of sexual harassment to their immediate supervisor as soon as possible after their occurrence. If the employee's immediate supervisor is believed to be involved in the incident, the report should be made directly to the employee's Department Head. If the employee's Department Head is believed to be involved in the incident, the report should be made directly to the Town Supervisor or any member of the Town Board. Employees who believe they have been sexually harassed and would like to obtain guidance as to how to proceed in filing a complaint, should contact their immediate supervisor, Department Head, the Town Supervisor or any member of the Town Board.

Confidentiality - Complaints of harassment will be handled and investigated promptly and in a manner that is as impartial and confidential as possible. In no event will information concerning a complaint be released by the Town to third parties or to anyone within Town employment who is not directly involved in the investigation of the complaint unless otherwise required by law.

Investigation of Complaint – Generally, investigation of a complaint will be conducted by the complainant's Department Head or immediate supervisor and will normally include conferring with the parties involved and any named or apparent witnesses. The particular facts of the allegation will be examined individually, with a review of the nature of the behavior and the context in which the incident(s) occurred. In those instances when a Department Head or supervisor requests or requires assistance, or when the Department Head or supervisor is named in the complaint or involved in the incident, the Town Board will appoint an individual to conduct the investigation.

Employee Defense – Any employee charged with sexual harassment will be afforded a full and fair opportunity to offer and present information in the employee's defense. Such information will be confidential to the extent possible.

Employee Rights - Nothing in this policy should be construed as in any way limiting employees' rights to use the Dispute Resolution Procedure as described in this Employee Handbook or the Grievance Procedure contained in the collective bargaining agreement.

Disciplinary Action - Any employee or official who is found to have committed an act of sexual harassment will be subject to disciplinary action, up to and including termination of employment, as provided by Town operating procedures.

Prohibition Against Retaliation - Intimidation, coercion, threats, reprisal or discrimination against any employee who in good faith brings a written or verbal sexual harassment complaint or who assists or aids in the investigation of such a complaint is prohibited. Any employee who participates in the procedure may do so without fear of retaliation. Retaliation against any employee who has filed a sex discrimination or sexual harassment complaint is illegal and may result in disciplinary action.

905 *Drug-Free Workplace*

Statement of Compliance - The Federal Drug-Free Workplace Act of 1988 is applicable to all recipients of Federal grants. In order to receive federal funds, the Town must certify to the granting Federal agency that it will provide a drug-free workplace in accordance with the legislation. As a recipient of Federal grants, the Town hereby complies with the requirements of the Drug-Free Workplace Act by adopting the following policy and drug-free awareness program:

Policy Statement - It is the policy of the Town of Andes that the unlawful manufacture, distribution, dispensation, possession, or use of an illegal controlled substance as defined in the Federal Act, is prohibited on the job or at the workplace.

Implementation of Policy – This policy will be distributed to all employees and officials of the Town.

Sanctions - The unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is strictly prohibited in all workplaces and work-sites. An employee who, after investigation, is found to have violated this prohibition may be referred for counseling or rehabilitation and satisfactory treatment and will be subject to criminal, civil and disciplinary penalties, up to and including dismissal from employment.

Employee Responsibilities - As a condition of the Town receiving Federal grant monies, each employee must abide by this policy and notify the Department Head of any criminal drug statute conviction for a violation occurring in the workplace within five calendar days of the conviction.

Town Responsibilities - The Town will notify the granting federal agency within ten days after receiving notice from an employee of such a conviction or otherwise receiving actual notice of such conviction. In addition, within thirty calendar days of receiving notice of a conviction, the Town will take disciplinary action against the employee and/or require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program pursuant to Sections 702 and 703 of the Drug-Free Workplace Act.

Drug-Free Awareness Program – It is the policy of the Town of Andes to maintain a drug-free workplace. In accordance with that policy, the Town is providing the following drug-free awareness information to raise employee awareness of the dangers associated with the drug abuse in the workplace.

Dangers of Drug Abuse in the Workplace - Employees with chemical dependence problems have a major negative impact on productivity, staff moral, and labor/management relations. Their hidden illness is responsible for:

1. Declining Performance

- poor concentration
- confusion in following directions
- noticeable change in the quality of work
- inability to meet deadlines
- errors in judgment affecting the health and safety of others
- customer complaints and injuries

2. Increased Costs

- five times the average sick and accident benefits
- higher job turnover, replacement and training costs
- greater workers' compensation and health insurance payments
- 3 to 5 times more on-the-job accidents
- unemployment claims

3. Absenteeism and Tardiness

- double the normal rate
- repeatedly being late for work and often leaving early
- extended lunch hours
- frequent illness and accidents both on and off the job

4. Damaged Relationships

- emotional outbursts, over-reaction to criticism, mood swings, complaints from co-workers, associates and the public often leading to damaged relations

906 *Controlled Substance and Alcohol Testing*

Statement of Compliance - The Town Board has adopted a Controlled Substance and Alcohol Testing Policy that is in compliance with the "Omnibus Transportation Employee Testing Act of 1991" (OTETA). The purpose of this policy is to reduce accidents resulting from an employee's use of controlled substances and alcohol, thus reducing fatalities, injuries and property damage.

Covered Employees - The Town's Controlled Substance and Alcohol Testing Policy applies to all covered drivers as defined by the federal regulations, which includes all employees who drive commercial motor vehicles (as defined in Sec. 382.107 of the OTETA) requiring a commercial driver's license to operate.

Acknowledgment Form - A covered employee will receive a written copy of the Controlled Substance and Alcohol Testing Policy and must sign an Employee Acknowledgment Form. This form will be placed in the employee's personnel file.

907 *Smoking*

Policy Statement - It is the policy of the Town to prohibit smoking in all Town buildings. Smoking is allowed in Town vehicles only if all passengers in the vehicle agree that is permissible.

1000 SAFETY

1001 Workplace Safety

Policy Statement - Prevention of injury and illness in the workplace requires the cooperation of all employees in all safety and health matters. It is the policy of the Town to reduce the number of workplace injuries and illnesses to an absolute minimum. Accidents can be prevented through use of reasonable precautions and the practice of safe working habits.

Employee Responsibility - In an effort to protect all employees and to safeguard equipment and property, before an employee begins a given task, it is the employee's responsibility to understand the correct operation and possible hazards involved, safety procedures, and necessary safety equipment required to perform the job.

Safety Program - The Town's safety program includes, but is not limited to, the following:

- Providing mechanical and physical safeguards to the maximum extent possible;
- Conducting inspections to find and eliminate unsafe working conditions and practices, control health hazards, and comply with the safety and health standards for every job;
- Training all employees in safety and health practices;
- Providing necessary personal protective equipment and instructions for its use and care;
- Developing and enforcing safety and health rules and requiring that employees cooperate with these rules as a condition of employment;
- Investigating, promptly and thoroughly, every accident to find the cause and correct the problem to prevent future occurrences;
- Providing First Aid kits and fire extinguishers throughout buildings and facilities.

Accident Plan - In the event of an accident, an employee must immediately stop work and take the following steps:

- Eliminate the immediate cause of the accident;
- Provide aid to the injured person and summon for assistance;
- Call the Department Head immediately;
- If the accident appears serious, call an ambulance; and
- Take steps to prevent additional accidents.

Accident Reporting Procedures - In the event an accident occurs in the workplace or in the course of employment, the following procedures will apply:

- When an accident occurs which results either in the loss of an employee's work time, or in the provision of medical care to an employee, the employee must immediately notify the Department Head who will in turn notify the Benefits Administrator. The Benefits Administrator must complete an *Employer's Report of Injury Form (C-2)* and submit according to operating procedures.
- When an accident occurs which does not result in the loss of an employee's work time, or in the provision of medical care to the employee, the employee must immediately notify the Department Head who will in turn notify the Benefits Administrator. The Department Head must complete a *Supervisor's Report of Incident Form*.
- The Benefits Administrator must keep a log of the injury or illness for five years following the end of the calendar year to which it relates. A copy of this log, which includes totals and information for the year, must be posted in each department or areas where notices to employees are customarily posted.

1002 Hazard Communication Program

Statement of Compliance - The Town of Andes is committed to providing a safe and healthy work environment and complies with all Federal, State and local laws regarding hazard recognition, accident prevention, and working conditions. The Town considers Hazard Communication and the prevention of workplace injuries and illnesses to be of prime importance.

Guidelines - The following guidelines for the identification of chemical hazards and the preparation and proper use of containers, labels, placards, and other types of warning devices must be adhered to:

- **Chemical Inventory** - The Town must maintain an inventory of all known chemicals in use. An employee may obtain the chemical inventory from the employee's supervisor or Department Head.
- **Container Labels** - All chemicals on a work-site must be stored in the original or approved containers with the proper label attached. The Department Head must ensure that each container is labeled with the identity of the hazardous chemical contained and any appropriate hazard warnings. The Town will rely on manufacturer applied labels whenever possible. A container that is not labeled or on which the manufacturer's label has been removed, must be properly labeled. A container not properly labeled must be given to the Department Head for labeling or proper disposal.
- **Dispensing Chemicals** - An employee may dispense chemicals from original containers only in small quantities intended for immediate use. Any chemical leftover must be returned to the original container or to the Department Head for proper handling. No unmarked containers of any size are to be left in the work area unattended.

Material Safety Data Sheets (MSDS) - An employee working with a Hazardous Chemical shall obtain a copy of the Material Safety Data Sheet (MSDS) and a standard chemical reference from the employee's Department Head.

Employee Training - An employee must be trained to work safely with hazardous chemicals. This training program must cover the following areas:

- Methods used to detect the release of hazardous chemicals in the workplace;
- Physical and health hazards of chemicals and the measures used to protect employees;
- Safe work practices;
- Emergency responses to the exposure of hazardous chemicals;
- Proper use of personal protective equipment; and
- Hazard Communication Standards, including labeling and warning systems, and an explanation of the use of Material Safety Data Sheets.

Personal Protective Equipment (PPE) - Depending on job duties, an employee must routinely wear protective devices, such as gloves and safety glasses, as directed by the supervisor. An employee who is required to wear special safety equipment as directed by the supervisor must comply with the supervisor's request.

Emergency Response - Any incident of overexposure or spill of a hazardous chemical/substance must immediately be reported to the employee's supervisor. The supervisor must insure that proper emergency response actions are taken.

Hazards of Non-Routine Tasks - The Department Head must inform employees of any special tasks that may arise which would involve possible exposure to hazardous chemicals. Review of safe work procedures and use of required PPE must be conducted prior to the start of these tasks. Where necessary, areas will be posted to indicate the nature of the hazard involved.

1100 COMMUNICATION PROCEDURES

1101 *Bulletin Board*

Summary - Bulletin boards are located throughout Town buildings for communicating information to employees. An employee should check the bulletin boards frequently to keep informed on changes in employment matters and other items of interest.

Posting of Material – Except as otherwise provided by the collective bargaining agreement, all material to be posted on bulletin boards, including memos and announcements, must have the prior approval of the appropriate Department Head.

1102 *Adverse Correspondence*

Written Communication - An employee who receives a memo, fax message, letter, telegram, legal notice, e-mail, summons, or other form of communication of a negative nature must immediately forward the document to the appropriate Department Head.

Verbal Communication - An employee who receives a verbal complaint from a Town resident of unfair treatment or expressions of anger or dissatisfaction must immediately notify the appropriate Department Head, who will in turn immediately notify the Town Supervisor.

1103 *Suggestions*

Policy Statement - Giving and receiving feedback is encouraged in order to promote a positive, productive, and cooperative atmosphere. Employees should notify their supervisor or Department Head of any suggestions which may be valuable to the Town's productivity and success. All suggestions will be carefully reviewed and implemented if feasible.

1104 *Public Relations*

Policy Statement - The courteous, professional treatment of members of the public by all employees helps to build confidence among the taxpayers we serve. Among other inappropriate behavior, an employee or Elected Official shall not use improper language in dealing with the public on Town property or while engaging in Town business. We ask that all employees make every effort to represent the Town in a polite and professional manner.

1200 DISPUTE RESOLUTION

1201 *Dispute Resolution Procedure*

Policy Statement - The Town Board has established a set of procedures to provide for the orderly resolution of differences at the earliest possible stage and to promote a harmonious and cooperative relationship between employees, Department Heads and members of the Town Board which will enhance the overall operation of the Town. The Town will attempt to resolve all work-related complaints that are appropriate for handling under this policy.

Definition of Dispute - For the purpose of this Employee Handbook, a "dispute" will mean a claimed violation, misinterpretation or inequitable application of any of the provisions of this Employee Handbook. In addition, the term "dispute" shall not apply to any matter as to which the Town is without authority to act. Examples of matters that may be considered appropriate disputes under this policy include:

- A belief that Town policies, practices, rules, regulations, or procedures have been applied in a manner detrimental to an employee;
- Treatment considered unfair by an employee, such as coercion, reprisal, harassment, or intimidation;
- Alleged discrimination because of race, color, sex, age, religion, national origin, marital status, or disability; and
- Improper or unfair administration of employee benefits or conditions of employment such as scheduling, vacations, fringe benefits, promotions, retirement, holidays, salary, or seniority.

Step One - An employee who claims to have a dispute may present the dispute to the employee's Department Head. The dispute must be submitted, in writing, within seven working days following knowledge of the event(s) which caused the dispute or when the employee should have had knowledge. The dispute will specify the date of submission, the name of the aggrieved employee, the date the dispute arose, the nature of the dispute, the provision of the Employee Handbook that was allegedly violated and a statement of facts, times, dates, and the remedy sought.

Within seven working days after receiving the dispute, the employee's Department Head will meet with the employee to discuss and attempt to resolve the matter.

Step Two - In the event the informal dispute is not resolved at Step One, or the employee reasonably believes that the employee cannot present the dispute to the employee's Department Head, the employee may submit the matter to the Town Supervisor. The dispute must be submitted, in writing, within seven working days from receiving the Step One response, or when the response should have been received or if Step One is not utilized for the above reason, within seven working days following knowledge of the event(s) which caused the dispute or when the employee should have had knowledge.

Within seven working days after receiving the dispute, the Town Supervisor will meet with the employee to discuss and attempt to resolve the matter. Within seven working days from the meeting, the Town Supervisor will issue a written response.

Step Three - In the event the employee is not satisfied with the response at Step Two, the employee may submit the matter to the Town Board by filing a Request for Hearing with the Town Clerk. The Request for Hearing must be submitted, in writing, within seven working days from receiving the Step Two response, or when the response should have been received. The Request for Hearing will include a written statement of the dispute as outlined in Step One of this Procedure.

The Town Board will set the time and place for the hearing. All decisions rendered by the Town Board will be final and binding.

Time Limits - The employee must adhere to the time limits set forth in this dispute procedure. In the event the employee does not advance the dispute to the next step within the established time limit, the dispute will be considered withdrawn and no further appeal will be accepted. The time limits may be extended by mutual agreement provided the extension is in writing, dated and signed by the employee and the person who is to receive the dispute.

Final Decisions - Final decisions on disputes will not be precedent-setting or binding on future disputes unless they are stated as official Town policy.

Proper Use of Dispute Resolution Procedure - Employees will not be penalized for proper use of the dispute resolution procedure. However, it is not considered proper use if an employee raises a dispute in bad faith or solely for the purposes of delay or harassment, or repeatedly raises meritless disputes. Implementation of the dispute procedure by an employee does not limit the right of the Town to proceed with any disciplinary action that is not in retaliation for the use of this procedure.

Refusal to Proceed with Dispute - The Town Board may, at its discretion, refuse to proceed with any dispute it determines is improper or baseless under this policy.

Union Employees - An employee who is a member of a collective bargaining unit should refer to the applicable collective bargaining agreement to determine if the employee's dispute (grievance) may be subject to the grievance procedure contained in the employee's collective bargaining agreement.

1300 EMPLOYEE ACKNOWLEDGEMENT FORM

Detach and place in employee's personnel file.

TOWN OF ANDES

EMPLOYEE HANDBOOK ACKNOWLEDGMENT

I hereby acknowledge that I have received a copy of the *Town of Andes Employee Handbook* outlining the rules, regulations, procedures, practices, work standards, employment classifications, compensation, and benefits of the Town of Andes. I further acknowledge that I have read, or will read, the contents of the Employee Handbook and will contact my Department Head or the Town Supervisor if I have any questions.

I understand that the Employee Handbook is not meant to create a contract of employment, nor should it be construed as creating a contract of employment and that the Town Board of the Town of Andes reserves the right to interpret, change or modify any section of the Employee Handbook at any time.

I understand that, if I am covered by a collective bargaining agreement between the Town of Andes and an employee organization as defined by the Public Employees' Fair Employment Act, in the event an expressed and explicit provision set forth in a collective bargaining agreement should conflict with an employee benefit, personnel policy, personnel procedure, or other provision set forth in the Employee Handbook, the expressed and explicit provision of the collective bargaining agreement will control. Otherwise, unless expressly excluded herein, the Employee Handbook is applicable to all employees.

I agree to abide by the personnel policies, procedures, rules and regulations outlined in the Employee Handbook.

I understand that the Employee Handbook and the changes contained herein are intended to supersede all prior manuals and guidelines issued by the Town of Andes.

Employee name (please print)

Department Head Name (please print)

Employee Signature

Department Head Signature

Date of Signature

Date of Signature