

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, AMENDING CHAPTERS 5, 6 AND 7 OF THE TOWN OF PROSPER PERSONNEL POLICIES AND PROCEDURES MANUAL RELATIVE TO MAXIMUM VACATION ACCRUAL, ON-CALL PAY, AND EMPLOYEE CONDUCT, TO THE EXTENT REFERENCED HEREIN; AFFIRMING AND ADOPTING SAID POLICY AMENDMENTS AND THE CURRENT PERSONNEL POLICIES AND PROCEDURES MANUAL, AS HEREBY AMENDED; PROVIDING FOR REPEALING, SAVINGS AND SEVERABILITY CLAUSES; AND PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE.

WHEREAS, the Town Council of the Town of Prosper, Texas ("Town Council"), is required, pursuant to Section 4.06 of the Town Charter, as amended, to adopt personnel rules for the Town, after preparation of same by the Town Manager; and

WHEREAS, the Town Manager and Town staff have studied and recommended the adoption of certain amendments to the current Town of Prosper Personnel Policies and Procedures Manual; and

WHEREAS, the proposed amendments are for the betterment of the working conditions of Town employees and are generally consistent with other area local governments and their personnel policies; and

WHEREAS, the Town Council also hereby affirms and adopts the current Personnel Policies and Procedures Manual, subject to the following amendments, as mandated by Section 4.06 of the Town Charter.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, THAT:

SECTION 1

The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

SECTION 2

From and after the effective date of this Ordinance, Subpart A of Subsection II, "Maximum Accruals," of Section 5.02, "Vacation," of the Town of Prosper Personnel Policies and Procedures Manual is hereby amended to read as follows:

- "A) Except for Fire Department shift employees, the maximum allowed accrual carryover of vacation time is 240 hours per calendar year (January through December). The maximum carryover for Fire Department shift employees is 360 hours per calendar year (January through December). The maximum accrual carryover for part-time employees regularly scheduled to work 1,000 hours or more per year is one-half the maximum accrual rate of regular full-time employees (i.e., 120 hours). Any vacation hours exceeding the maximum rates shall be purged effective January 1 of each year."

SECTION 3

From and after the effective date of this Ordinance, Subpart A of Subsection III, "Compensation," of Section 6.04, "Response Time and On-Call Duty," of the Town of Prosper Personnel Policies and Procedures Manual is hereby amended by deleting the reference to "Public Works Department (Utilities/Water-Wastewater divisions)" in said Subpart and replace it with "Public Works Department and Parks Maintenance."

SECTION 4

From and after the effective date of this Ordinance, existing Chapter 7, "Employee Conduct," of the Town of Prosper Personnel Policies and Procedures Manual is hereby amended by repealing said Chapter in its entirety and replacing it with a new Chapter 7, "Employee Conduct," to read as follows:

"CHAPTER 7 EMPLOYEE CONDUCT

SECTION 7.01 EMPLOYEE CONDUCT AND WORK RULES/DISCIPLINARY ACTION

To ensure orderly and productive operations and provide the best possible work environment, the Town of Prosper requires employees to follow rules of conduct that will protect the interests and safety of the Town, its citizens, and employees.

I. Progressive Discipline

In general, the Town will use a progressive disciplinary system. The Town is not obligated to use all of the progressive disciplinary steps available to it, and may begin the disciplinary process at any level, up to and including immediate discharge, depending upon the severity of the conduct, the employee's work performance and prior disciplinary history, the employee's length of service, and any mitigating circumstances. Depending on the circumstances of each individual case, disciplinary action may consist of one or more of the following:

- Oral warning/employee consultation/verbal reprimand;
- Written reprimand;
- Disciplinary probation;
- Suspension without pay;
- Salary reduction or demotion; or
- Dismissal.

II. Documentation

All discipline, other than documented oral warning/employee consultation/verbal reprimand, must be sent to the Human Resources Department for placement in the employee's personnel file.

III. Supervisory Responsibility

- A) All employees with the responsibility and authority to supervise and direct employees under their control shall:

- administer policies and procedures within their scope of authority;
- document their subordinates job performance, conduct, and behavior as appropriate;
- conduct evaluations of subordinates in a timely manner; discipline their subordinates as appropriate;
- address performance appeals submitted to them as provided by policy in a professional manner, in an attempt to resolve such issues at the lowest possible supervisory level.

B) Prior to any disciplinary action being administered, the supervisor will conduct a thorough examination of the situation before deciding to take any disciplinary action and discuss proposed action with his/her department director.

IV. Documentation

All forms of discipline must be documented. All discipline, other than documented oral warning/employee consultation/verbal reprimand, must be sent to Human Resources for placement in the employee's personnel file.

When a Supervisor issues the Employee Consultation Form to document an oral warning/employee consultation/verbal reprimand, he must either forward it to Human Resources where it will be placed in the employee's personnel file or, alternatively, the supervisor can keep it in a confidential departmental file, to be referred to, if appropriate, in subsequent performance evaluations, disciplinary actions, or other personnel actions. If further discipline is taken against the employee subsequent to the documented oral warning/employee consultation/verbal reprimand for the same or similar conduct, then the supervisor must also send the documented oral warning/employee consultation/verbal reprimand to Human Resources where it will be placed in the employee's personnel file to show the Town's use of progressive discipline. All discipline (including documented oral warnings/employee consultations/verbal reprimands) and other personnel records must be preserved in accordance with Town policy.

V. Supervisory Responsibility

A) All employees with the responsibility and authority to supervise and direct employees under their control shall administer policies and procedures within their scope of authority; document their subordinates' job performance, conduct, and behavior as appropriate; properly conduct evaluations of subordinates in a timely manner; discipline their subordinates as required under their departmental and/or Town policies and procedures as well as address performance appeals submitted to them as provided by policy in a professional manner, in an attempt to resolve such issues at the lowest possible supervisory level.

B) Prior to any disciplinary action being administered, the supervisor will conduct a thorough examination of the situation before deciding to take any disciplinary action and discuss proposed action with his/her department director.

VI. Disciplinary Conference

A disciplinary conference will be scheduled prior to the imposition of a disciplinary suspension of one (1) day (or one (1) shift) or more, demotion or termination. The department director, affected employee, the Town Manager and anyone else deemed necessary by the department director typically attend the disciplinary conference. During the conference, the affected employee will be given an opportunity to present an explanation of the conduct leading up to the proposed disciplinary action. Employees will be given advance notice of the conference. Employees may, in the Town's sole discretion, be placed on administrative leave prior to, during, or after the disciplinary conference. The employee will be notified of the Town's determination following the conference.

VII. Appeal Rights

An employee who has received discipline in excess of an oral warning/employee consultation/verbal reprimand may request a Disciplinary Review Hearing in accordance with Disciplinary Review Hearing Policy. However, positions classified as director level and above are employed at the will and pleasure of the Town Manager and have no right of appeal for any type of disciplinary action, including termination. Those employees employed by a written contract, probationary, temporary, and seasonal employees likewise have no right of appeal for disciplinary action taken against them and are also exempted from the application of this policy.

VIII. Prohibited Activities

Disciplinary action will be imposed for violations of Town or departmental policies and procedures, codes of conduct, and rules and regulation, either written or verbal. In addition, acts which are not specifically addressed in policies and procedures, codes of conduct, and rules and regulation, yet may adversely affect the Town or put the health and safety of fellow employees, citizens, or other third parties at risk may also result in disciplinary action. It is impossible to list all the forms of behavior that are considered unacceptable in the workplace. The following work rules relating to personal conduct are intended to provide minimum guidelines for employee conduct and work performance, and to inform employees of prohibited conduct. Engaging in one or more of the following forms of prohibited conduct may result in disciplinary action up to and including termination:

A) Work Performance

- (1) Inefficiency or incompetence in the performance of duties.
- (2) Neglect or carelessness in the performance of duties
- (3) Careless, negligent or improper use of Town property or equipment.
- (4) Failure to satisfactorily meet performance standards for the position.
- (5) Failure to meet or maintain specified conditions of employment, such as failure to obtain or maintain a license or certificate required as a condition for performing a job.
- (6) Violation of Town or departmental policies, codes of conduct, rules and procedures.

B) Attendance and Punctuality

- (1) Improper use of leave privileges, including, but not limited to, excessive or unscheduled absenteeism, tardiness in reporting for work or returning from breaks and meal breaks, or absence without notice and/or approval.
- (2) Failure to promptly notify supervisor of absence.
- (3) Separate absences or days of tardiness which exceed the average absences or days of tardiness of the employee's work group and which lack sufficient justification.
- (4) Absence or tardiness that causes significant curtailment to disruption of services without sufficient justification.
- (5) Abandonment occurs when an employee deliberately and without authorization is absent from the job, or refuses a legitimate order to report to work, for three (3) consecutive work days. In such case, an employee is deemed to have abandoned his/her job and shall be terminated.
- (6) Any employee who is absent due to an extended illness or injury leave after all eligible leave has been exhausted, except when the employee's absence is covered by the Family and Medical Leave Act.
- (7) Excessive failure to remain at one's work station without notifying his supervisor, leaving work without permission, or taking excessive time or more time than allowed for eating or break periods.

C) Personal Conduct

- (1) Insubordination, failure or refusal to follow lawful orders, or other disrespectful or unprofessional conduct.
- (2) Failure to follow routine written or verbal instructions; arguing over assignments or instructions or an accumulation of other deficiencies indicating the employee's continuing failure to adequately perform in a productive, efficient, and competent manner.
- (3) Unnecessarily disrupting the work of other employees, or interfering with work schedules or another employee's ability to work.
- (4) Operating or conducting gambling on the job or on Town property.
- (5) Violating safety rules or practices which may endanger the employee or others or damages Town property or equipment.
- (6) Playing tricks or jokes or engaging in horseplay that adversely affects job performance or creates potential safety issues.
- (7) Engaging in personal business while on duty without authorization of his or her supervisor, including reading unauthorized material, playing games, watching television, movies or other forms of entertainment, internet shopping, accessing unauthorized or inappropriate websites, unauthorized email usage, or otherwise engaging in entertainment while on the job and/or in public view.
- (8) Misuse of Town telephones, computers, mail systems, etc.
- (9) Utilizing Town data or information systems for any reason other than Town business.
- (10) Unauthorized alterations, removal, destruction, or disclosure of Town records.
- (11) Failure to report damage to Town equipment or property of others.

- (12) Dishonesty, including misrepresentation during the hiring process, or any other falsifying action detrimental to the Town, Town employees, or others.
- (13) Failure to timely return to work upon conclusion of authorized leave or disciplinary suspension.
- (14) Falsely reporting illness or injury, or otherwise attempting to deceive any official of the Town as to a health or medical condition.
- (15) Sleeping on the job (except for Fire Department personnel who are governed by applicable Fire Department Rules and Regulations).
- (16) Indifference toward work, including inattention, loafing, carelessness, or negligence.
- (17) Violation of any local, state, or federal law.
- (18) Conviction of a felony or Class A or B misdemeanor, including reasonable belief by the Town that the employee has committed a crime under the Texas Penal Code, or repeated conviction of Class C misdemeanor charges.
- (19) Misusing or failing to use delegated authority in the performance of duties.
- (20) Engaging in any employment activity or enterprise which conflicts with, or potentially conflicts with, Town interest.
- (21) Acceptance of payment of any kind for activities related to Town employment.
- (22) Unauthorized use, possession, or removal of Town property, including aiding in, or encouraging the unauthorized use, possession, or removal of Town property, or other property not belonging to the employee.
- (23) Appropriating Town property, e.g., equipment, furniture, or construction materials which have been abandoned or discarded.
- (24) Conduct which results in waste or damage of a coworker's, the Town's, or a citizen's property.
- (25) Causing or contributing to an accident by operating equipment in an unsafe or unauthorized manner.
- (26) Willful damage to or defacing of public property or willful waste of public supplies, service, or equipment.
- (27) Using Town property or equipment without authorization.
- (28) Discourteous or irresponsible treatment of the public, other employees, or third parties.
- (29) Using abusive language.
- (30) Making derogatory racial, age, ethnic, or sexist remarks.
- (31) Fighting, provoking, or instigating a fight, or threatening violence, or any other disruption of the work area.
- (32) Coercion, intimidation, or threats against citizens, supervisors, co-workers, Town officials, or others.
- (33) Possession, distribution, sale, transfer, or use of alcohol, a controlled substance (as defined in the Texas Health and Safety Code) or illegal drugs in the workplace, while on duty, or while operating Town-owned equipment.
- (34) Working and/or operating Town-owned equipment under the influence of alcohol, a controlled substance (as defined in the Texas Health and Safety Code) or illegal drugs.
- (35) Discrimination or harassment on the basis of race, color, religion, sex, national origin, disability, age, or other protected classification.

- (36) Falsification of timekeeping or other records, including employment application.
- (37) Using an official position or office for economic gain or soliciting favors or gratuities for performing services required by the employee's position.
- (38) Unauthorized disclosure of confidential information.
- (39) Unauthorized use or possession of Town funds.
- (40) Employees may be disciplined, up to and including termination, for conduct which occurs during or outside regularly scheduled working hours, which, on becoming public knowledge, could impair the public's confidence or trust in the operation of Town government.
- (41) An employee shall maintain sufficient competence to properly perform his duties and to assume the responsibilities of his position. He shall direct and coordinate his efforts in a manner that will tend to establish and maintain the highest standards of efficiency in carrying out the functions and objectives of the Town. The fact that an employee was deemed competent at the time of employment shall not preclude a judgment of incompetence as a result of job performance deficiencies. Apart from or in addition to, other methods of proof of incompetence, such as failure to achieve and maintain acceptable job proficiency and to accept and execute duties, responsibilities, instructions and orders with minimum supervision, a written record of repeated disciplinary actions for infractions of policies, rules, regulations, manuals or directives, or repeated adverse counseling reports and/or evaluations reflecting a need for improvement or indicating performance inadequacies, will be considered prima facie evidence of incompetence.
- (42) No employee shall make known any information concerning the progress of an investigation, a known or reported law violation, a condition against which action is to be taken at a future time or any proposed law enforcement action to any person not authorized to receive it. No employee shall use information gained from any Town information system for anything other than official Town business.
- (43) An employee shall cooperate in an internal investigation in which he/she is the primary focus, or for which he/she is a witness or affected party.
- (44) Any criminal offense or immoral conduct, during or after working hours, which, on becoming public knowledge, could have an adverse effect on the Town or the confidence of the public in Town government. "Criminal offense" means any act constituting a violation of law and/or resulting in charges being filed, arrest or confinement.

IX. Felonies and Misdemeanors

Employees must immediately notify their supervisor and/or department director if they are arrested, charged, indicted, convicted, receive deferred adjudication, or plead nolo contendere to any misdemeanor or felony. Employees who do not drive as a part of their job duties with the Town are not required to report minor traffic violations.

X. Administrative Leave

During an investigation into alleged offenses or violations of Town policies, the Town may, in its sole discretion, place the employee on administrative leave. The leave may be with or without pay.

SECTION 7.02

DISCIPLINARY REVIEW HEARING

It is the policy of the Town of Prosper to give individual employees an opportunity for a hearing regarding disciplinary actions. Disciplinary review hearings are designed to be heard according to prescribed guidelines as set forth in the following procedures. The disciplinary review hearing process is designed to afford the employee a responsive forum; however, nothing in this policy shall be construed as a grant to any employee of a property right in tenured public employment. All employees are employed strictly on an at-will basis.

I. General Disciplinary Review Hearing Information

- A) An employee who has received discipline in excess of an oral warning/employee consultation/verbal reprimand may request an informal or formal disciplinary review hearing.
- B) Since it is important that disciplinary review hearings be resolved as rapidly as possible, time limits, as set out in the following paragraphs, shall be considered a maximum and every effort shall be made to expedite the process. In the event the last day of a time limit falls on a weekend or a Town holiday, the time limit shall include the next working day.
- C) All requests for disciplinary review hearings must be filed with the Human Resources Department. An employee shall choose whether he desires to pursue an informal or formal disciplinary review hearing process and shall indicate his or her choice on the form. All decisions rendered in response to disciplinary review hearings must be in writing to the employee.
- D) An employee who requests a disciplinary review hearing must inform the Human Resources Department in writing of his correct mailing address and telephone number. Failure to provide current mailing address and telephone information may result in administrative closure of the disciplinary review hearing.

II. Informal Hearing Process

- A) An employee who has received discipline in excess of an oral warning, employee consultation, and/or verbal reprimand may request an informal hearing.
- B) The employee must make the request for the informal hearing in writing within three (3) working days after receiving notification of an action taken. The written request must set forth the specific reasons why the employee feels the action is not justified.
- C) By requesting an informal hearing, the employee shall waive a formal hearing.
- D) Upon receipt of the request for an informal disciplinary review hearing, the Town Manager will assign a Hearing Officer. The appointed Hearing Officer will be a disinterested party.

- E) The informal hearing will consist of the employee, the department director and/or the supervisor who imposed the disciplinary action, the Hearing Officer. The employee and the department director and/or the supervisor who imposed the disciplinary action will each have the opportunity to address the hearing with information concerning the appeal.
- F) An informal hearing will be conducted within ten (10) working days of the employee's request for an informal hearing, unless an extension is agreed upon by the parties.
- G) Upon conclusion of the hearing, the Hearing Officer will make a decision and recommendation to the Town Manager within five (5) working days from the date of the hearing. The Town Manager will make a final determination within twenty (20) working days of receipt of the Hearing Officer's decision and recommendation. The Town Manager's decision is final and non-appealable.

III. Formal Hearing Process

- A) An employee who has received discipline in excess of an oral warning/employee consultation/verbal reprimand may request a formal hearing.
- B) The employee must make the request for the formal hearing in writing within three (3) working days after receiving notification of an action taken. The written request must set forth the specific reasons why the employee feels the action is not justified.
- C) Upon receipt of the request for a formal disciplinary review hearing, the Town Manager will assign a Hearing Officer. The appointed Hearing Officer will be a disinterested party.
- D) A formal hearing may include the presentation of evidence, witnesses, and justification of the action taken against the employee. The formal hearing will be heard by a Hearing Officer according to guidelines outlined in Subsection IV, below.
- E) A formal hearing will be conducted within ten (10) working days of the employee's request for a formal hearing, unless an extension is agreed upon by the parties.
- F) Upon conclusion of the hearing, the Hearing Officer will make a decision and recommendation to the Town Manager within five (5) working days from the date of the hearing. The Town Manger will make a final recommendation within twenty (20) working days of receipt of the Hearing Officer's decision and recommendation. The Town Manager's decision is final and non-appealable.

IV. Hearing Procedure for Formal Hearings

Any formal hearing shall proceed as follows: Town representative(s) shall be allowed to make a presentation of the Town's case, explaining and detailing the reasons for the disciplinary action imposed. Such presentation may include the production of witnesses and/or documentation supporting the disciplinary action imposed. After the Town's

presentation, the employee shall be permitted to ask questions and/or cross examine witnesses. Thereafter, the affected employee shall be permitted to make any statements or produce witnesses and/or documentation on the employee's behalf. After the employee's presentation, the Town representative shall be permitted to ask questions and/or cross-examine witnesses. Both sides shall be permitted to ask questions and/or cross examine witnesses. Both sides shall be permitted to make a closing statement, if desired. At any time during the hearing, the Hearing Officer may ask questions of the Town's representative(s), the employee and any witnesses. The hearing presentation or procedure referenced herein may be modified and there is no absolute right to any hearing procedure or presentation. Further, the failure to follow any hearing presentation or procedure referenced herein does not create any additional appeal rights.

SECTION 7.03 POLITICAL ACTIVITIES

Town of Prosper employees will not be appointed or retained on the basis of their political support or activities. Town employees are encouraged to vote and to exercise other prerogatives of citizenship consistent with state and federal law and these policies.

Town employees may not:

- Engage in political activities relating to a campaign for elective office while in uniform or on active duty.
- Publicly endorse or campaign in any manner for any person seeking a Town public office.
- Use his position or office in any advertisement or endorsement of products, persons, or activities, without exclusive authorization by the Town Council to coerce political support from employees or citizens.

Employees who become a candidate or otherwise decide to seek or assume a Town office must immediately resign their employment.

Employees appointed to Town offices shall be required to resign their employment upon acceptance of the office.

CHAPTER 7.04 ATTENDANCE AND WORK HOURS

I. Regular Work Hours

Non-exempt employees of the Town, except for Fire Department and Police Department shift personnel, normally work forty (40) hours in a seven (7) day work week. Exempt employees may be required to work in excess of forty (40) hours. The work week begins on Saturday and ends on Friday. The regular work day normally begins at 8:00 a.m. and ends at 5:00 p.m.

II. Adjustment to Work Hours

In order to assure the continuity of Town services, it may be necessary for department directors to establish other operation hours for their departments. Work hours and work shifts must be arranged to provide continuous service to the public. Employees are expected to cooperate when asked to work overtime or a different schedule. Acceptance of work with the Town includes the employee's acknowledgement that changing shifts or

work schedules may be required, and includes that he/she will be available to do such work.

III. Meal Periods

- A) Every effort will be made to ensure that all full-time employees receive a daily meal break during each shift. There may be instances, however, when an employee may not receive a scheduled meal break due to scheduling and/or the nature of the work.
- B) Full-time employees (excluding Fire Department and Police Department shift personnel) are normally provided a one-hour unpaid meal break near the middle of the work day. Meal periods may be staggered by the department director in order to minimize departmental interruption. Supervisors will provide employees with the starting and ending times for their specific meal periods. Employees will be relieved from work responsibilities during unpaid meal breaks. Employees may not extend meal breaks beyond their assigned period, without prior supervisor approval.

IV. Rest Breaks

- A) Full-time employees may, depending on individual department work schedules and the discretion of their supervisor, take up to two (2) fifteen (15) minute, paid breaks each day, one during the first part of the work day and the other during the latter part of the work day.
- B) Rest breaks shall be considered a privilege and not a right and shall never interfere with proper performance of an employee's work responsibilities and department work schedules.
- C) Rest breaks must be taken at, near, or in route to or from work sites within the fifteen-minute limits or as outlined in departmental policies. Employees whose work sites and or work schedules do not permit opportunities to obtain food or beverages should plan ahead and take provisions with them to the work sites.

V. Attendance Records

Employees are expected to be at their work stations and ready to work at their scheduled start time. Non-exempt employees are required to record the number of hours worked each day, as well as the time they arrived at work, the time they left for and returned from lunch, and the time(s) they left for and returned from any unpaid break during the work day.

VI. Attendance and Punctuality

To maintain a safe and productive work environment, the Town expects employees to be reliable and punctual in reporting to work. Absenteeism and tardiness are disruptive and place a burden on the Town and on co-workers. Either may lead to disciplinary action, up to and including termination of employment. The employee must disclose to his/her supervisor the reason for the absence or tardiness and the date and time of his/her anticipated arrival or return. For absences of a day or more, the employee must

personally notify his/her supervisor on each day of his/her absence unless the supervisor expressly waives this requirement.

In most instances, an employee who fails to properly notify his/her supervisor in advance of an absence or when he or she will be tardy will be subject to disciplinary action up to and including termination of employment. An employee who fails to notify the Town of an absence and is absent for a period of one (1) working day or shift may be presumed to have voluntarily resigned his/her employment.

VII. Proof of Need for Absence

In the case of absenteeism, if the supervisor has reason to suspect abuse, he or she may require the employee to present satisfactory proof of the need for the employee's absence.

SECTION 7.05 SEXUAL AND OTHER UNLAWFUL HARASSMENT

The Town of Prosper is an equal opportunity employer. Employment discrimination on the basis of race, religion, color, sex, national origin, age, disability, marital status, veteran status, citizenship, or any other characteristic protected by law, is prohibited. All Town employees are entitled to a workplace free of unlawful harassment by management, supervisors, co-workers, citizens, and vendors. Town employees are also prohibited from harassing other employees, citizens, vendors, and all other third parties.

I. Sexual Harassment

- A) One form of unlawful discrimination is sexual harassment. Unwelcome sexual advances, 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 a basis for employment decisions 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 work environment.
- B) Sexual harassment may include a range of subtle behaviors and may involve individuals of the same or different gender. Conduct prohibited by this policy includes, but is not limited to sexual advances; requests for sexual favors; sexual jokes and innuendo; verbal abuse of a sexual nature; commentary about an individual's body, sexual prowess, sexual preference, or sexual deficiencies; leering, whistling, or touching; insulting or obscene comments or gestures; display in the workplace of sexually suggestive objects or pictures; and other physical, verbal, or visual conduct of a sexual nature.

II. Other Prohibited Harassment

In addition to the Town's prohibition against sexual harassment, harassment on the basis of any other legally protected characteristic is also strictly prohibited. This means that verbal or physical conduct that singles out, denigrates, or shows hostility or aversion

toward someone because of race, religion, color, national origin, age, disability, veteran status, citizenship, or any other characteristic protected by law is also prohibited. Prohibited conduct includes, but is not limited to, epithets, slurs, and negative stereotyping; threatening, intimidating, or hostile conduct; denigrating jokes and comments; and writings or pictures that single out denigrate or show hostility or aversion toward someone on the basis of a protected characteristic. Conduct, comments, or innuendoes that may be perceived by others as offensive are wholly inappropriate and are strictly prohibited. This policy also prohibits sending, showing, sharing, or distributing in any form, inappropriate jokes, pictures, comics, stories, etc., including but not limited to via facsimile, email, and/or the internet. Harassment of any nature, when based on race, religion, color, sex, national origin, age, or disability, will not be tolerated.

III. Mandatory Reporting

- A) The Town requires that employees report all incidents of harassment, regardless of the offender's identity or position. Any employee who observes or otherwise learns of possible harassment in the workplace, or who feels that he or she has been subjected to conduct prohibited by this policy, must report it immediately to his or her supervisor, Human Resources, department director, or the Town Manager.
- B) Any supervisor, manager, or department director who becomes aware of possible conduct prohibited by this policy must immediately advise his/her department director, Human Resources, and/or the Town Manager.
- C) Under this policy, an employee may report to and/or contact the Town Manager, without regard to the employee's normal chain of command:

Town Manager
121 W. Broadway Street (Town Hall)
Prosper, TX 75078
972-569-1010
Voice messages or emails may be left at any time.

- D) In addition, the Town encourages employees who believe they are being subjected to conduct prohibited by this policy and who feel comfortable doing so, to promptly advise the offender that his or her behavior is unwelcome and request that it be discontinued. This action may resolve the problem.
- E) An employee who reports a potential violation of this policy and who feels his/her report was not adequately or timely addressed, must then put his/her report in writing and submit it to the Town Manager.

IV. Investigation

All reports of prohibited conduct will be investigated promptly by management in as confidential manner, as possible. The investigation may include individual interviews with the parties involved and, where necessary, with individuals who may have other relevant knowledge. All employees are required to cooperate with the investigation.

V. Retaliation Prohibited

Retaliation against employees who make a good faith charge or report of prohibited conduct or who assist in a complaint investigation is prohibited. Acts of retaliation must be reported immediately as set out above.

VI. Responsive Action

Misconduct constituting harassment or retaliation will be dealt with appropriately. Discipline, up to and including dismissal will be imposed upon any employee who is found to have engaged in conduct prohibited by this policy. Likewise, disciplinary action will be imposed in situations where claims of prohibited conduct were fabricated or exaggerated.

SECTION 7.06 TOBACCO USE

The Town of Prosper desires to provide a safe and healthy work environment for citizens, customers, and employees.

I. Prohibited Tobacco Use

- A) The use of tobacco products (including smokeless) is prohibited in any Town-owned or municipal building.
- B) The use of tobacco products (including smokeless) is prohibited while operating and/or being a passenger in Town-owned or leased vehicles and/or equipment.
- C) No employee shall use tobacco products (including smokeless) while making public contact.
- D) Except as permitted in Section II, below, no employee shall use tobacco products (including smokeless) while on the clock.

II. Permitted Tobacco Use

Employees may use tobacco products outdoors in designated areas during their normal rest or meal periods.

SECTION 7.07 TOWN PROPERTY/EQUIPMENT USE

The Town of Prosper attempts to provide employees with adequate tools, equipment, vehicles, and facilities for the Town job being performed, and the Town requires all employees to observe safe work practices and lawful, courteous operation of vehicles and equipment. Any Town-provided safety equipment must be used at all times.

I. Town-issued Property/Equipment

From time to time, the Town may issue various equipment or other property to employees, e.g., credit cards, keys, tools, security passes, manuals, written materials, telephone cards, uniforms, mobile telephones, computers, and computer-related equipment. Employees are responsible for items formally issued to them by the Town,

as well as for items otherwise in their possession or control or used by them in the performance of their duties. At the time of issuance, employees may be required to sign certain forms or other documentation evidencing their receipt of property and/or equipment and authorizing a payroll deduction for the cost of lost, damaged, or unreturned items. In addition to payroll deductions, the Town may take any other action it deems appropriate or necessary to recover and/or protect its property.

II. Damage to Town Property/Equipment

Employees must notify their supervisor immediately if any vehicle, equipment, machine, tool, etc., appears to be damaged or defective, or is in need of repair. The appropriate supervisor can answer questions about an employee's responsibility for maintenance and care of equipment used on the job. The improper, careless, negligent, destructive, or unsafe use or operation of equipment may result in disciplinary action, up to and including termination of employment.

III. Personal Use Prohibited

Town property, materials, supplies, tools, equipment or vehicles may not be removed from the premises or used for personal business without prior written approval by the Town Manager, or the department director.

IV. Vehicle Allowance

An employee may be given a monthly allowance for consistently using such employee's own vehicle for Town business if the use is deemed necessary by the Town Manager. The amount of the allowance shall be determined by the Town Manager.

V. Take-Home Vehicles

- A) An employee may be authorized to take Town vehicles to his or her residence when the employee is an "on-call" employee who has a job-related need for the vehicle after normal working hours.
- B) Employees authorized to take a Town vehicle to his or her residence during off-duty hours must complete and sign an Authorization for Take-Home Vehicle Form. The form must be completed, signed by the employee, and approved by the designated supervisor and department director. The authorization for a take-home vehicle may be approved by the department director when the employee resides in the corporate limits of the Town of Prosper. If the employee does not reside in the corporate Town limits of the Town of Prosper, the authorization must be approved by the Town Manager.
- C) Employees authorized to take vehicles home are authorized to make reasonable, brief, and limited stops before or after assigned work shifts while traveling to and from work to conduct personal errands, such as obtaining a limited number of grocery items, picking up cleaning, making a bank transaction, and the like. On-call employees, who are allowed to come and go freely but must respond to a return-to-work notification by pager, radio, cell phone, or telephone, may use "take-home" vehicles for personal business if such use is required to meet response times outlined in department or division policies. Under no

circumstances shall family numbers or friends be transported in the take-home vehicles unless specifically authorized under the provisions of this policy.

- D) The Town's vehicles are classified as either "exempt" or "non-exempt" as prescribed by law. Employees to whom a "non-exempt" vehicle is assigned for take-home will likely incur a federal income tax liability for the fringe benefit of commuting to and from work. Most pickups, vans, and automobiles are classified as "non-exempt" vehicles. Police and fire vehicles used by on-call employees, 24-hours are normally exempt from the fringe benefit tax liability.
- E) The approval for a take-home vehicle shall be made for the purpose of assuring the performance of Town business, and such authorization or use shall not constitute or be considered a vested employment benefit or right of the employee. Such authorization or use may be denied, revoked, or suspended at any time for any reason or for no reason.

VI. Use of Town Vehicles

- A) Town owned or leased vehicles may only be used for official Town business. Town owned or leased vehicles may only be driven by authorized Town employees. If an employee drives a Town-owned, rented, or leased vehicle on the job or while carrying out Town-related business, the employee must comply with the Vehicle Operator Standards as described in the Town of Prosper Health and Safety Program, and the following rules:
 - (1) Drivers must have a valid State of Texas driver's license appropriate for the vehicle operated, must maintain a satisfactory driving record, and must inform their supervisor of any change in status.
 - (2) No passengers other than Town employees or others on Town business may ride in a Town vehicle unless otherwise approved in advance by the department director.
 - (3) No personal use of Town-provided vehicles is allowed without the prior, specific approval of the department director.
 - (4) All maintenance and use records for Town vehicles must be completed as directed by the employee's supervisor, department directives or the Town of Prosper Health and Safety Program.
 - (5) Report any broken, missing, or worn parts, tires, etc., or any needed maintenance of Town vehicles to the appropriate supervisor immediately.
 - (6) Drivers covered by Department of Transportation regulations must comply with them at all times.
 - (7) At no time may an employee under the influence of alcohol or illegal drugs drive a Town vehicle or a personal vehicle while conducting Town business.

- (8) Employees involved in an accident while operating a Town vehicle, or while operating a personal vehicle on Town business, must immediately notify the proper law enforcement agency (if applicable) and the appropriate supervisor, department director, and/or the Town Manager. Accident Reports, along with any law enforcement report, must be filed by the employee with the department director and the Town Manager.

The above is not a complete and exhaustive list of vehicle use policies. Violations of any of the specific items listed, as well as the improper, careless, negligent, destructive, or unsafe use or operation of a vehicle, may result in disciplinary action, up to and including termination of employment.

- B) The Town may, at any time, check the driving record of a Town employee who drives as part of his/her job duties to determine that he/she maintains the necessary qualifications as a Town driver. Employees agree that they will cooperate in giving the Town whatever authorization is required for this purpose.
- C) Employees who are in jobs that require the driving/operating of Town vehicles or motorized equipment must notify their supervisor, department director, or the Town Manager by the end of the department's next working day when:
 - (1) They are arrested and charged with DWI, DUID, or any other serious moving violation;
 - (2) They have their driver's license suspended, cancelled, or revoked;
 - (3) Their license expires without immediate renewal; or
 - (4) An Occupation Driver's License or similar license has been issued to them.

Failure to report such information by the end of the next working day shall result in disciplinary action up to and including termination, unless there are extenuating circumstances.

- D) Employees who are in jobs that require the driving/operating of Town vehicles or motorized equipment who are convicted of a DWI or DUI will be terminated, although the Town may also take disciplinary action prior to conviction. Determination for removal of driving privileges and/or disciplinary action while waiting for adjudication shall be made by the department director in concurrence with the Town Manager on a case-by-case basis.

SECTION 7.08 DRESS, APPEARANCE, IDENTIFICATION, AND UNIFORMS

Employees must, at all times, dress appropriately and professionally and present a clean and neat appearance while at work and while representing the Town or conducting Town business. The Town allows business casual dress in the work place year-round, in accordance with this policy. Department directors are strongly encouraged to allow their employees to participate in business casual dress, as practical. Department directors and supervisors are responsible for enforcing this policy in their respective departments in order to maintain acceptable dress and appearance.

Professional business attire or a required uniform is to be worn when there is a need to present a more formal professional appearance for meetings or special events. Suits, dress shirts, and ties for men and suits or dresses for women are proper attire for personnel scheduled for agenda presentations (i.e. Town Council meetings, receptions, etc.). Employees must remember that they are professionals one hundred percent (100%) of the time and are dressing for business, not for pleasure. Attire must always reflect a professional business attitude and presence. Police and Fire Department employees may be covered under departmental policies regarding appropriate dress and appearance.

I. Standards for Work Attire

- A) All employees are expected to comply with safety regulations – e.g., types of shoes, shirtsleeve length, etc. – as directed by departmental and industry safety standards.
- B) All office and public contact employees are expected to be appropriately dressed and well groomed in order to reflect a professional businesslike atmosphere.
- C) Clothing should be clean, comfortable, and attractive, but not distracting. Clothing having pictures, designs, words, and/or advertising not conducive to a professional image, see-through, and/or otherwise sexually provocative clothing are prohibited for all employees.
- D) The following are inappropriate:
 - Provocative or revealing attire including body-hugging, see-through, or excessively tight fabrics;
 - Bare shoulders or tank tops with shoulder straps less than one inch (1”) wide;
 - Thong sandals (“flip-flop” shoes);
 - Clothing with unclear or obscene messages or that endorses alcohol, tobacco products, drugs, pornography, or offensive material of any kind;
 - Wrinkled, ripped, and tattered clothing;
 - Visible tattoos which could be deemed offensive;
 - Nose rings/studs, eyebrow rings/studs; tongue studs or similar type facial jewelry; and
 - Jeans, sweat shirts, sweat pants, athletic shoes, or shorts of any type are not acceptable unless a special casual wear or festive occasion is declared by the Town Manager, or as specifically approved by the appropriate department director as work assignments dictate.

II. Hair

Hairstyles and hair colors must be appropriate to the employee’s position and extremes of any type are unacceptable. For example, green hair, Mohawk style haircuts, and severely spiked hair are not allowed. Hair, including facial hair, must be clean and neatly groomed at all times. Sideburns may not extend below the ear lobe.

III. Identification Cards

- A) As part of the employment process, all regular full-time and part-time employees will be issued an identification card. The identification card must be kept within reasonable access while employed by the Town for verification of employment. It is the responsibility of the employee to ensure that current information is reflected on his/her identification card.
- B) Lost, stolen, or mutilated cards must be reported to the Human Resources Department. Police and Fire personnel must report lost, stolen, or mutilated cards as stated in department operating procedures. Employees needing to acquire a replacement card and/or correct or updated information on their identification card should contact the Human Resources Department.
- C) Upon separation from employment the card must be relinquished to the Human Resources Department prior to receiving a final paycheck.

IV. Uniforms

- A) The Town supplies many employees with appropriate uniforms. Employees in jobs that require a uniform will be told how and where the uniforms can be obtained. The Town will provide replacement uniforms, as necessary. Uniforms must be clean and neat. Town-owned or authorized uniforms may not be used outside of work, for personal use, or by any third party. Town uniforms may be used by Town employees in connection with outside employment only with the department director's prior written authorization.
- B) Employees who are provided with uniforms are required to wear their uniforms when on duty and keep them in good, clean, and serviceable condition. No part of the uniform shall be worn by itself. An employee must wear the entire uniform when on duty. No part of the uniform shall be worn when off duty, except to and from work.
- C) When an employee terminates employment with the Town, uniforms and other Town equipment, which the employee possesses, must be returned in good condition before final pay will be authorized. The cost of lost or damaged Town property and unreturned uniforms will be deducted from the employee's final paycheck.

V. Enforcement

- A) In all cases, the Town will make the determination as to acceptable dress, appearance and grooming. Employees should direct questions about appropriate appearance or dress to their supervisor, Department Director, or the Town Manager.
- B) Employees in violation of this policy may be sent home. In such circumstances, non-exempt employees will not be paid for work time missed, and exempt employees will be required to make up the work time missed. Employees whose grooming or personal appearance violates this policy may be disciplined, up to and including termination of employment."

SECTION 5

The Town Council hereby affirms and adopts said policy amendments referenced above and further, hereby affirms and adopts the current Town of Prosper Personnel Policies and Procedures Manual, with the amendments referenced above.

SECTION 6

Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The Town hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional or invalid.

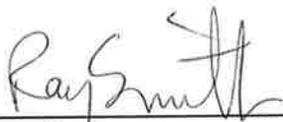
SECTION 7

All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict, and any remaining portions of said ordinances shall remain in full force and effect.

SECTION 8

This Ordinance shall become effective from and after its adoption and publication as required by law.

DULY PASSED, APPROVED, AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, ON THIS 13TH DAY OF JANUARY, 2015.



Ray Smith, Mayor

ATTEST:

Robyn Battle, Town Secretary

APPROVED AS TO FORM AND LEGALITY:



Terrence S. Welch, Town Attorney