



Ordinance 24-04

An Ordinance adopting the 2024 Town of Taos Personnel Policy to replace Ordinance 18-01 the Town of Taos Personnel Policy

WHEREAS, it is in the best interest of Town of Taos to update its Personnel Policy periodically to ensure that it conforms to state and federal law;

WHEREAS, the Human Resources Director has identified elements of the Personnel Policy that needed clarification and updating as well as provisions beneficial to Town of Taos and its employees not currently included in the Personnel Policy;

WHEREAS, the Town Council, the Governing Body of the Town of Taos, finds it necessary to repeal and replace Ordinance 18-01, Town of Taos Personnel Policy;

WHEREAS, the Town Council has carefully reviewed the 2024 Town of Taos Personnel Policy, attached hereto as Exhibit A;

WHEREAS, the Town council now desires to adopt the 2024 Town of Taos Personnel Policy, attached hereto as Exhibit A;

NOW, THEREFORE, BE IT ORDAINED, by the Governing Body of the Town of Taos, meeting in Regular Session on this 11th day of June, 2024 and after having held public hearing on the matter, that a new Town of Taos Personnel Policy, attached hereto as Exhibit A, is adopted as follows:

Section 1: A merit system, referred to as the Town of Taos Personnel Policy, for the Town of Taos is hereby enacted pursuant to NMSA 1978, § 3-13-4. The Town of Taos Personnel Policy is attached hereto as Exhibit A and is officially adopted by the Town Council. The Town of Taos Personnel Policy may hereafter be amended by resolution of the Town Council.

Section 2: The Town of Taos Personnel Policy adopted by the adoption, approval, and ratification of this Ordinance is intended to be the comprehensive policy for the Town of Taos. All previous ordinances, resolutions, and policies, including but not limited to Ordinance 18-01, shall be and hereby are repealed to the extent that such ordinances, resolutions, and policies purport to address the same subject matter.

Section 3: This Ordinance and the Town of Taos Personnel Policy, attached hereto as Exhibit A, shall be effective five (5) days after the date of adoption by the Town Council.

PASSED, APPROVED, AND ADOPTED by the Town Council, Governing Body of the Town of Taos, this 11th day of June, 2024.

TOWN OF TAOS

Pascualito M. Maestas, Mayor

ATTEST:

Francella Garcia, Town Clerk

APPROVED AS TO FORM

Christopher Stachura, Town Attorney

EXHIBIT A

ABOUT THE TOWN OF TAOS PERSONNEL POLICY AND DISCLAIMER

The Town of Taos has prepared the Town of Taos Personnel Policy to help employees find the answers to many questions that they may have regarding their employment with Town of Taos. Please take the necessary time to read it.

It is not expected that the Town of Taos Personnel Policy will answer all questions regarding employment with the Town of Taos. Supervisors and the Human Resources Department also serve as sources of information regarding employment with the Town of Taos.

Neither the Town of Taos Policy nor any other verbal or written communication by a management representative is, nor should be considered to be, an agreement, contract of employment, express or implied, or a promise of treatment in any particular manner in any given situation. Neither the Town of Taos Personnel Policy nor any other verbal or written communication by a management representative confers any contractual rights whatsoever.

No Town representative other than Town Manager may modify an employee's at-will status and/or provide any special arrangement concerning terms or conditions of employment. Any such modification must be by an express written agreement signed by the employee and Town Manager.

Many matters covered by the Town of Taos Personnel Policy, such as benefit plan descriptions, are also described in separate Town documents. These Town documents are always controlling over any statement made in this manual or by any member of management.

The Town of Taos Personnel Policy provides only general Town guidelines. The Town may, at any time, in its sole discretion, modify anything stated in the Town of Taos Personnel Policy, with or without notice, except for the rights of the parties to end employment at-will, which may only be modified by an express written agreement signed by the employee and Town Manager.

The official Town of Taos Personnel Policy is on the Town website located at www.taosnm.gov, and is maintained by Human Resources. All employees shall review a copy of the Town of Taos Personnel Policy at the time of implementation or subsequent hire and at the time of any significant revisions thereto. Each employee shall be required to sign a form to acknowledge review and understanding of the Town of Taos Policy and agreement to comply with the policies and procedures described herein.

The Town of Taos Personnel Policy is subject to the terms of any applicable collective bargaining agreement.

The Town of Taos Personnel Policy supersedes all prior personnel policies, manuals, handbooks, or other materials related to personnel policies and procedures.

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Section 1 General Provisions

1.1 Short Title.

Short title this document may be cited as the Town of Taos Personnel Policy.

1.2 Objective.

It is the objective of Town of Taos to provide the maximum possible service with courteous treatment by its employees which interact with its constituents and members of the public. The Town of Toas Personnel Policy is intended to establish uniform, merit-based personnel administration and management to accomplish this objective.

1.3 Authority.

The following practices and procedures were developed under the authority of the Town Council and shall supersede any Ordinances or rules relating in any way to personnel heretofore adopted, except for those rules adopted as the result of any collective bargaining agreement which was adopted pursuant to the Town 's collective bargaining ordinance.

1.4 Purpose.

The purpose of the Town of Taos Personnel Policy is to provide uniform, merit-based personnel administration and management. The Town of Taos Personnel Policy is intended to provide information concerning the policies and practices for working conditions, workplace expectations, and employee benefits affecting employment with the Town of Taos. It is not the purpose of the Town of Taos Personnel Policy to create an express or implied contract for employment with the Town of Taos.

1.5 Scope.

The Town of Taos Personnel Policy is meant to define the duties of the Mayor, the Town Council, the Town Manager, and the Assistant Town Manager relative to the appointment, nomination, confirmation, hiring, and discharging of employees of the Town of Taos. Additionally, the Town of Taos Personnel Policy is meant to provide a compilation of policies and procedures which govern the administration of personnel for the Town of Taos.

1.6 Merit Principles. The principles of the merit system of personnel administration are as follows:

- A. Recruiting and selecting employees will be on the basis of their ability, knowledge and skills including consideration of qualified applicants for initial employment;
- B. Reclassification of employees will be based on their job performance as measured by their ability, knowledge and skills;

- C. Employees will be considered for promotional openings based on past job performance, experience, qualifications, licensing, certifications, training, education and other applicable credentials, as well as a demonstrated track record of initiative, creativity, leadership and commitment toward their department and Town goals.
- D. The continued employment of Town employees shall be based on reasonable standards of job performance and personal and professional conduct. Failure or refusal to meet these standards shall constitute just cause for disciplinary action including oral or written reprimand, suspension, demotion, and dismissal. Disciplinary action is not primarily intended to be punitive but rather to maintain the efficiency and integrity of Town service.
- E. A compensation plan will be provided subject to the establishment of a budget for the compensation plan by the Town Council.
- F. Employees and applicants will be assured fair treatment in all aspects of personnel administration in accordance with federal and state laws. Employees will be protected against coercion for political purposes and will be prohibited from using their official authority for the purpose of interfering with or affecting the results of an election or a nomination for office.

1.7 Interpretation of Matters Not Covered. The Town Manager or the Town Manager's designee pursuant to Section 1.8(C), may issue such regulations as are necessary to implement the provisions of this Ordinance.

1.8 Appointment and Discharge of Employees.

- A. Subject to the approval of a majority of the members of the governing body, the Mayor shall appoint all officials and employees except those holding elective office, those subject to the merit system described in this Ordinance, and those subject to the provisions of any Collective Bargaining Agreement (CBA).
- B. Any appointed official or employee appointed by the Mayor who is discharged shall, upon request, be given by the Mayor in writing, a list of reasons for their discharge, and be paid any compensation which the appointed official or employee has accrued pursuant to the policies and procedures described herein.
- C. The Town Manager, under the general supervision of the Mayor, shall be delegated the responsibility to supervise and administer the Town of Taos Personnel Policy and applicable Collective Bargaining Agreement (CBA), and may designate the Assistant Town Manager and/or the Human Resources Director to be responsible, in full or in-part, to supervise and administer the Town of Taos Personnel Policy or Collective Bargaining Agreement (CBA).

- D. All employees are subject to a layoff or reduction in force adopted by the governing body.
- E. Municipal Court employees serve at the will of the Town's Municipal Court Judge and are hired, supervised, disciplined and discharged from employment solely at the Municipal Judge's discretion, subject only to state and federal laws. Municipal Court employees shall receive the same terms of compensation and benefits, including travel allowances under the Per Diem and Mileage Act, as are provided all Town of Taos full-time classified employees, and as may be provided for by Town adopted law, ordinance, or Town policy.

1.9 Amendments. Definite rules and regulations cannot be readily formulated for every possible circumstance, situation, or problem which may arise during the course of employment with the Town of Taos. Therefore, the need may arise to, and the Town reserves the right to, amend, revise, supplement, or rescind any policies or portion of the Town of Taos Personnel Policy from time to time as may be appropriate subject to approval by the Town Council. The Town Manager shall recommend any amendment, revision, supplementation, or rescission of the Town of Taos Personnel Policy to the Town Council. Any such recommended amendment, revision, supplementation, or rescission shall not become effective until approved by the Town Council by resolution.

1.10 Administration of the Personnel System and Manual. The Town Manager, or the Town Manager's designee pursuant to Section 1.8(C), shall administer all aspects of the Town of Taos Personnel Policy in accordance with these rules, with applicable Town Ordinance(s), with the laws of the State of New Mexico, and with the laws of the United States of America.

The Town Manager, or the Town Manager's designee pursuant to Section 1.8(C), shall:

- A. Develop, maintain, and apply these procedures for the recruitment, compensation, promotion, training, discipline, and related aspects of personnel management for all personnel employed by the Town of Taos;
- B. Maintain the classification and pay plans of the Town;
- C. Recommend to the Town Council such new, amended, revised, or rescission of personnel rules as are deemed necessary and desirable;
- D. Issue supplemental regulations and directives necessary for the effective implementation of these rules, which shall not invalidate the effect of these rules;
- E. Approve contractual arrangements with any qualified person or agency for the performance of technical and professional services required in the establishment and operation of the personnel program;

- F. Delegate to Department Directors the responsibilities and authorities described herein and such others as are deemed necessary for successful administration of the personnel program; and
- G. Maintain or cause to be maintained an adequate employment record of each employee, including a record of official acts under these policies.

1.11 Authority to Develop Departmental Rules and Regulations. Supplemental personnel rules and regulations, not in conflict with the Town of Taos Personnel Policy, may be drafted by Department Directors to meet specific needs of their areas of responsibility.

Proposed departmental rules and regulations shall be reviewed by the Town Attorney and the Human Resources Director and approved by the Town Manager before becoming effective.

Such approved rules and regulations must be distributed to the affected employees and an acknowledgement of receipt for each employee must be obtained by the supervisor with copies to Human Resources for placement into the employee personnel file.

Approved department regulations shall have the same force and effect as those promulgated by the Town of Taos Personnel Policy, provided however, that should there be a conflict between departmental regulations and the Town of Taos Personnel Policy, the Town of Taos Personnel Policy will govern.

The Governing Body shall be notified of any need of additional departmental policies.

1.12 Application of Provisions. The Town of Taos Personnel Policy shall not apply to elected officials or contract personnel. Additionally, the Town of Taos Personnel Policy shall only apply to employees represented by a collective bargaining unit to the extent that the policies and procedures contained herein are not modified by the applicable Collective Bargaining Agreement (CBA). Lastly, the Town of Taos Personnel Policy shall apply to Unclassified Employees with the exception of grievance procedures which shall be governed by the signed contract between such employee and the Town Manager.

1.13 Time. In computing any period of time prescribed or allowed by the Town of Taos Personnel Policy, the day of the act or event from which the designated period of time begins to run shall not be included. Each day after the act or event from which the designated period of time begins to run shall be counted, including intermediate Saturdays, Sundays, and days on which the administrative offices of the Town of Taos are closed. The last day of the period so computed shall also be included, unless it is a Saturday, a Sunday or a day on which the administrative offices of Town of Taos are closed, in which event the time period continues runs until the next day which is not one of the aforementioned days. Unless otherwise specified the term "day" or "days" shall refer to calendar days.

1.14 Equal Employment Opportunity Policy.

The Town of Taos is an equal opportunity employer and does not practice nor tolerate unlawful discrimination, whether on the basis of race, color, national origin, religion, age, sex, ancestry, physical or mental handicap, serious medical condition, sexual orientation, spousal affiliation, or gender identity in the consideration of an individual for employment, duration of employment, compensation, terms, conditions, or privileges of employment.

The Town of Taos will make reasonable accommodations for qualified individuals with known disabilities when those disabilities are disclosed by the employee, unless doing so would result in an undue hardship to the extent required by law. This policy governs all aspects of employment, including but not limited to, recruitment, selection, job assignment, compensation, discipline, termination, and access to benefits and training.

It is the responsibility of the employee to disclose any physical or other disabilities or status as a protected class at the time of employment that the employee or prospective employee believes may need reasonable accommodation in order to perform the expected functions of the prospective position, or at the time the employee becomes aware of the disability or protected status in order that the employer make such reasonable accommodations.

Any employee with concerns or issues about any type of discrimination and/or retaliation in the workplace shall bring these issues to the attention of their immediate Supervisor/Department Director and/or the Human Resources Department and/or the Town Manager as soon as they occur so that they may be appropriately investigated, documented and corrected. By the provisions of the Town of Taos Personnel Policy and any other applicable provisions of federal and state law, employees of the Town of Taos are guaranteed that they can raise concerns and make reports without fear of reprisal. Anyone found to be engaging in any type of unlawful discrimination or reprisal against an employee for reporting discrimination prohibited under this Policy will be subject to disciplinary action by the Town, up to and including termination of employment.

1.15 Anti-Harassment and Anti-Discrimination Policy.

It is the policy of the Town of Taos to ensure equal employment opportunity without discrimination or harassment because of race, color, national origin, religion, age, sex, ancestry, physical or mental handicap, serious medical condition, sexual orientation, spousal affiliation, gender identity or any other characteristic protected by law.

The Town of Taos is committed to a work environment in which all employees are entitled to be treated with respect and dignity. All Town of Taos employees have the right to work in a professional atmosphere that promotes equal employment opportunities and prohibits discrimination and harassment. Therefore, The Town of Taos expects that all relationships in the workplace will be professional and free of bias, harassment, and discrimination.

Under this policy, the term “harassment” is defined to include unwelcome verbal, physical, or visual misconduct that denigrates or shows hostility or aversion towards an individual because of his/her race, color, sex, religion, national origin, ancestry, mental or physical disability, genetic history, sexual orientation or any other characteristic protected by law that:

- A. Has the purpose or effect of creating an intimidating, hostile, or offensive work environment;
- B. Has the purpose or effect of unreasonably interfering with an individual’s work performance;
- C. Adversely affects an individual’s employment opportunities.

1.15.1 Reporting A Complaint. If an employee believes that that the employee or another employee has been a victim of harassment, sexual harassment, discrimination, or retaliation in violation of Section 1.15 of the Town of Taos Personnel Policy, or if such violation has otherwise been witnessed, the incident and the names of the persons involved must be reported to the employee’s direct supervisor, department director, Human Resources Director, or Town Manager. If an employee is unsure how to make such report, the Human Resources Department at (575) 751-2009 shall provide the necessary assistance to complete the required report of harassment, sexual harassment, discrimination, or retaliation in violation of Section 1.15 of the Town of Taos Personnel Policy.

1.15.2 Investigation. A representative from the Town of Taos Human Resources Department or an outside EEO Consultant shall promptly investigate all employee reports of harassment, sexual harassment, discrimination, or retaliation in violation of Section 1.16 of the Town of Taos Personnel Policy. The Town of Taos Human Resources Department will take measures to ensure that the reporting employee will not have contact with the alleged harasser during the investigation. The investigation will be conducted by trained, experienced staff employees and will be conducted in a fair and unbiased manner. There is a possibility that employees will need to be interviewed regarding their knowledge of the report. Employees who have knowledge regarding the report may be interviewed and are expected to be honest and are expected to fully cooperate during the investigation.

1.15.3 Confidentiality. The Town of Taos will maintain the confidentiality, to the extent that it is possible, of any person who reports harassment, sexual harassment, discrimination, or retaliation in violation of Section 1.15 of the Town of Taos Personnel Policy and of all participants in an investigation into any such report. All reports will be kept confidential to the extent that it is possible, but confidentiality cannot be guaranteed.

The Town of Taos will not retain any documents relating to a complaint or investigation of an employee complaint of harassment or discrimination in the complainant’s personnel

file. All documents relating to a complaint or investigation of a complaint will be secured in a separate location which is accessible only by Town of Taos Human Resource personnel.

1.15.4 Corrective Action. If the investigation of a report of harassment, sexual harassment, discrimination, or retaliation is substantiated, the Town of Taos will take immediate appropriate corrective action. Violation of Section 1.15 of the Town of Taos Personnel Policy may result in disciplinary action, including suspension without pay, and termination depending upon the severity of the offense.

All disciplinary and termination actions taken against employees for violation of Section 1.15 of the Town of Taos Personnel Policy will be retained in the violator's personnel file. If the investigation was inconclusive, the investigation documents shall remain in a separate, confidential EEO investigative file in the Town of Taos Human Resources Department for the duration of the accused person's employment.

1.15.5 Town of Taos Non-Retaliation Policy.

The Town of Taos complies with all local, state and federal laws which provide that it is unlawful for any Supervisor, Department Director, or Official to retaliate against an employee because he/she has opposed harassment and/or discriminatory employment practices, participated as a witness in an internal or external investigation of a charge of employment discrimination, or because he/she has filed a charge of discrimination with the EEOC or the New Mexico Human Rights Bureau.

If an employee believes they are being retaliated against in any term, condition or privilege of employment because the employee filed an internal charge of discrimination, or because the employee filed a charge of discrimination with a state or federal equal employment agency, or because the employee participated in an investigation of a charge of discrimination, the employee shall immediately report such concerns to the Town of Taos Human Resources Department or a Town of Taos EEO Officer who will act immediately to insure investigation of the report and take appropriate corrective action as needed.

1.16 Town of Taos Americans with Disabilities Act (ADA) Policy.

The Town of Taos complies with the Americans with Disabilities Act of 1990 ("ADA") and the Americans with Disabilities Act, as amended (ADAA), which provides for equal opportunity in all aspects of employment for qualified individuals with disabilities. In accordance with these Acts, the Town of Taos will attempt to reasonably accommodate a qualified individual with a disability or medical restrictions.

If an employee requires a reasonable accommodation to perform the essential functions of the employee's job, the employee should notify their immediate Supervisor or Department Director and the Town of Taos Human Resources Department and an ADA interactive process will be conducted to determine if the employee can perform the

essential functions of his or her position with or without reasonable accommodation. If an employee wishes to request ADA Accommodation, the employee should directly contact members of Management in the employee's chain of command or contact the Town of Taos Human Resources Department.

1.17 Town of Taos Management Responsibilities. Town of Taos Department Directors and Supervisors shall enforce and comply with Section 1.14, 1.15, and 1.16 of the Town of Taos Personnel Policy. Department Directors and Supervisors are expected to serve as role models for a discrimination and harassment free workplace and to routinely monitor the work environment for unprofessional or inappropriate conduct.

It is the responsibility of Department Directors and/or Supervisors to immediately receive and report all verbal or written complaints of harassment, sexual harassment, discrimination, or retaliation to the Town of Taos Human Resources Department. The Town of Taos Human Resources Department will take immediate and appropriate action to investigate the complaint to determine if unlawful harassment or discrimination has occurred.

Failure to report an employee complaint of harassment, sexual harassment, discrimination, or retaliation against a Town of Taos Department Director, Supervisor, or Employee is a violation of the Town of Taos Personnel Policy and may result in disciplinary action and/or discharge. If a Department Director or Supervisor receives or reports a complaint pursuant to Sections 1.14, 1.15, or 1.16 of the Town of Taos Personnel Policy, such person is required to maintain the confidentiality of the complainant and any other parties involved.

1.18 Anti-Bullying. The Town prohibits any form of bullying which is defined as an act of aggression causing embarrassment, pain, or discomfort to someone. Bullying may take a number of forms including, but not limited to physical, verbal, making gestures, or exclusion. It may be an abuse of power. It may or may not be planned and organized. It may be perpetrated by individuals or by groups of individuals.

1.18.1 Reporting Bullying. If an employee feels that he or she has been subject to conduct in the workplace which violates this policy, they should immediately report the matter to the employee's supervisor or director. If the employee is unable for any reason to contact this person, or if the employee has not received a response within five (5) business days after reporting any incident of what the employee perceives to be bullying, the employee should contact the Human Resources Department. The Human Resources Department will consult with the Department Director. If the person toward whom the complaint is directed is one of the individuals indicated above, the employee should contact the Town Attorney's Office or the Town Manager's Office. The Governing Body shall be made aware of any complaints of bullying involving Appointed Officials.

1.18.2 Investigation of Reports of Bullying. Every report of perceived bullying will be investigated. Corrective action will be taken where appropriate. All complaints will be kept confidential to the extent that it is possible, but confidentiality cannot be guaranteed.

1.18.3 Protected Activity to Report Bullying. Reporting bullying is a protected activity. The Town will not allow any form of retaliation against individuals who report bullying or who cooperate in the investigations of such reports in accordance with this policy. If an employee feels that they have been subjected to any such retaliation, the employee should report the retaliatory conduct pursuant to Section 1.16.7 of the Town of Taos Personnel Policy. Violation of this policy including any improper retaliatory conduct will result in disciplinary action, up to and including termination.

1.18.4 Zero Tolerance Policy. The anti-bullying policy is a zero-tolerance policy.

1.19 Workplace Violence. Threats, threatening language or any other acts of aggression or violence made toward or by any Town employee will not be tolerated.

For purposes of this policy, a threat includes but is not limited to, any verbal or physical harassment or abuse, any attempt at intimidating or instilling fear in others, menacing gestures, flashing of weapons, stalking or any other hostile, aggressive, injurious, or destructive action undertaken for the purpose of domination or intimidation. Town of Taos prohibits employees from engaging in any physical confrontation with a violent or potentially violent individual.

1.19.1 Reporting a Threat of or Workplace Violence. Emergency 911 should be contacted if needed.

If an employee feels that they have been subjected to conduct which violates this policy, they should immediately report the matter to their supervisor. If the employee is unable for any reason to contact this person, or if the employee has not received a response within five (5) business days after reporting any incident of what the employee perceives to be harassment, the employee should contact the Human Resources Office. Human Resources will consult with the Department Director. If the person toward whom the complaint is directed is one of the individuals indicated above, the employee should contact the Town Attorney's Office or the Town Manager's Office.

If an employee is the recipient of a threat made by an outside party, that employee should follow the steps detailed in this section. It is important for the Town to be aware of any potential danger, and to take effective measures to protect everyone from the threat of a violent act by an employee or by anyone else.

1.19.2 Investigation of Reports Regarding Workplace Violence. Every report of perceived workplace violence will be investigated. Corrective action will be taken where appropriate. All complaints will be kept confidential to the extent possible, but confidentiality cannot be guaranteed.

1.19.3 Protected Activity to Report Workplace Violence. Reporting workplace violence is a protected activity. The Town will not allow any form of retaliation against individuals

who report workplace violence or who cooperate in the investigations of such reports in accordance with this policy. If an employee feels that he or she has been subjected to any such retaliation, the employee should report the retaliatory conduct pursuant to Section 1.16.7 of the Town of Taos Personnel Policy. Violation of this policy including any improper retaliatory conduct will result in disciplinary action, up to and including termination.

1.19.4 Zero Tolerance Policy. The Workplace Violence policy is a zero-tolerance policy.

Section 2 Employment Classifications

2.1 Classified Employee. A classified employee is an employee who has completed the probationary period, is included in the merit-based system. A classified employee does not include an Elected Official, an Appointed Official, an Unclassified Employee, a Probationary Employee, a Temporary Employee, or a Casual Employee.

2.2 Elected Official. An Elected Official is a Mayor, Town Councilor, and Municipal Judge. Elected officials are not classified employees and their tenure with the Town is not governed by this Personnel Policy. Elected officials are eligible to receive certain benefits from the Town, but only as specifically set forth herein.

2.3 Appointed Official. An Appointed Official is a Town Manager, and Town Attorney,. Pursuant to NMSA 1978, Section 3-11-6(A), subject to the approval of a majority of all members of the governing body, the Mayor shall appoint all Appointed Officials. Appointed Officials are not subject to a merit-based system and may be discharged or suspended in accordance with NMSA 1978, Section 3-11-6(D). Appointed Officials are exempt under the Fair Labor Standards Act (FLSA). Appointed Officials are eligible to receive severance pay of three (3) months and certain benefits from the Town, but only as specifically set forth herein. Any person holding an appointed office at the time of the municipal election shall continue in that office until his successor has been appointed and is qualified pursuant to NMSA 3-12-4.

2.4 Unclassified Employee. An Unclassified Employee is an employee which is exempt under the Fair Labor Standards Act (FLSA) and may be terminated, with or without cause, for any reason that is not prohibited by law or otherwise discriminatory. An Unclassified Employee is subject to the terms of an employment agreement signed by the employee and the Town Manager. An Unclassified Employee may not grieve or appeal employment decisions. An Unclassified Employee may also be an Appointed Official. If an Unclassified Employee is not also an Appointed Official, the termination of such Unclassified Employee requires approval of the Town Manager.

2.5 Full-Time Employee. A full-time employee is an employee who has successfully completed the probationary period and is scheduled to work forty (40) hours or more in each Town designated work week (7-day period) or at least eighty (80) hours in each two-week period (14-day period).

2.6 Part-Time Employee. A part-time employee is an employee who has successfully completed the probationary period and is scheduled to work fewer than forty (40) hours in each Town designated work week (7-day period) on a regular basis. Generally, a part-time employee will not be scheduled for more than nineteen (19) hours per week. Part-time employees do not receive benefits, do not accrue personal leave and do not receive holiday pay.

2.7 Probationary Employee. A probationary employee is a full-time or part-time employee who has been hired for a classified position but has not yet successfully

completed the mandatory probationary period. Probationary employees cannot grieve or appeal employment decisions. Probationary employees may accrue annual personal leave and receive benefits.

2.7.1 A person offered employment with the Town and who is eligible to become a classified employee, must serve a mandatory one-year probationary period. During the probationary period, the employment relationship may be terminated, with or without cause, for any reason that is not prohibited by law or otherwise discriminatory and without prior notice.

2.7.2 The probationary period is used to evaluate the new employee's capabilities, work habits, and overall performance. The probationary period shall commence when the employee begins Town employment. Any absence of thirty (30) consecutive days or more during the probationary period shall automatically extend the probationary period by the length of the absence.

2.7.3 If the probationary period does not allow sufficient time to thoroughly evaluate the employee's performance, the probationary period may be extended for up to an additional six (6) months. The extension must be recommended by the Human Resources Director and approved by the Town Manager.

2.7.4 An employee who fills a temporary or casual position and is subsequently hired to fill a classified position shall serve the required probationary period beginning the date the employee changes from temporary or casual to probationary employee.

2.8 Temporary Employee. A Temporary Employee is an employee which serves in a position created for services needed on a temporary or seasonal basis. A classified position may be filled by a temporary employee due to a temporary absence of an employee or other circumstances. A temporary employment shall not exceed nine (9) months in length. Temporary Employees may be terminated, with or without cause, for any reason which is not illegal or discriminatory. Temporary Employees may not grieve or appeal employment decisions. Temporary employees may not accrue leave, may not receive benefits, and are not paid for holidays.

2.9 Casual Employee. A Casual Employee is an employee which serves in a position created for services on an as needed basis or services that usually require nineteen (19) hours or less per week. Casual employees may be terminated, with or without cause, for any reason which is not illegal or discriminatory. Casual Employees may not grieve or appeal employment decisions. Casual employees may not accrue leave, may not receive benefits, and are not paid for holidays.

Section 3 Recruitment and Selection

3.1 Policy. It is the policy of the Town to recruit and select the most qualified persons for positions in the Town's service. Recruitment and selection shall be conducted in a manner that will ensure the Town's best interest, open competition, provide equal employment opportunity, prohibit discrimination or favoritism as per federal, state, and local law.

3.2 Recruitment. The Human Resources Department shall conduct an active recruitment program designed to meet current and projected personnel needs. Recruitment will be tailored to the various classes of positions to be filled and will be directed to available sources likely to yield qualified applicants, including, but not limited to: internal posting, public notification through the New Mexico Department of Labor, media, web advertising, and posting at institutes of higher learning.

3.3 Posting of Vacancies. The Human Resources Department shall post and advertise job announcements in order to attract an adequate number of applicants and to promote an environment of competition that in turn will assure the selection of the most qualified candidates for any given position. Job vacancy announcements shall specify title, FLSA classification, basic duties, minimum qualifications, place and manner of accepting employment application and other pertinent information. The Human Resources Department will make every effort to advertise the job announcements within 15 business days of vacancy notification or finalized budget creation of a new or refunded position.

The Human Resources Department will in its best efforts create a pool of qualified applicants to encourage diversity and ensure equal employment opportunity in hiring. The following practices for listing positions will be followed under the Human Resources Department's direction with regard to equal employment opportunity in the Town of Taos:

- A. Internal Posting - All vacant full-time and part-time positions will normally first be posted internally for consideration by current employees. Internal postings will be for a minimum of five (5) working days. Postings will be made in the lobby of the Human Resources Department Offices. Copies of postings may be given to every Department Director and employee union.
- B. External Posting - If no internal employees apply, or if an internal applicant is not selected for the vacant position, the Human Resources Department will post the position externally. The position at a minimum will be listed on the Town of Taos and the New Mexico Department of Labor/Workforce Solutions website. External postings will be for a minimum of five (5) working days. External Postings may also be advertised in a newspaper of general circulation, social media postings, or other sources.
- C. Internal/External Posting- The Town Manager may order a position to be simultaneously posted both internally and externally based on the specific needs of the Town or the position.

A recruitment posting shall not be required when a position is reclassified and the reclassified position is not vacant.

3.4 Application forms. All applications for employment shall be submitted either electronically or in hard copy during the recruitment period, to the Human Resources Department on the standard Town application form, along with any other specified application documents. Such application forms shall require background information to include training, experience, and other pertinent information that is not prohibited by law. All applications must be signed, either electronically or in writing, and proof of qualification may be required. A separate application must be submitted for each position for which an applicant wishes to be considered. An application for employment will not be accepted beyond the closing date of a job vacancy announcement. Resumes without an application, and incomplete or late applications will not be accepted. Electronic and faxed applications will be accepted under the same procedure. All applications and resumes shall become the property of the Town and shall become a permanent part of the personnel file upon being hired.

3.5 Applicant Qualifications. Qualifications are the primary consideration in filling any position. Experience, education, training, skills, and other abilities, as well as specific position requirements and the prior employment history of the applicant, are considered in appraising individual qualifications. Qualifications are subject to change within job fields and according to job descriptions prior to posting.

Notwithstanding the foregoing, no person shall be eligible to be certified for appointment to the position of police officer if such person has not reached his or her twenty-first birthday on the date of graduating the academy. Likewise, no person shall be eligible for hire to the position of firefighter if such person has not reached his or her eighteenth birthday on the date of application for the position.

3.6 Rejection of Applications. The Human Resources Department may reject any application that fails to indicate that the applicant meets the minimum qualifications as established. Applications may also be rejected for, but not limited to the following, and consistent with the American with Disabilities Act, when the applicant:

- A. Has falsified an application or resume;
- B. Has been a no call/no show for three (3) or more confirmed interviews in a period of twelve (12) months;
- C. Is unable to perform the duties of the position, for whatever reason(s);
- D. Does not pass the pre-employment tests;
- E. Refuses to submit, or does not submit in a timely manner, documents required by the established position or by law to determine the applicant's

suitability for employment in the United States of America under the immigration reform act, social security act, or documents required to determine established education for the position;

- F. Has an unsatisfactory employment record or personal record as evidenced by information contained on the application form or by results of a background check;
- G. Is not within the legal age prescribed by law or Town Ordinance;
- H. Fails to meet any standards applicable to the physical or mental demands of the position;
- I. Fails a pre-employment drug test;
- J. Cannot be licensed or insured for the operation of Town vehicles and equipment as required by the job description;
- K. Cannot be licensed for or maintain professional certification as required by the job description;
- L. Was previously terminated from employment by the Town as a result of the corrective action process;
- M. Failed to give a two week notice before voluntary resignation from previous employment by the Town. Note that the requirement to provide two-week notice may be waived, with documented approval, from the Department Director and Human Resources Director to accommodate extenuating circumstances; or
- N. Previously resigned from employment by the Town in lieu of termination or other disciplinary action by the Town. The above list is not exhaustive, and may not include all of the reasons that would make an applicant ineligible for hire or rehire.

3.7 Section and Hiring Process. The Human Resources Department shall be responsible for determining selection methods to obtain the best-qualified applicants for each class of positions. Such selection methods may include the interview process, job relevant testing, and examinations. In the development of selection methods, the Human Resource Department shall confer with departments, consultants, or others skilled in/or familiar with minimum job requirements.

3.8 Interview Process. The Human Resources Department shall coordinate the interview process. As a supplement to the selection process, applicants who have passed the application process may be interviewed by a panel of three (3) or more panelists. In processes where only three (3) or fewer applicants pass the application process, the

Human Resources Director and appropriate Department Director may choose to interview the applicants in lieu of using a panel. The Town Manager has the authority to approve, by written request of the Human Resources Director and appropriate Department Director, elimination of the panel interview.

3.8.1 Interview Panels. The Human Resources Department and appropriate Department Director(s) will coordinate the selection of panel members, scheduling of applicants, development of questions, and utilize the Towns' rating process.

3.8.2 Rating and Recommendation Process. All applicants will be rated individually on the information provided by the applicant during the interview. The Human Resources Department will tabulate all scores and provide a listing to the appropriate Department Director of the three (3) top scoring applicants in alphabetical order or will provide the top scoring applicant. Filling the position from the top three (3) scoring applicants or from the top scoring applicant will be determined by the appropriate Department Director or designee at the time a request is submitted to fill a vacancy. Where there is a tie score among the third of the top three (3) applicants, all four (4) top ranking applicants will be listed in alphabetical order.

The appropriate Department Director will advise the Human Resources Department of the recommended selection. If the appropriate Department Director finds that none of the applicants are suitable, the remaining applicants will then be reconsidered or, if necessary, the position will be re-advertised.

3.9 Eligibility for Hire Roster. Applicants who complete the Interview Process but are not selected for hire will be placed on an eligibility roster for a period of six (6) months from the date of the initial interviews. Placement on the eligibility roster will be in order beginning with the highest scoring applicant to lowest scoring applicant. Should the position become vacant within the relevant time period, the top applicants on the roster who completed the Interview Process may be considered by the appropriate Department Director before re-advertising the position.

3.10 Notice of Non-Selection. The Human Resource Department and/or in some cases, the appropriate Department Director or designee, will notify applicants of their status during the process when it is determined the applicant is no longer being considered.

3.11 Authorization for hiring. The appropriate Department Director, or designee shall submit each request to fill a vacancy, to the Human Resources Department on the prescribed requisition form. The Human Resources Department shall verify each request and present it to the Town Manager or designee. The Town Manager may or may not authorize the vacancy be filled.

3.12 Required licenses and certificates. Applicants/employees are responsible for meeting all job-related requirements at the time of application, hire, transfer, or promotion as outlined in the job description. This may include licenses, certificates, permits, degrees, and registrations.

Employees are responsible for paying any fees in obtaining such license, etc., unless otherwise specified by the Town Manager or the appropriate Department Director, or designee.

The Human Resources Department will maintain a comprehensive list of qualifications and certifications of Town of Taos staff documenting expiration dates and requirements. The Human Resources Department will notify the Town Manager and appropriate Department Director annually regarding any pending expiration of certifications.

3.13 Failure to maintain job qualifications. Employees are required to maintain qualifications and certifications necessary for their position. Employees who have lost such certification requirement/job qualifications are responsible for:

- A. Immediately notifying both their immediate supervisor and their Department Director on the first day of employment after such a loss; and
- B. Not performing any work, or related function, without the required certification.

3.14 Pre-employment screening. Pre-employment testing may include, dependent on the position, a functional capacity examination, position competency test, and/or physical testing.

3.15 Background Checks. The Human Resources Department will obtain signed releases and authorizations to conduct background and reference checks for all applicants. Return of the signed authorization for the Human Resources Department to conduct background and reference shall be considered a required part of any application for employment with the Town. Failure to timely submit a signed authorization for the Human Resources Department to conduct background and reference checks may be a basis to determine an application is incomplete and rejected. Background checks may include, dependent on the position, but are not limited to employment history, criminal history, driving history, education verification, and credit history as appropriate.

Supervisors may review previous performance reviews and disciplinary actions of current employees being considered for a new position and may consider this information when selecting a successful candidate.

3.16 Post Offer, Pre-Employment Examinations. Pre-employment examinations may include, dependent on the position, a pre-employment drug test, a physical, a polygraph, hearing test, eye test, and/or a psychological examination.

3.17 Recommendation for Hire and Appointment. The Town Manager has the authority to approve or disapprove a recommended selection for hire for any position. Upon the Town Manager's written approval, and upon completion of all pre-employment

procedures, the Human Resources Department will notify the finalist of a conditional offer of employment. If the Town Manager does not approve the recommended selection for hire, the Town Manager may elect to leave the position vacant or order readvertisement.

3.18 Conditional Offer of Employment. The Human Resources Department shall notify the successful applicant of the conditional offer of employment and will schedule them to attend orientation. Unless prior approval is obtained from the Town Manager, the Town will not reimburse travel or relocation expenses in conjunction with the hiring process. The candidate will successfully complete a thorough background check, pre-employment physical, fit for duty exam and drug screen. Police and fire candidates will follow the guidelines set forth in their hiring processes.

3.19 Rejection of Employment Offer. In the event an applicant rejects an offer, after consultation with the appropriate Department Director, the position may be offered by the Human Resources Department to another candidate from the top three (3) following the Interview Process, the next highly qualified applicant from the Eligibility Roster, or the position may be re-opened for recruitment. The appropriate Department Director may choose not to hire candidates that remain in the eligible hire roster.

3.20 Immigration Law Compliance. Each person offered employment shall complete an employment eligibility verification form I-9 and present appropriate documentation establishing identity and employment eligibility as a condition precedent to obtaining employment.

3.21 Note on Employment Applications. Town of Taos relies upon the accuracy of information contained in the employment application, as well as the accuracy of other data presented throughout the hiring process and employment. Any misrepresentations, falsifications, or material omissions in any of this information or data may result in Town of Taos's exclusion of the individual from further consideration for employment or, if the person has been hired, termination of employment.

3.22 Hiring Relatives/Employee Relationships/Nepotism.

A. Persons shall not be employed by the Town whereby they would be directly supervised by any person related to them by consanguinity or affinity within the second degree.

B. Definitions:

- i. Consanguinity means related by blood.
- ii. Affinity means one's spouse or related through one's spouse.
- iii. The first degree means father, mother, son, daughter.
- iv. The second degree means brother, sister, grandfather, grandmother, grandson, granddaughter.

C. The Town Manager, Department Director, or any other supervisor may neither supervise nor directly hire relatives as defined above.

Should any of the relationships aforementioned exist, the employee shall advise their immediate supervisor and immediately withdraw from any conflicting action or processes.

While the Town of Taos encourages amicable relationships between members of management and their subordinates, or among members of the same department, it recognizes that involvement in a romantic relationship may compromise or create a perception that compromises an employee's ability to perform his or her job. Any involvement of a romantic nature between a supervisor and anyone he or she supervises, either directly or indirectly, is prohibited.

Any employee in a relationship that may cause the practice or appearance of nepotism in employment shall disclose the relationship in writing to their immediate supervisor immediately. Parties in such relationships may be reassigned at the discretion of the Town Manager.

Violations of this policy may result in corrective action up to and including termination.

Section 4 Employee Training.

4.1 General Training

4.1.1 Responsibility. The primary responsibility for in-service training shall be assumed by Department management. Departments will utilize performance and development plans as an indicator of an employee's need for training. Supervisors should consult with employees during the preparation of their performance and development plans regarding their training needs.

4.1.2 Needs. The Human Resources Director shall assist Departments in determining training needs for each respective Department. The Human Resources Department shall assist each respective Department in developing and establishing programs to meet such needs.

4.1.3 Education and Training Program. The Human Resources Director shall develop, implement, and monitor the Education and Training Program for employees. Identified training needs should be acted on by following the City's Education and training Program Procedures.

4.2 New Employee Orientation. Each new employee is required to attend new employee orientation as scheduled by the Human Resources Department within thirty (30) days of the hire date. The Human Resources Department shall explain Town government, policies, benefits, and the employment relationship, and shall distribute benefit enrollment forms. The employee shall receive a copy of the Town of Taos Personnel Policy. Each employee shall be required to sign a form to acknowledge review and understanding of the Town of Taos Personnel Policy and agreement to comply with the policies and procedures described therein. New employees shall complete all necessary forms. Next, the employee shall receive orientation at the hiring department. A representative of the hiring department shall explain the employee's duties, what the employee will be evaluated on, the department's work standards, the department's internal policies, the hours of work, lunch and break schedule, when and whom to report absence from work, methods of recording time worked, and the department's safety rules and procedures. The hiring department shall also provide a tour of the department, show the employee where applicable safety or protective equipment is located and introduce the employee to co-workers.

4.3 Tuition Assistance. Tuition assistance is financial assistance for eligible employees of the Town to take college credit-granting courses pursuant to the rules set forth herein. While tuition assistance is expected to enhance employees' performance and professional abilities, the Town makes no representation herein that gaining additional education will entitle the employee to automatic advancement, a different job assignment, or a pay increase. Tuition assistance shall be paid to the employee on a reimbursement basis. Such reimbursement will be taxed as a taxable fringe benefit pursuant to the internal revenue code and applicable regulations.

4.3.1 Eligibility. All full-time and part-time classified employees who have completed the probationary period and who have maintained satisfactory job performance thereafter may receive tuition assistance up to \$500.00 per fiscal year to pursue formal education, through college credit-granting courses, provided the courses are directly applicable to the employee's work at the Town and subject to the availability of funds. Education that is required for the employee to perform his or her job tasks is not covered by this section.

4.3.2 Reimbursement. Reimbursement is limited to tuition and associated fees. Reimbursement will not be made for books, travel, meals or any other expenses related to the education. The Town has the sole discretion to approve or deny or partially approve or deny requests for tuition assistance. To be eligible for tuition assistance, the employee must first submit a request in writing to the employee's immediate supervisor, the Department Director, and the Human Resources Director prior to the start date of the class or classes for consideration of approval. If the request has been approved by the Department Director, and Human Resources Director, the employee shall submit the approved request to the Human Resources Department for filing. Reimbursement will be made upon successful completion of the class, so long as a grade of "C" or equivalent is obtained in the course for which reimbursement is sought. After the successful completion of course(s), the Employee must sign an agreement to remain employed at the Town of Taos for a minimum of one year in order to be reimbursed for tuition assistance. Failure to abide by the agreement will result in the repayment of tuition assistance that was received by the employee. In the event that a course is only offered as pass or fail, a grade of pass will be acceptable for reimbursement, whereas a failing grade will not be reimbursed. Any late fees incurred by the employee registering late shall be paid by the employee.

4.3.3 Changes that affect tuition requests. If an employee changes the class(es) or withdraws from the class(es) after applying for tuition assistance, the employee shall immediately notify the Human Resources Department. If an employee separates from Town of Taos prior to completing the class(es), the Town shall not reimburse the employee for tuition of the class(es). If an employee transfers from one department, or office to another while attending the class(es), the Human Resources Director may decide not to reimburse the employee for tuition if the classes(es) are not directly applicable to the employee's new position. If an employee voluntarily terminates employment within one (1) year of receiving reimbursement pursuant to this section, the employee may be required to reimburse the Town for the total amount of tuition assistance received by the employee.

4.4 Educational Leave

4.4.1. Educational Leave Discretionary. Educational leave may be granted at the discretion of the immediate supervisor, Department Director and the Human Resources Director. Full-time employees may request educational leave up to four (4) hours per work week to attend class(es) during normal business hours of 8:00 a.m. To 5:00 p.m. provided that the class(es) are directly related to the employee's position or for a degree program that is directly related to the employee's position.

4.4.2. Educational Leave Must Be Used for Actual Class Attendance. Educational leave is to be used for actual class attendance and travel time to the institution. It will not be used for study or homework time. Educational leave may be disapproved on any given day because of an emergency or unusual work condition. Educational leave must be requested prior to the intended time of the requested leave.

Section 5. Hours of work

5.1 Full-Time Employee Expectation. Full-time employees are expected to work at least forty (40) hours per week unless otherwise specified by a different schedule or part-time status.

5.2 Breaks. Lunch breaks are without pay and are normally one (1) hour, except for departments with established alternative schedules. All employees who work more than six hours in a day are required to take an unpaid meal break of 30 minutes. In addition, each employee may be granted two (2) breaks per day, one in the morning and one in the afternoon, each for a period of fifteen (15) minutes. Supervisors may limit or delay breaks if continuous work is required, and the entire break or remainder of a break may be taken at a later time on the same day as determined by the supervisor. Breaks will not be accumulated. Breaks shall not be taken in conjunction with lunch breaks, at the end, or beginning of a work shift.

5.3 Attendance and Absenteeism. Employees are expected to report for work promptly. Employees will be paid for time actually worked unless absences are for authorized leave. If an employee expects to be absent from work for any reason, the employee shall submit a leave slip for the proposed absence to the employee's immediate supervisor prior to the time the employee is to report to work consistent with the time requested off. In cases of excessive absenteeism or when the supervisor believes that an employee is abusing personal leave, the employee may be required to submit a medical certification. Unauthorized absences (those not approved by the immediate supervisor) will be grounds for disciplinary action up to and including termination and the employee shall not receive pay for the period of the absences.

Section 6 Employee Relations

6.1 Chain of Command. The Town urges employees to follow the Chain of Command. Employees should address issues first with their immediate supervisor. If the issue is not resolved at this level, employees may request a meeting with the next level supervisor up to the Department Director. If the concern is still not resolved at the Department Director level, the employee may request a meeting with the Human Resources Director. If the concern is not resolved at the Human Resources Director level, the employee may request a meeting with the Town Manager as the last step in the Chain of Command.

6.2 Uniforms. Employees who are required to wear a uniform must wear the uniform while on duty as a condition of employment and shall not wear the uniform while off duty. Some uniforms are taxable as a taxable fringe benefit under the internal revenue code and applicable regulations of the internal revenue service. Clothing that is adaptable to street wear is taxable including, but not limited to, clothing bearing a Town logo, or non-safety shoes or boots. The supervisor will inform the employee what constitutes the required uniform. Employees improperly wearing or failing to wear uniforms may be disciplined up to and including termination. The Town will order and pay up to \$140.00 for safety shoes and/or boots. If the employee chooses to select a safety shoe or boot above that threshold, the employee will be responsible to pay the excess amount before receiving the goods. If an employee separates from the Town before the goods have been received, they will not receive the goods ordered.

6.3 Dress, Personal Appearance. Employees must present the best possible image to the public and should always be as clean, well-groomed, and neatly dressed as the work assignment allows. If a uniform is prescribed for an employee's function, the uniform shall be worn at all times while on duty. Failure to follow the dress code as described in this policy while on duty shall be considered insubordination.

The Town of Taos strives to provide a work environment that is free of safety hazards, offensive behavior and harassment of any kind. Therefore, the following clothing is not acceptable in the office: gym clothing; sexually provocative clothing; clothing that contains inappropriate material including profanity; observable lack of undergarments; exposed undergarments; clothing that exposes the midriff; tank tops; halter tops; and beachwear. Employees who appear for work inappropriately dressed shall be sent home and directed to return to work in proper attire, and shall not be compensated for time spent changing to appropriate work attire. Professional and appropriate hygiene is required of employees at all times.

6.4 Gratuities. Employees are prohibited from accepting gifts and/or other consideration from any person or entity doing business with or soliciting business from Town of Taos.

6.5 Solicitation. Solicitors shall not be allowed to consult with employees during work hours or in working areas other than the prescribed Town of Taos purchasing process.

6.5.1 Employees are prohibited from soliciting or providing information to any person in any Town facility during work hours concerning products, services, campaign information or memberships which are unrelated to the employee's direct work responsibilities.

6.5.2 Solicitation materials shall not be distributed in Town buildings.

6.6 Outside Employment / Conflict Of Interest:

Employees must disclose promptly any circumstance that might constitute a conflict of interest or appear to be a conflict of interest. If such a situation develops, the employee must immediately notify their Department Director and complete a Town of Taos Disclosure Statement Form, pursuant to the New Mexico Governmental Conduct Act (NMSA 1978, Section 10-16-1 et seq.) an employee or public official of the Town of Taos is required to make disclosure of potential conflicts of interest with regards to outside employment, familial relationships, and disclosure of substantial business interests. In addition, Employees must complete a Town of Taos Disclosure Statement Form every calendar year. Failure to complete the Town of Taos Disclosure Statement Form or failure to provide complete and accurate information may subject an employee to disciplinary action and may result in any authorization to engage in self-employment, supplemental or outside employment being terminated.

A. No employee shall:

1. Engage in any business or transaction, have a financial or other personal interest, direct or indirect, accept private employment or other public employment, or render services for private interest, which is incompatible with the proper discharge of the employee's responsibilities, which gives the appearance of impropriety, or could tend to impair his independence of judgment or action in the performance of his duties.
2. Accept any gift, whether in the form of money, service, loan, thing, or promise, from any person that could tend to impair the employee's independence of judgment or action in the performance of his duties.
3. Disclose confidential information concerning property, government or affairs of the Taos without proper legal authorization, or use such information to advance the financial or other private interest of self or others.
4. Accept any gift, whether in the form of money, service, loan, thing or promise, from any person which to his knowledge is interested directly in any manner whatsoever in business dealings with the Town; provided however, that any such employee who is a candidate for public office may accept campaign contributions and service in connection with any such campaign.
5. Represent the private interests of any third-party in any action or proceeding before any Board or Committee before which the employee appeared on behalf

of the Town while an employee of the Town or within one year of terminating his employment with the Town.

6. Participate in the selection, in the negotiation or the making of any contract with any business or entity in which he has a direct or indirect financial interest.

B. Self-Employment, Supplemental or Outside Employment.

1. The Town has the right to refuse authorization or to terminate authorization to engage in self-employment, supplemental or outside employment which:

- a. Involves the use of Town time, facilities, equipment, or supplies.
- b. Causes the employee to be less efficient in performing his duties for the Town.
- c. May cause or lead to a conflict of interest with the Taos for the employee or any of the employee's subordinates.
- d. Involves the acceptance of any gift or gratuity whether in the form of money, service, loan, thing or promise, by the employee or any of the employee's subordinates to perform any services related to his duties or his subordinate's duties with the Town.

- e. Results in an increase in the employee's use of leave.

2. The authorization for Outside Employment may be denied in the Town's sole discretion due to inadequate performance, attendance, number of hours of outside employment, perceived conflict of interest, or any other reason the Town deems is necessary for the efficient operation of Town government.

6.7 Confidential Information. Employees in positions that are exposed to or have access to confidential information must take appropriate measures to safeguard such information. Confidential information includes but is not limited to information exempt from disclosure under Inspection of Public Records Act (IPRA), information protected by the Health Insurance Portability and Accountability Act (HIPPA), attorney/client privileged information, or attorney work product. Sharing this information or allowing this information to be released without prior approval of the Department Director or designee may subject an employee to disciplinary action up to and including termination.

6.8 Smoke-Free Workplace. The purpose of this policy is to provide a safe and healthy work and living environment for our employees and the citizens of Town of Taos.

- A. The use of smoking and chewing tobacco products, including but not limited to, cigarettes, e-cigarettes, cigars, and pipes is prohibited inside any Town of Taos facility, vehicle, or equipment.

- B. The use of smoking tobacco products is allowed out-of-doors clear from any doorways, windows, or any ventilation system that may circulate the outside air to the indoors.
- C. Smoking tobacco products are not to be used near any chemicals, gas pumps, or any other hazardous or flammable chemicals or materials.
- D. Smokeless and smoking tobacco products may only be used during breaks and lunch periods.
- E. Tobacco waste is to be disposed of properly using a designated fire-resistant container.

6.9 Political Participation.

6.9.1 Campaigning. Town employees, Appointed Officials, and Elected Officials shall not campaign for political office during scheduled work hours. In addition, material and literature regarding candidates shall not be distributed on Town premises, Town equipment, or out of Town vehicles and shall not be created using Town property, such as Town computers or printers. Employees are also prohibited from campaigning in Town facilities while off-duty. Employees shall not participate in any campaign activities while wearing Town uniforms. Employees working in offices administered by an elected official shall not be coerced into campaigning for the elected official in order to ensure continued employment with the Town.

6.9.2 Running for Political Office. All Town employees, except an elected official, who becomes a candidate for an elected state, federal, or Town office, must, upon filing a declaration of candidacy or accepting a nomination, take a leave of absence from his or her Town position. Such leave of absence shall be for thirty (30) calendar days before the primary and general elections. The leave may be charged to accrued annual leave or compensatory leave if available, and if no paid leave is available, the time will be leave without pay. This provision shall not apply to a candidate who is running unopposed.

6.9.3 Town employees may not hold an elected political office during employment by the Town. Serving as a member of a local school board or an elected board member of any post-secondary educational institution shall not be construed as holding a political office for purposes of this section.

6.10 Voting Rights. Nothing in the Town of Taos Personnel Policy shall be interpreted to deny an employee the right to vote as they choose. No employee shall be retaliated against for voting for or against any candidate. If an employee feels that they have been subjected to any such retaliation, the employee should report the retaliatory conduct pursuant to Section 1.16.7 of the Town of Taos Personnel Policy. Violation of this policy including any improper retaliatory conduct will result in disciplinary action, up to and including termination.

6.11 Care of Town Equipment. Each employee who is entrusted with the use of Town equipment shall exercise reasonable care in its use, perform regular maintenance, and

follow all operating instructions, safety standards, and guidelines. Any improper, careless, negligent, destructive, or unsafe use or operation of equipment may be considered to be unsatisfactory performance of duties and result in disciplinary action. Each employee must notify the supervisor if any equipment, machine or tool appears to be damaged, defective, or in need of repair. This is essential to prevent the deterioration of equipment and possible injury to the employee or others. If Town equipment is damaged as a result of an employee's neglect of his or her responsibilities, the employee may be subject to disciplinary action, up to and including termination of employment.

6.12 Personal Use of Town Property. Except as otherwise allowed by this Personnel Policy, an employee shall not use Town property for personal use, for profit, or as part of secondary employment.

6.13 Maintenance of Minimum Qualifications. All employees in positions that require certification, licensure, continuing education units (CEU's), etc., are required to maintain such certification, license, CEU's, etc., as a condition of employment. Failure to maintain the required minimum qualification may result in termination of employment.

6.14 Procurement. Individuals found to have knowingly violated the New Mexico procurement code, NMSA 1978, Sections 13-1-1 through 13-1-191.1, or the Town of Taos Procurement Policy, (as amended from time to time), in the acquisition of goods or services shall be subject to disciplinary action up to and including termination.

6.15 Conflicts of Interest. Each employee must perform his or her assigned tasks without actual, potential or apparent conflicts of interest, particularly with vendors of the Town. Employees must abide by the New Mexico Governmental Conduct Act and the Town of Taos Personnel Policy. Violation of the New Mexico Governmental Conduct Act and/or the Town of Taos Personnel Policy may include disciplinary action up to and including termination.

6.15.1 Examples of Conflicts of Interest. Examples of potential conflicts of interest include, but are not limited to, the following: (1) a direct or indirect financial interest in any sale or lease of goods or services to the Town; (2) accepting of a gift, gratuity, or favor from a vendor; (3) a close, personal relationship with a vendor which influences a transaction; (4) outside employment with a vendor; (5) influencing a decision of the Town for personal gain of the employee or any family member; or (6) disclosure of confidential information to a private interest. Town employees shall complete the Town of Taos Disclosure Statement upon beginning employment with the Town and annually thereafter. Failure to accurately and truthfully complete the conflict-of-interest form may result in disciplinary action, up to and including termination.

6.16 Criminal Activity. All complaints or allegations of criminal conduct on the part of any employee will be referred to the chief of police or other appropriate outside agency for investigation. Any employee who engages in criminal activity may be subject to termination. An employee shall immediately inform his or her supervisor if the employee is charged with a crime. All employees are required to cooperate and participate in

investigative and/or disciplinary matters but are not required to give up their *Miranda* rights under the *Garrity* decision or its progeny where they have been or might be charged with or arrested for a criminal offense.

6.17 Press Contacts. Inquiries from the news media are given a high priority by the Town and should be responded to as quickly and efficiently as possible. In order to ensure the dissemination of consistent, accurate and timely information, the Community Relations Director or other person designated by the Town Manager shall be responsible for Town media relations. All inquiries from the news media should be promptly forwarded to the Community Relations Director or other person designated by the Town Manager. Employees shall not make comments to the media on behalf of the Town.

6.18 Service on Boards/Commissions/Committees/Groups. An employee must receive prior Town approval to serve on a board, commission, committee or group for which membership is not a required duty of the employee's position, and which interferes with the employee's regular work schedule. The employee must submit a written request to serve/participate on a board, commission, committee, or group prior to the intended start date. The request must be approved by the immediate supervisor, Department Director, the Human Resources Director, and the Town Manager prior to the employee's participation. If the request is approved, the employee may attend meetings or transact business during the employee's regular working hours only when on approved personal leave. If being a member conflicts with the employee's position, the request will be disapproved.

6.19 Firearms and Prohibited Weapons. Employees shall not enter Town property while carrying a handgun, firearm, or other weapons whether concealed or not, regardless of whether the employee has a permit to carry the weapon. It is similarly prohibited for employees to possess a handgun, firearm, or other weapon in a vehicle on Town property. It is also prohibited for employees to possess a handgun, firearm, or other weapon in a Town vehicle whether on or off Town property. Failure to comply with this policy may lead to disciplinary action up to and including termination.

6.19.1 Certified Law Enforcement Officer or employees of the Town who are deputized for purposes of their job with the Town are not subject to the restrictions set forth in the previous paragraph.

6.20 Search and Seizure. Employees are advised that the work area is subject to reasonable search by the Town. Employees are further advised that they do not have an expectation of privacy in the work area and should therefore refrain from keeping personal items or property in the work area. Town-owned vehicles, equipment, lockers, desks, cubicles, file cabinets, computers or telephones, even though used by a single employee, may be searched upon reasonable suspicion that a violation of the Town of Taos Personnel Policy or a collective bargaining agreement exists. Purses, backpacks and suitcases are generally not subject to search unless the Town has reasonable suspicion or probable cause to conduct a search of such items. Nothing in this paragraph shall

prohibit the Town from searching the work area for work-related, non-investigatory reasons.

6.21 Use of Town Vehicles

6.21.1 Driver Selection/Qualifications. The Town may identify and authorize certain employees to drive Town vehicles based on the nature of duties of the position. Driver authorization and qualification shall be analyzed during the hiring process. All drivers (current and prospective) shall possess a valid New Mexico drivers' license for the type of vehicle(s) operated on the job. Employees shall be medically qualified to operate vehicles in accordance with job requirements prior to commencing work. Drivers shall successfully complete the Town's defensive driver's training program within six months of hire. Refresher training shall be provided to all drivers at least every four (4) years. There shall be no expectation of privacy in a Town vehicle.

All traffic violations whether in a Town vehicle or personal vehicle, involving a Town employee or official during the Town employee's or official's work hours must be reported to the Human Resources Department immediately. Where an employee or official using any vehicle for Town business or during working hours is cited for a traffic violation or is involved in an accident where there is damage to property or person(s), the employee's or official's driving privileges may be suspended or revoked by the Town Manager. Any motor vehicle accident, whether in a Town vehicle or personal vehicle, involving a Town employee or official during the Town employee's or official's work hours must be reported in accordance with Section 6.22.3 of the Town of Taos Personnel Policy. Failure to comply with this section may result in disciplinary action up to and including termination.

6.21.2 Maintenance and Repairs. Authorize employees or officials assigned to a Town-issued vehicle are responsible for the routine maintenance and repairs of Town vehicles which shall be conducted in a regular and timely fashion at Town facilities. Town vehicles shall be clean and present a favorable image to the public and must be maintained in accordance with the manufacturer's recommendations.

6.21.3 Vehicle Accidents. If a Town employee or official is involved in a motor vehicle accident while driving a Town vehicle or while performing official duties in a private vehicle, the employee or official shall contact law enforcement immediately, render aid if necessary and possible, and contact the Human Resources Department. The employee or official shall also request that the parties and properties involved remain at the scene of the accident until a law enforcement officer has released them. The employee's or official's supervisor and Human Resources Department must be notified of the accident immediately. The employee or official shall refrain from making statements regarding the accident to anyone other than the investigating officer(s), Town Attorney(s), Human Resources Director, or representative of his or her own insurance company, if the employee's privately-owned vehicle is involved. Drivers involved in vehicle accidents may be subject to drug and alcohol testing as specified in Section 15.12.2.

6.21.4 Operation of Town Vehicle. Only an authorized Town employee or official, or other person authorized through a joint powers' agreement or memorandum of understanding, may operate a Town vehicle.

6.21.5 Passengers. Except for transport of persons by law enforcement, the transport of a non-Town employee in a Town vehicle is prohibited except in an emergency or when approved by the employee's director.

6.21.6 GPS Equipped. Town vehicles are equipped with a Global Positioning System (GPS) which monitors vehicle operations including, but not limited to speed, location, idle times and routes. Monitoring such usage permits Town to identify means by which to reduce fuel costs, increase driver safety, improve utilization efficiencies, and identify vehicle misuse. Because vehicle usage is monitored, Town employees have no expectation of privacy while operating or riding as a passenger in a Town vehicle.

6.21.7 Use of Tobacco/Cannabis Products. Smoking and other uses of tobacco products and cannabis are prohibited in Town vehicles and equipment; this includes vaping and smokeless products.

6.21.8 Vehicle Take-Home Policy. An employee or official may be assigned a Town vehicle to take home if the Town deems it necessary. An employee or official assigned a take home vehicle shall comply with a resolution establishing a vehicle take home policy for Town of Taos employees or amendments thereto. The use of the take home vehicle may be taxable as set forth in the resolution establishing and implementing a taxable fringe benefits policy or amendments thereto. In no event shall a Town employee who has had a positive drug or alcohol test or who has been convicted of driving under the influence of alcohol or drugs be permitted to take a Town vehicle to or from the employee's or official's home until three (3) years have elapsed from the date of the positive test and/or conviction.

6.22 Information Technology Resources. The Town provides information technology resources ("IT resources") to designated employees and officials. These resources include, but are not limited to Town owned or leased computers, copiers, printers, all other computer equipment, telephones, cellular phones, software, data, network devices, accessories, email, voicemail, the Town intranet, the internet, and electronic files.

6.22.1 Usage. Use of it resources are intended for business-related purposes, such as communicating with vendors, suppliers and consultants, researching relevant topics related to Town business, and acquiring information of use to the Town. Limited, occasional use of the Town email and/or the Town internet services for personal purposes is allowed provided that it does not negatively affect the employee's performance, discredit the Town, or violate any Town policy or state or federal law. Personal use shall occur only during non-working time unless otherwise specified. There shall be no expectation of privacy when using IT resources, and the Town reserves the right to audit, monitor and inspect IT resources and any related documents or material with or without

notice and with or without permission from the employee. Users shall not assume electronic communication is private.

6.22.2 Misuse of IT Resources. IT resources shall not be used for private benefit. Nor shall IT resources be used to reveal confidential or sensitive information, proprietary data, or any other information covered by existing state or federal privacy or confidentiality laws, policies, procedures, or contract terms. IT resources may not be used to create, access, download or upload information to include text or images, print, display, archive, store, distribute, edit, or record information that is considered to be discriminatory based on particular sex, race, age, national origin, disability, religion, sexual orientation or political affiliation, harassing, obscene, abusive, fraudulent, indecent, sexual content, harassing, or threatening. An employee or official may not use IT resources to engage in any business or for personal gain or profit. Employees and officials are prohibited from accessing private, non-Town e-mail accounts from Town owned or leased equipment within the Town's network. An employee or official shall not share his or her username or password and is responsible for all activity occurring under his or her user's name and password.

6.22.3 Use of Town Telephones. The use of Town telephones is restricted to Town business and necessary brief personal telephone calls. Examples of necessary brief personal calls are calls to alert household members about schedule changes, make alternative childcare arrangements, talk with medical providers, reach businesses or government agencies that can only be contacted during working hours, and arrange emergency repairs. To the extent possible, such personal calls shall occur during non-working hours.

6.22.4 Use of Town Cellular Phones. The Town may provide cellular telephones for employees or officials whose duties require wireless access to cellular telephone service. The use of Town cellular telephones is restricted to Town business and necessary brief personal telephone calls. If an employee exceeds the relevant plan due to business calls, it is the responsibility of the employee to meet with his or her immediate supervisor to evaluate whether the plan is sufficient for the duties required. If any employee exceeds the relevant plan due to business calls without meeting with his or her immediate supervisor or due to personal use, the employee may be subjected to disciplinary action, up to and including termination. Cellular telephones should be turned off or set to silent or vibrate mode during meetings and in other situations where incoming calls, text messages, or other notifications may disrupt the workflow.

6.22.5 Use of Personal Cellular Telephones. The use of personal cellular telephones while an employee or official is working, including text messaging and email communication, is restricted to necessary brief personal communications. An employee shall not use his or her personal cellular phone during working hours to send information or materials that are defamatory, discriminatory, or inappropriate for the workplace, including information or materials of a sexual nature or that show nudity. An employee or official shall not use a personal cellular telephone to conduct any Town business.

6.22.6 Computer Programs or Software. No software licensed to the Town nor data owned or licensed by the Town shall be uploaded or transferred out of the Town's control without explicit authorization from the Town Manager except through the inspection of public records process. Users shall not download executable software, including freeware and shareware, unless approved by the information technology director. Users shall not use information technology resources to download or distribute pirated software or data. Unauthorized access to the internet is prohibited from any device that is attached to any part of the Town's network. The Town's IT resources shall not be used to establish connections to non-Town internet service providers without prior authorization by the information technology director. No program or software which must be purchased may be downloaded until the program is properly purchased under the New Mexico procurement code and the Town's purchasing procedures. Use of any program or software which is downloaded pursuant to these provisions must be strictly used within the terms of any license or registration.

6.23 Recording Devices and Cameras in the Workplace

6.23.1. Recording Devices. The Town prohibits the recording of conversations or meetings unless the consent of one party involved is obtained or is specifically allowed in this manual. As such, secret recordings, or recordings without permission of at least one participant are prohibited in and on all Town-owned and operated properties.

6.23.2. Cameras. The Town reserves the right to install security cameras in work areas for specific business reasons, including but not limited to security and theft protection. The Town may find it necessary to monitor work areas with security cameras when there is a specific job or business reason to do so. The Town will do so only after first ensuring that such action is in compliance with state and federal laws.

6.24 Employee Surveys. The Human Resources Department or contractor will conduct an annual survey of its employees "to assess" the following:

- A. Leadership and management practices that contribute to agency performance; and
- B. Employee Satisfaction with-
 - a. Leadership policies and practices;
 - b. Work environment
 - c. Rewards and recognition for professional accomplishment and personal contributions to achieving organizational mission;
 - d. Opportunity for professional development and growth; and
 - e. Opportunity to contribute to achieving organizational mission."

Section 7 Discipline.

7.1 Authority to Take Disciplinary Action. Supervisory and Managerial personnel have the responsibility and obligation to take disciplinary action deemed necessary, in the best interests of the Town.

7.2 Progressive Discipline. The primary purpose of discipline is to correct performance or behavior that is below acceptable standards or contrary to the Town's legitimate interests, in a constructive manner that promotes employee responsibility. As described in Section 1.6(D) of the Town of Taos Personnel Policy, disciplinary action is not primarily intended to be punitive but rather to maintain the efficiency and integrity of Town service. It is the Town's policy that, as a general rule, discipline is progressive in nature, beginning with less severe action necessary to correct the undesirable conduct or behavior, and increasing in severity if the conduct or behavior is not corrected. There are instances when a disciplinary action, including dismissal, is appropriate without first having imposed a less severe form of discipline. The circumstances surrounding an offense, such as the severity of the misconduct, the number of times it has occurred, as well as any previous counseling, and the employee's disciplinary history, will be factors considered in determining the action to be taken. The conduct at issue in a prior discipline need not be similar to the conduct involved in a subsequent discipline to serve as the basis for progressive discipline.

7.3 Forms of Disciplinary Action.

7.3.1 Oral Reprimand. An oral reprimand is generally used for minor offenses or to correct minor faults in an employee's performance. An oral reprimand is not grievable and not subject to the notice and hearing requirements of the applicable section of the Town of Taos Personnel Policy.

7.3.2 Written Reprimand. A written reprimand may be issued by a supervisor for an offense of a more serious nature which requires more formal action than an oral reprimand. The written reprimand shall become a part of the employee's personnel file. A written reprimand is not grievable and not subject to the notice and hearing requirements of the applicable section of the Town of Taos Personnel Policy.

7.3.3 Suspension. A suspension may be ordered for an offense of a more serious nature or for repeat of a minor offense. An employee may be suspended for a period not to exceed thirty (30) working days. During a suspension, an employee will not be paid or accrue leave. Each suspension shall be recorded and filed in the employee's personnel file.

7.3.4 Demotion. An employee may be demoted for an offense of a more serious nature or for repeat of a minor offense. The employee may be demoted to a lesser position for which the employee is otherwise qualified. When demoted, the employee will receive a decrease in compensation commensurate with the new position. Each demotion will be recorded and filed in the employee's personnel file.

7.3.5 Dismissal. An employee may be terminated for an offense of a more serious nature or for repeat of a minor offense.

7.4 Grounds for Disciplinary Action. A classified employee, if the probationary period has been served, may be suspended, demoted, or dismissed for just cause. Just cause includes, but is not limited to, the following:

7.4.1 Unsatisfactory Performance. Unsatisfactory performance consists of:

- A. Unsatisfactory performance of duties;
- B. Insubordination;
- C. Continued violation of safety practices;
- D. Failure to cooperate with fellow employees;
- E. Failure to adhere to the established work schedule;
- F. Failure to obtain prior authorization to work overtime;
- G. Failure to meet or maintain job qualifications, as set forth in the job description, including failure to maintain a valid driver's license;
- H. Sleeping on duty (except for approved sleep time for fire personnel);
- I. Violation of the Town of Taos Personnel Policy or other directives or rules promulgated pursuant thereto;
- J. Any other behavior that justifies discipline under this category.

7.4.2 Tardiness/Absenteeism. Tardiness or absenteeism consists of:

- A. Abuse of personal leave;
- B. Unauthorized absence from work;
- C. Tardiness shall include being late for work, returning late from lunch, or late to scheduled meetings or other work-related events for which attendance is required;
- D. Failure to abide by time frames for call ins;
- E. Any other behavior that justifies discipline under this category.

7.4.3 Careless, Negligent, or Improper Use of Town Property, Equipment or Funds.

This conduct consists of:

- A. Falsifying official documents or records;
- B. Theft or vandalism of Town property;
- C. Unauthorized use or possession of Town property or equipment;
- D. Operating a Town vehicle or equipment in a negligent, reckless, or tortious manner;
- E. Unauthorized disclosure of confidential information;
- F. Falsification, destruction of Town records, reports, or other data belonging to the Town;
- G. Unauthorized or fraudulent manipulation of time records or other Town records;
- H. Improper operation of a Town vehicle or equipment;
- I. Inappropriate use of IT resources;
- J. Any other behavior that justifies discipline under this category.

7.4.3 Improper Conduct. Improper conduct consists of:

- A. On the job conduct toward the public or employees that causes discredit to the Town;
- B. Personal conduct which impairs the employee's ability to perform the employee's duties or causes discredit to the Town;
- C. Conflict of interest which results in private gain to the employee or detriment to the Town;
- D. Threatening or harassing an employee, and/or anyone doing business with Town of Taos;
- E. Consumption, possession, or distribution of alcohol or drugs on the job, or reporting to work under the influence of alcohol or drugs;
- F. Accepting a bribe or consideration given with the intent to influence the performance of duty;
- G. Use of official position or authority for personal profit or advantage;
- H. Bribery or coercion of, or attempting to bribe or coerce an employee;
- I. Influencing, or attempting to influence, a hearing officer, other than through established hearing procedures;
- J. Failure to cooperate in an investigation;
- K. Distributing literature, vending, soliciting, or collecting contributions while on the job and on Town premises, or assisting with the same, without prior authorization of the Town Manager;
- L. Unauthorized possession of a weapon on Town property, or vehicles except for certified law enforcement;
- M. Fighting or other disruptive behavior in the workplace;
- N. Gambling during work hours;
- O. Violation of the Town of Taos Personnel Policy or other directives or rules promulgated pursuant thereto;
- P. Any other behavior that justifies discipline under this category

7.4.5 Violation of Law. Violation of any federal, state, or local law, statute, ordinance, or regulation.

7.4.6 Criminal Conviction. Conviction of a misdemeanor or felony criminal offense.

7.5 Persons Ineligible to Grieve or Appeal a Disciplinary Action. A Probationary, Employee, Unclassified Employee, Temporary Employee, or Casual Employee may be subject to disciplinary action at any time without a right to file a grievance.

7.6 Disciplinary Process. The following procedures apply when a supervisor proposes to suspend, demote, or dismiss a Classified Employee who has completed the probationary period.

7.6.1 Delivery of Correspondence. The Town will attempt to hand deliver documentation related to the disciplinary process to the employee including but not limited to disciplinary action forms, memos, or documents, and such correspondence will be considered served upon delivery. When hand delivery is not practical, correspondence

will be mailed by priority mail, certified return receipt requested, to the employee's last known address and will be considered served when placed in the mail. Employees are required to maintain a current address with the Human Resources Department and to notify the Human Resources Department in writing of any changes to their address. For the purpose of this section, days mean workdays to include Monday through Friday and not to include holidays or time when the Town administrative offices are closed.

7.6.2 Notification of Proposed Disciplinary Action. To initiate the suspension, demotion, or dismissal of a classified employee, the employee's Department Director or designee will serve a notice of proposed disciplinary action on the employee. Service of a notice of proposed disciplinary action shall be effected as described in Section 7.6.1 of the Town of Taos Personnel Policy. A copy of the notification of proposed disciplinary action shall be submitted simultaneously to the Human Resources Department. The notice of proposed disciplinary action will describe the conduct, actions, or omissions that form the basis for the proposed disciplinary action, give a general explanation of what evidence the Town has, and will include the date, time, and place of the pre-determination hearing.

7.6.3 Pre-Determination Hearing. The employee shall be given an opportunity to respond to the proposed discipline at a pre-determination (Loudermill) hearing. The pre-determination hearing shall be recorded by the use of electronic recorder. The employee's immediate supervisor, Department Director, or designee, and a representative from the Human Resources Department shall be present at the pre-determination hearing. A representative of the Town attorney's office may be present at the pre-determination hearing. The employee has the right to have a representative of his or her choice and at his or her own cost present during the hearing. Pre-determination hearings will be held within five (5) working days from the date of service of the proposed discipline. The pre-determination hearing is not an evidentiary hearing but is an opportunity for the employee to present his or her version of events. It is a check against mistaken decisions, a determination of whether there are reasonable grounds to believe that the charges against the employee are true and supported by the proposed discipline.

7.6.4 Notice of Final Action. Regardless of whether an employee attends the pre-determination hearing, the Human Resources Director or designee shall issue a notice of final action within ten (10) working days following the pre-determination hearing. The notice of final action shall specify the final action to be taken, which may be upholding the proposed disciplinary action, modifying the disciplinary action, or reversing the disciplinary action. The notice of final action shall describe the conduct that forms the basis for the disciplinary action, give a general explanation of the evidence the Town has in support of the final action, and specify when the final action will become effective. The notice of final action shall also advise the employee of the appeal rights set forth in section 7.6.5 below.

7.6.5 Appeal of Final Action. If the employee or past employee wishes to appeal the final action, he or she shall submit a written appeal to the Town Manager within five (5) working days from the date he or she was served with the notice of final action. The Town

Manager will review all pertinent information and will either confirm, modify, or reject the final action. The Town Manager may request additional information or documentation before rendering a decision. The Town Manager will render a written decision by issuing a notice of final action on appeal within ten (10) working days from the date of receipt of the appeal. The notice of final action on appeal shall be served to the employee or former employee as described in Section 7.6.1 of the Town of Taos Personnel Policy. The Town Manager will notify the governing body of any such appeal.

7.7 Filing for Post Determination Hearing.

7.7.1 Exhaustion of Administrative Remedies. An employee or former employee must exhaust the administrative remedies described in Section 7.6 of the Town of Taos Personnel Policy prior to filing a request for a post determination hearing as set forth in this section.

7.7.2 Time. A request for a post-determination hearing must be made in writing and filed with the Human Resources Director no later than ten (10) calendar days after service of the written decision of the Town Manager. A copy of the notice of final action and a statement of the specific grounds for the hearing must accompany the request.

7.7.3 Forfeiture. Failure to file an appeal within ten (10) calendar days shall constitute forfeiture of the right to appeal.

7.7.4 Hearing Officer. The Town will select a hearing officer deemed capable of providing a fair and impartial hearing to the person or employee.

7.7.5 Hearing Date. The hearing officer shall set a hearing date no more than one-hundred-twenty (120) days from the receipt of the request for a post-determination hearing. The hearing shall be recorded by transcription by a certified court reporter, the costs of which will be paid by the Town. This timeline can be extended by the hearing officer for cause with written agreement of the employee or former employee and the Town Manager.

7.7.6 Representation. The employee may represent himself or herself or designate a person who is not an employee of the Town to represent him or her. The Department Director or person initiating the disciplinary action must be represented at the hearing. The employee, former employee and the Town may each choose to have an attorney as a representative at the hearing. The employee or former employee is solely responsible for the cost of his/her representation.

7.7.7 Evidence/Subpoena. Oral evidence shall be taken only under oath or affirmation. The hearing officer shall have the authority to administer oaths, issue subpoenas, examine witnesses, and compel either party to produce documents pertinent to the hearing.

7.7.8 Employee Testimony. As a condition of employment, employees may be required to appear as witnesses at post determination hearings. Refusal by an employee to testify in a post determination hearing is grounds for disciplinary action. The hearing shall be conducted in an orderly and informal manner without strict adherence to the rules of evidence that govern proceedings in the courts of the State of New Mexico. However, in order to support a decision, there must be a residuum of legally competent evidence to support a verdict in a court of law. Irrelevant immaterial or unduly repetitious evidence shall be excluded.

7.7.9 Conduct of Hearing. The hearing examiner shall control the conduct of all parties and all other persons present at the hearing. The hearing examiner may, under the appropriate circumstance; (1) remove any person from the hearing room; (2) close the hearing to the general public; (3) exclude all witnesses until they are called to testify; (4) continue the hearing to a later time and date; and (5) take any other action the hearing officer determines is necessary to ensure orderly proceedings and to conduct a fair and impartial hearing.

7.7.10 Burden. The Town shall have the burden to prove the grounds for disciplinary action and the Town's representative will present its evidence first.

7.7.11 Rights of Presentation. Each party shall have the right to make opening and closing statements; call and examine witnesses and introduce exhibits; cross-examine witnesses; impeach any witnesses; and rebut any relevant evidence.

7.7.12 Administrative Notice. The hearing officer may take administrative notice of those matters of which courts of the State of New Mexico may take judicial notice.

7.7.13 Forfeiture. An employee or person who files a request for a hearing and fails to appear or participate in the post determination hearing process forfeits the right to continue the post determination hearing. The record of the hearing shall reflect and take into consideration the employee's failure to appear or to participate in the post determination hearing process.

7.7.14 Decision. The hearing officer will render a decision within thirty (30) calendar days from the final date of post determination hearing. The hearing officer shall determine if there was just cause for the disciplinary action.

7.7.15 Judicial Review. Any party that is adversely affected by a final decision of the hearing officer may seek judicial review of the decision by filing an appeal pursuant to NMSA 1978, Section 39-3-1.1 and the New Mexico Rules of Civil Procedure, Rules 1-074 and 1-075 NMRA.

Section 8 Grievances.

8.1 General. A grievance is a complaint by an employee concerning a violation of the Town of Taos Personnel Policy. The following steps comprise the normal grievance process. The employee's supervisor or Department Director may waive steps, as appropriate, and a grievant may withdraw a grievance at any step in the grievance process. The grievance process is not applicable to disciplinary actions.

8.2 Delivery of Correspondence. For the purposes of the grievance process, the Town will attempt to hand-deliver any documentation, or correspondence related to the grievance process including but not limited to forms and memos and will be considered served immediately upon delivery. In cases where hand delivery is not practical, such materials will be mailed priority, certified return receipt requested, to the employee's last known address and will be considered served when placed in the mail and will be considered served on the date when the item was placed into the mail. For the purpose of this subsection, days mean workdays to include Monday through Friday and not to include holidays or time when the Town administrative offices are closed.

8.3 Time Limitations. Failure to file a grievance within ten (10) working days following discovery of the act or condition that gave rise to the grievance shall constitute a waiver of the right to file a grievance. Furthermore, any grievance determination not appealed to the next level within the time limits set forth herein shall be considered closed. The time limits in this grievance procedure may be extended upon written agreement of the parties. If the Town fails at any stage during the grievance process to timely respond, the grievant may appeal to the next level in the grievance process within the time limits set forth as if the Town had timely responded.

8.4 Step Process

8.4.1 Step 1. Informal Discussion. Informal discussion within ten (10) working days of any action complained of the employee must attempt to resolve the complaint through informal discussion with the employee's immediate supervisor and Department Director.

8.4.2 Step 2. Written grievance

- A. *Written Grievance Required.* If the matter cannot be resolved informally in Step 1, the employee shall submit a written grievance to the Department Director. If a Department Director is also the employee's immediate supervisor with whom the Step 1 grievance had previously been addressed, the employee shall present the written grievance to the Human Resources Director.
- B. *Time to File Written Grievance.* A written grievance must be submitted within five (5) working days after completion of the Step 1.
- C. *Content of Written Grievance.* Written grievances will be submitted on the established Town of Taos Report of Grievance Form. The grievant will provide the

date of the occurrence, a short and concise narrative of the occurrence, the names of person(s) involved in the occurrence, the specific section(s) of the Town of Taos Personnel Policy that have been violated, brief additional facts as appropriate, the relief requested, and the date when Step 1 was completed.

- D. *Response to the Written Grievance.* The Department Director or Human Resources Director, as appropriate, shall promptly respond in writing to the written grievance within ten (10) working days of the receipt of the written grievance.
- E. *Review by Human Resources Director.* If the matter cannot be resolved by the Department Director, the grievant may file the grievance with the Human Resources Director and request a meeting with the Human Resource Director or designee. If the written grievance was submitted to the Human Resources Director pursuant to Section 8.4.2(A) of the Town of Taos Personnel Policy, the grievant may file the grievance with the Town Manager and request a meeting with the Town Manager or designee. The meeting shall be scheduled within five (5) working days of the Human Resource Director's or Town Manager's, as may be appropriate, receipt of the grievance. The Human Resources Director or Town Manager, as may be appropriate, shall respond to the grievant within twenty (20) working days following the grievance meeting or if a grievance meeting is not conducted, within twenty (20) working days from receipt of the grievance by the Human Resources Director or the Town Manager as may be appropriate.

8.4.3 Finality. The grievance process concludes with Step 2.

8.5 Documentation. Documentation gathered and submitted during the grievance process shall be retained in the grievant's personnel file.

8.6 No Retaliation for Grievances. No employee who files a grievance shall be subject to retaliation for exercising his or her right to file a grievance. If an employee feels that they have been subjected to any such retaliation, the employee should report the retaliatory conduct pursuant to Section 1.16.7 of the Town of Taos Personnel Policy.

Section 9 Human Resources Records.

9.1 Requests for Records. All written requests to inspect documents shall be forwarded immediately upon receipt to the Town Clerk or Deputy Town Clerk.

9.2 Personnel File. The Personnel File is considered to be the official employment file. A personnel file shall be maintained regarding each employee. The personnel file shall be maintained by the Human Resources Department in a secure location. Personnel files shall be kept strictly confidential except as provided by law or order from a court.

9.3 Inspection of Personnel File. Each employee shall be permitted to review his or her personnel file. The employee may be required to present identification. The review of the file shall take place with a Human Resources representative present. The review shall occur as soon as possible, but no later than five (5) working days following the request. The employee shall not be permitted to remove anything from the file.

9.4 Access to Personnel Files. Personnel Files are the property of Town of Taos, and access to the information they contain is strictly restricted by law. Accordingly, access to an employee's personnel file shall be limited to persons with a legal right to examine the file. A supervisor shall be permitted to examine the personnel file of an employee under his or her direct supervision, but only if there is a legitimate business reason to do so and in the presence of a Human Resources representative. A supervisor shall not be permitted to remove anything from a personnel file. A supervisor who is considering hiring a Town employee or a previous Town employee shall be permitted to examine the personnel file of the applicant in the presence of a Human Resources representative. A supervisor who reviews a personnel file of any employee or former employee shall keep the information therein confidential and any such information may not be used for an improper purpose. A supervisor who inappropriately inspects a personnel file or discloses the contents thereof is subject to disciplinary action, up to and including termination.

9.5 Inquiries Concerning Present and Former Town Employees. Only the Human Resources Department is authorized to respond to inquiries regarding present and former Town employees. Responses to such inquiries will confirm dates of employment, wage rates, position(s) held and whether the employee is eligible for rehire. No further information will be released without written authorization for release of such information signed by the individual who is the subject of the inquiry and notarized. The only exceptions to this rule shall be as provided by law or order from a court.

9.6 Medical Files. Medical information regarding each employee and dependents which is obtained by the Town will be maintained in a separate medical file. The medical file is a confidential file and may be inspected only by those with a legal right to do so. Any employee who is permitted to inspect such a file has a responsibility to respect and maintain the confidentiality of employee medical information. Anyone who inappropriately inspects a medical file or discloses the contents thereof is subject to disciplinary action, up to and including termination.

9.7 Human Resources Data Changes. Each employee shall promptly notify the Human Resources Department of any changes in the employee's name, mailing address, telephone number, marital status, number and names of dependents, individual(s) to be contacted in the event of emergency, educational accomplishments, and other relevant information. Any information affecting an employee's pay or record must be submitted as soon as it is known, but no later than the effective date.

Section 10 Employee Leave

10.1 Personal Leave.

10.1.1 Eligibility. Each Full-Time Classified Employee, Unclassified Employee, and Full-Time Probationary Employee is eligible to accrue personal leave with pay to be used for any reason including vacation or personal time off work and to attend medical appointments, for illness or injury, or to care for an ill or injured immediate family member beginning on the date of hire. For purposes of this section, an "immediate family member" is defined as a spouse, child, parent, sibling, grandparent, grandchild, aunt, uncle, niece, nephew, step-parent, step-child, step-sibling, foster child, father-in-law, mother-in-law, son- and daughter-in-law, brother and sister-in-law, domestic partner, domestic partner's child, and domestic partner's parent.

10.1.2 Accrual.

- A. **Full-time Classified and Full-time Probationary Employees.** Full-time classified and Full-time probationary employees shall accumulate a total of twenty-two (22) days (176 hours) of personal leave per year up to and including five (5) years of service. After the completion of five (5) years of service, the employee shall accumulate up to twenty-seven (27) days (216 hours) of personal leave per year. Personal leave is accrued on a biweekly basis at a rate consistent with the aforementioned annual accrual. Unused personal leave may be carried into subsequent years consistent with the Town of Taos Personnel Policy.
- B. **Department Directors.** Shall accumulate twenty-two (22) days (176 hours) of personal leave per year up to and including two (2) years of service as a Department Director. After two (2) years of service, the Department Director shall accumulate up to twenty-seven (27) days (216 hours) of personal leave per year. Personal leave is accrued on a biweekly basis at a rate consistent with the aforementioned annual accrual. Unused personal leave may be carried into subsequent years consistent with the Town of Taos Personnel Policy.

10.1.3. Maximum Accrual of Personal Leave. No more than five hundred (500) hours of personal leave will be accrued for Town employees. Personal leave will cap at five hundred (500) hours and no additional leave will accrue once an employee's accrual reaches this cap.

10.1.4. Retirement or Separation. At retirement or separation from employment, all unused, accrued personal leave shall be paid out in one lump sum with the employee's final paycheck unless otherwise approved by the Town Manager.

10.1.5 Requesting Personal Leave. Employees who are unable to report to work due to illness or injury are required to contact the supervisor at least one hour before the scheduled start of the shift. If an employee has a planned doctor's appointment, the employee shall request the time off at least seven (7) days prior to the appointment.

10.1.6 Physician's Statement. If an employee is absent from work for three or more consecutive days due to illness or injury, a physician's statement may be required to verify that the employee may safely return to work.

10.1.7 Compensation While on Personal Leave. While on personal leave, each employee shall receive the employee's hourly base pay rate at the time of the illness, physician's appointment, or injury multiplied by the number of regular hours the employee would have worked had he or she not needed to use personal leave. An employee on personal leave shall not be compensated for overtime which might have accrued, nor shall the employee receive any shift differential pay while on personal leave.

10.1.8 Transferability. Personal leave is not transferable.

10.1.9 Personal Leave & Injury On the Job

If an employee is injured on the job, the employee shall be entitled to use Personal Leave to seek and receive medical treatment for any such injury. If any employee does not have sufficient Personal Leave to seek and receive necessary medical treatment, leave without pay (LWOP) may be authorized.

10.2 Administrative Leave.

It is recognized that certain events arise that make administrative leave necessary.

The Town Manager or designee may place an employee on administrative leave with pay for the following reasons:

- A. To ensure the safety or welfare of other employees, and/or the public;
- B. To protect the Town's facilities or properties;
- C. To conduct an investigation;
- D. To ensure the safety and welfare of the employee;
- E. Any employee may be placed on administrative leave with pay when it is in the best interests of the Town to do so at the discretion of the Town Manager.

If an employee is placed on administrative leave with pay pending an investigation or disciplinary action the day prior to and the day after a holiday is not eligible for holiday pay. Employees in pre-termination status may be placed on administrative leave with pay for the foregoing reasons pending the outcome of any applicable disciplinary process.

Administrative leave under this section shall not constitute disciplinary or corrective action. During the administrative leave, the employee shall not attend his or her regular work site or any other Town facilities, except as designated by the Department Director. The employee shall remain available during normal work hours to meet with the Director or designee, as requested.

The Town Manager will inform the governing body of administrative leave with pay authorized beyond the reasons set forth.

10.3 Unauthorized Absence. Any leave not authorized according to the appropriate rules set forth in the Town of Taos Personnel Policy shall be deemed to be an unauthorized absence without pay. All unauthorized absences shall be initially recorded as unauthorized LWOP. Upon receiving information of the reasons behind the unauthorized absence, the Department Director may change the leave to paid time off, without losing the right to give the employee corrective action up to and including termination. After one (1) shift or workday of unauthorized absence, employees are subject to termination pursuant to Section 17.1.5 of the Town of Taos Personnel Policy.

10.4 Holidays. Legal public holidays shall be approved and authorized by the Town Council for each calendar year, usually at the Regular Council Meeting held in December.

10.4.1 Eligibility. Each Full-Time Classified Employee, Full-Time Probationary Employee, and Unclassified employee is entitled to time off from work with pay during holidays.

10.4.2 Compensation During the Holiday.

- A. When a holiday falls on an employee's day off, the employee's holiday shall be observed on the following work day, work load permitting, as determined by the Department Director.
- B. When a holiday falls during an employee's authorized personal leave, the day shall be counted as a holiday, and not as a personal leave day.
- C. In order to receive pay for a designated legal holiday, employees shall be in work or paid leave status on their scheduled work day immediately preceding and following the holiday, or must have worked on the stated holiday. An employee absent without leave on their scheduled work day immediately preceding and following a holiday will not receive pay for that holiday.
- D. Holiday pay will be based on the employee's regular hours and rate of pay for that day.
- E. Full-time employees who are required to work on a holiday will be paid their regular pay for the actual hours worked on the holiday, plus holiday pay of one hour of regular pay per the actual hour worked. Employees will be paid overtime based on the rules of the FLSA.

10.4.3 Personal Day. Each Full-time and Part-time Classified Employee, and Unclassified Employee shall receive one personal leave day with pay each calendar year.

A personal day must be scheduled in the same manner as personal leave. Personal day must be taken by the last full pay period in December of the year of accrual and may not be carried over into the following calendar year. This personal leave day cannot be taken in separate blocks of time.

10.5 Bereavement Leave. Each Classified Employee, Probationary Employee, and Unclassified Employee shall be eligible to use up to five (5) days of bereavement leave with pay in the event of the death of an immediate family member. For purposes of this section, an "immediate family member" is defined as a spouse, child, parent, sibling, grandparent, grandchild, aunt, uncle, niece, nephew, step-parent, step-child, step-sibling, foster child, father-in-law, mother-in-law, son- and daughter-in-law, and brother and sister-in-law, domestic partner, domestic partner's child and domestic partner's parent.

10.6 Family and Medical Leave Act. The Town will comply with all applicable requirements of the Family and Medical Leave Act (FMLA). The FMLA provides eligible employees up to twelve (12) weeks of unpaid, job protected leave within a 12-month period for certain family and medical reasons. When an employee returns to work after FMLA leave, they will be in the same or equivalent position with equivalent pay, benefits and other employment terms and conditions. Employees are required to use any personal leave towards FMLA leave before unpaid leave is granted. Employees will be placed on FMLA leave when out on Workers' Compensation or Short-term Disability.

If employees have any questions concerning FMLA leave, they should contact the Human Resources Department.

10.6.1 Eligibility for FMLA Leave. FMLA leave is available to employees who 1) have been employed by the Town for at least 12 months (which need not be consecutive); 2) have been employed by the Town for at least 1,250 hours of service during the 12-month period immediately preceding the commencement of the leave; and 3) be employed at a worksite where 50 or more employees are located within 75 miles of the worksite.

10.6.2 Basic FMLA Leave Entitlement. The FMLA provides eligible employees up to 12 workweeks of unpaid leave for certain family and medical reasons during a 12-month period. The 12-month period is determined based on a rolling 12-month period measured forward from the start date of the employee's first FMLA leave. Leave may be taken for anyone, or for a combination, of the following reasons:

- A. To care for the employee's child after birth, or placement for adoption or foster care;
- B. To care for the employee's spouse, son, daughter or parent (but not in-law) who has a serious health condition;
- C. For the employee's own serious health condition (including any period of incapacity due to pregnancy, prenatal medical care or childbirth) that makes the employee unable to perform one or more of the essential functions of the employee's job; and/or

- D. Because of any qualifying exigency arising out of the fact that an employee's spouse, son, daughter or parent is a military member on covered active duty or called to covered active-duty status (or has been notified of an impending call or order to covered active duty) in the reserve's component of the armed forces for deployment to a foreign country in support of contingency operation or regular armed forces for deployment to a foreign country.

For the purpose of this section "parent" is defined as the biological, adoptive, step, or foster parent of an employee or an individual who stood in loco parentis to the employee when the employee was a son or daughter. The definition of parent does not include parent-in-law.

To determine further qualifications as a family member or next of kin refer to 29 C.F.R. § 825.122.

An employee's written statement or other documentation asserting the relationship is required.

10.6.3 Serious Health Condition. A serious health condition is an illness, injury, impairment or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job, or prevents the qualified family member from participating in school or other daily activities. Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than 3 consecutive calendar days combined with at least two visits to a health care provider or one visit and a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment.

10.6.4. Additional Military Family Leave Entitlement (Military Caregiver Leave). In addition to the basic FMLA leave entitlement discussed above, an eligible employee who is the spouse, son, daughter, parent or next of kin of a covered service member is entitled to take up to 26 weeks of leave during a single 12-month period to care for the service member with a serious injury or illness. Leave to care for a service member shall only be available during a single 12-month period and, when combined with other FMLA-qualifying leave, may not exceed 26 weeks during the single 12-month period. The single 12-month period begins on the first day an eligible employee takes leave to care for the injured service member.

A "covered service member" is a current member of the armed forces, including a member of the national guard or reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status or is on the temporary retired list, for a serious injury or illness. These individuals are referred to in this policy as "current members of the armed forces." covered service member also includes a veteran who is discharged or released from military services under conditions other than dishonorable at any time during the five years preceding the date the eligible employee takes FMLA leave to care

for the covered veteran, and who is undergoing medical treatment, recuperation or therapy for a serious injury or illness. These individuals are referred to in this policy as "covered veterans."

The FMLA definitions of a "serious injury or illness" for current armed forces members and covered veterans are distinct from the FMLA definition of "serious health condition" applicable to FMLA leave to care for a covered family member.

10.6.5. Notice and Verification. Employees who want to take FMLA leave ordinarily must provide the Town with at least 30 days' notice of the need for leave, if the need for leave is foreseeable. If the need is not foreseeable, the employee should give as much notice as is practicable. Request for FMLA leave forms are available from the Human Resources Department. Employees must submit a Medical Certification Form with their request for FMLA leave for medical reasons. The Medical Certification for intermittent leave or leave on a reduced schedule for planned medical treatment must include the dates on which the treatment is expected and the duration of treatment.

10.6.6 Calculation of Leave. Eligible employees can use up to twelve (12) weeks of leave during any twelve (12) month period. The Town will use a rolling 12-month period measured backward from the date an employee uses any FMLA leave. Each time an employee uses leave, the Town computes the amount of leave the employee has taken under the FMLA, subtracts it from the twelve (12) weeks and the balance remaining is the amount the employee is entitled to take at that time.

10.6.7 Maintenance of Benefits. An employee shall be entitled to maintain all Town insurance benefits for the employee on the same basis as if the employee had continued to work for the Town. To maintain uninterrupted coverage for spouse, partners, and other dependents, the employee will have to continue to pay their share of the cost.

10.6.8 Temporary Work Assignments. Where medical necessity dictates the need to use scheduled intermittent leave or a reduced work schedule, the Town may require the employee to transfer temporarily to an alternative position that better accommodates recurring periods of leave than the employee's regular position. In addition, the Town may transfer an employee to a part-time job with the same hourly rate of pay and benefits as long as the employee is not required to take more leave than is medically necessary.

10.6.9 Return to Work. Employees returning to work from FMLA leave due to their own serious medical condition must submit a doctor's statement certifying that they can return to work and perform the essential functions of their job with or without a reasonable accommodation. If an employee does not return to work within three (3) days after approved FMLA leave has expired and has not contacted the Human Resources Department to get an approved extension, they will be considered to have abandoned their job and will be separated from employment.

10.6.10 Holidays and Personal Leave. Employees on FMLA leave without pay are not eligible for holiday pay and shall not accrue personal leave while on unpaid FMLA leave.

10.6.11 Confidentiality of Medical Records. The Human Resources Department will keep medical records and documents pertaining to an employee or an employee's family separate from the employee's personnel file and will treat them as confidential medical records. Department Directors may be informed regarding necessary restrictions on work and accommodations.

10.7 Military Leave. If employees attend yearly reserves, national guard duty, or civil air patrol of New Mexico, such employees will be eligible to receive military leave with pay, not to exceed fifteen (15) working days in a federal fiscal year, October 1 through September 30, then unpaid military leave of absence provided the absence does not exceed applicable statutory limitations.

All employees called to active duty in emergencies declared by the Governor of New Mexico or the President of the United States for short periods of time shall be granted military leave with pay not to exceed fifteen (15) working days. This emergency military leave is outside of the provision above for military leave.

A copy of orders must be attached to all requests for military leave, annual or emergency. This leave applies to individuals who voluntarily or involuntarily leave employment to perform service in a uniformed service.

To be eligible for military leave, employees must provide the appropriate Department Director and Human Resources Director with advance notice of service obligations unless the employee is prevented from providing such notice by military necessity or it is otherwise impossible or unreasonable to provide such notice.

Employees should give management as much advance notice of their need for military leave as possible to ensure proper coverage while employees are away.

Provided any absence does not exceed applicable statutory limitations, employees will retain reemployment rights and accrue seniority and benefits in accordance with applicable federal and state laws.

Authority for all military leave shall be within the provisions of federal, state, and local laws.

10.8 Court Leave. Each Classified Employee, Probationary Employee, and Unclassified Employee may take court leave with pay when required to serve as a juror or as a witness in any state or federal court at a time when the employee would normally be working, except in a matter unrelated to the performance of the employee's duties in which the employee is a litigant. An employee may not take court leave to litigate against the Town. If excused from duty by the court when work hours remain in the employee's work day, the employee shall return to work. If an employee elects to receive compensation for jury service from a court together with their ordinary pay, any compensation paid by the court to the employee less any mileage paid to them must be

Commented [JN1]: Added these sections as concise explanation of FMLA leave to be supplemented with more technical provisions in "rules and directives" pursuant to Section 1.10 in subsequent comment.

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paid to the Town. Fees received as a witness, excluding reimbursement for travel, shall be paid to the Town. Employees taking Court leave shall provide the summons or subpoena requiring the employee's appearance or attendance at a proceeding.

10.9 Leave Without Pay. Any employee may be placed on leave without pay when the circumstances and best interests of the Town dictate that unpaid leave is appropriate. Leave without pay greater than one full pay period may only be authorized by the Town Manager. During unpaid leave, an employee shall not accrue any of the benefits described in the Town of Taos Personnel Policy, including personal leave. To the extent permissible by law, the Town will not make any of its normal contributions to the employee's retirement, insurance, or benefit program during unpaid leave. Failure of an employee to report to work as required following the expiration of his or her approved leave without pay shall be considered a voluntary resignation.

10.9.1 Limitations on Leave Without Pay. An employee may be placed on leave without pay for a period of six (6) months. Beyond the period of the leave guarantee by FLMA, the Town does not warrant that the employee's position will remain open or vacant during the period of unpaid leave. If additional leave is required beyond the period of six (6) months of leave without pay, the employee may resign or will be terminated from employment with the Town. If the employee is eligible for rehire as described in the Town of Taos Personnel Policy the employee may be rehired for a vacant position for which the employee may be qualified and posted pursuant to the hiring process described in Section 3 of the Town of Taos Personnel Policy.

10.10. Lactation Breaks. The Town will provide a reasonable time to accommodate an employee desiring to express breast milk for the employee's infant child, in accordance with and to the extent required by applicable law.

The Town will make reasonable efforts to provide employees with the use of a room or location other than a toilet stall for the employee to express milk in private. This location may be the employee's private office, if applicable. The Town may not be able to provide additional break time if doing so would seriously disrupt the Town's operations, subject to applicable law. Employees who have questions about this policy should consult the Human Resources Department.

Employees should advise management if they need break time and an area for this purpose. Employees will not be discriminated against or retaliated against for exercising their rights under this policy.

The Town prohibits any retaliation, harassment or adverse action due to an individual's request for an accommodation under this policy or for reporting or participating in an investigation of unlawful discrimination under this policy. If an employee feels that they have been subjected to any such retaliation, the employee should report the retaliatory conduct pursuant to Section 1.16.7 of the Town of Taos Personnel Policy.

10.11 Leave for Inclement Weather/Emergency Situations. The Town expects to remain open and in full operation regardless of weather conditions, transportation disruptions, or other emergencies. Therefore, all employees are expected to report to work during such conditions. On rare occasions, the Town Manager may close offices, send non-essential employees' home, and grant administrative leave with pay, provided an employee was originally scheduled to work or did not call in sick during the closing due to inclement weather or an emergency situation. Essential employees are employees who have responsibility for public health, safety, and welfare. Essential employees are required to remain at or report to work as scheduled unless otherwise notified by their immediate supervisor. Failure of essential employees to remain at or to report to work may result in disciplinary action up to and including termination.

10.12 Voting Leave

An employee who is registered to vote shall be granted up to two (2) hours with pay, between the opening and closing times of the polls, to vote on all election days. Time off will not be granted to employees whose normal work day begins more than two (2) hours after the opening time of the polls or ends more than three (3) hours prior to the closing time of the polls. Time off for voting will not be utilized for any other purpose.

The employee's supervisor should be notified prior to utilizing the Voting Leave. The time of day will be regulated by the supervisor to minimize disruption of service. The employee may be required to produce proof of voter registration.

Section 11 Employee Benefits.

11.1 Medical, Dental, Vision, Life, Disability. Each eligible Full-Time Classified Employee, Full-Time Probationary Employee, Unclassified Employee, Elected Officials, Appointed Officials and eligible dependents (child(ren), spouse and domestic partners) may obtain group medical, dental and vision benefits, life and short and long-term disability insurance benefits through the Town's plans, most of which are plans offered to Town employees through arrangement with the State of New Mexico. The employee's contribution to the cost of coverage shall be made by payroll deduction. The specific details of the plans are set out in pamphlets available from the Human Resources Department. Coverage, if elected, will remain in effect under rules promulgated by the State of New Mexico Risk Management Department, or if the Town makes any changes or as otherwise provided in the Town of Taos Personnel Policy.

11.2 Employee Assistance Program. Any employee of Town of Taos may contact the employee assistance program (EAP) to receive counseling for various reasons including but not limited to marriage problems, parenting skills, addictions, drug and alcohol problems, relationship issues, and depression. The service is confidential, unless the employee is referred by a supervisor, in which case the supervisor will be informed only whether or not the employee has participated in and completed the programing or treatment with EAP. It is the employee's responsibility to seek assistance from the EAP prior to reaching a point where his or her judgment, performance, or behavior has led to disciplinary action.

11.3 Workers' Compensation. Any Employee who suffers an on-the-job injury or illness is required, unless incapacitated, to immediately prepare and submit a Notice of Accident form to their Supervisor/Department Director. If the Employee is unable to do so, the Supervisor or Department Director will fill out the Notice of Accident form. An Employee who suffers an on-the-job injury or illness that requires immediate emergency treatment and returns to work on the same workday will not be charged personal leave. The Supervisor/Department Director shall submit the Notice of Accident form and the required Supervisor's Investigation Report form to the Human Resources Department within seventy-two (72) hours. The injured or ill Employee must sign a Worker's Authorization for Disclosure of Protected Health Information for Workers' Compensation Purposes form, Doctor Selection Notice and submit to the Human Resources Department. The Human Resources Department will send the forms, the Notice of Accident, and a New Mexico Workers' Compensation Admi

A. **Workers' Compensation Process.**

1. Employees injured on the job may choose any physician for their initial evaluation and treatment.
2. Employee and Supervisor must complete all necessary forms and submit to the Human Resources Department as soon as possible.

3. If the Employee is not able to work, the first seven (7) days after filing a Workers' Compensation claim are considered a waiting period during which no Workers' Compensation benefits are paid. The injured or ill Employee will have to use personal leave or leave without pay, if necessary, during this period. After seven (7) days out of work, an injured or ill Employee that has been approved for Workers' Compensation benefits may elect to be paid 66 2/3% of their average gross pay for the preceding twenty-six (26) weeks or continue using personal leave. The Employee's decision to receive workers' compensation benefits or to use personal leave while out of work must be designated on an Election of Benefits Form forwarded to the Human Resources Department.
4. As permitted by law, the Town's Workers' Compensation insurer can require an injured Employee to be seen another designated physician for reevaluation and treatment.

11.4 Retirement Benefits. Each eligible Full-Time Classified Employee, Full-Time Probationary Employee, Unclassified Employee must participate in the Town's mandatory retirement program, administered by the Public Employees Retirement Association ("PERA"). Unless otherwise specified by PERA mandatory employee contributions to the plan are made by payroll deduction and forwarded to PERA details concerning eligibility and other details of the retirement program are set forth in New Mexico statutes and the publications of the PERA, which are provided to the employee directly by the PERA.

Section 12 Performance Evaluations.

12.1 Schedule of Performance Evaluations. Each Classified Employee and Unclassified Employee shall be given a written performance evaluation by their immediate supervisor according to the following schedule:

- A. At mid-point of the probationary period or extension of the probationary period if employee is serving a one (1) year probationary period;
- B. At completion of the probationary period and extension of probationary period, if applicable;
- C. Annually following completion of the probationary period or extension of the probationary period. Evaluations are due within thirty (30) days of the expiration of the evaluation period.

12.2 Special Performance Evaluations. All employees, regardless of classification, should be evaluated under the following special circumstances:

- A. Throughout the probationary period. This communication may be either written or verbal but must be documented.
- B. When there is a notable change, either positive or negative, in an employee's performance level and quality.

12.3 Performance Evaluation Documentation.

12.3.1 Performance evaluations shall be submitted by the supervisor completing the performance evaluation to the Human Resources Department for an initial review and approval prior to issuing the evaluation to the employee being evaluated. The Human Resources Department may refer a performance evaluation to the supervisor's chain of command for correction prior to issuing to the employee being evaluated.

12.3.2 During the performance evaluation, the employee shall have the opportunity to add information, to agree or disagree, and should sign the document acknowledging the receipt of the evaluation. Should an employee refuse to sign, the supervisor should have another supervisor witness the employee's refusal to sign the evaluation.

12.3.3 Completed evaluations shall be forwarded to the Human Resource Department for final review and/or action i.e., removal of introductory status, or other action related to the evaluation, and filing of the evaluation in the employee's personnel file.

12.4 Informal Performance Evaluation. In addition to these formal performance evaluations, the Town encourages employees and supervisors to discuss job performance on a frequent and ongoing basis.

12.5 Unsatisfactory evaluations. Marginal or unsatisfactory performance is unacceptable. If an overall rating of an employee's performance is marginal or unsatisfactory, the employee may be subject to a Personal Improvement Plan (PIP) from their supervisor approved the appropriate Department Director and the Human Resources Department.

Section 13 Compensation.

13.1 Classification and Compensation System. The Town of Taos utilizes a classification and compensation system that classifies each position and establishes a range of compensation for each position. The range establishes a minimum, midpoint and maximum amount of compensation for each position.

13.1.1 Maintenance of the Classification and Compensation System. The Human Resources Director shall be responsible for the bi-annual review and continuous maintenance and administration of the classification and compensation system. To accomplish this, the Human Resources Director or consultant will analyze rates of pay in comparable labor markets, collect information on the prevailing cost of living, and analyze the Town's budget, to be reviewed every three (3) years.

13.2 New Positions. The creation of any new position, other than a position to be filled by a Temporary Employee or Casual Employee, must be accomplished by Resolution passed by the Town Council and approved by the State of New Mexico Department of Finance and Administration.

13.3 New Hire Compensation. The compensation of a new employee should reflect the employee's qualifications for the position. The compensation of a new employee should typically be the minimum compensation set forth by the range of the employee's position in the classification and compensation system. Higher compensation for an employee can be justified if there is documented evidence showing that the employee's qualifications or other relevant factors merit greater compensation. The evaluation process for this higher compensation will be conducted using the Town's Pay and Compensation Plan's job value point system.

The decision to provide higher compensation will be based on objective criteria outlined in the Town's Compensation Plan, which may include factors such as job responsibilities, qualifications, experience, and market rates for similar positions. The Town's Compensation Plan and classification and compensation system ensures fairness and transparency in determining compensation adjustments beyond the standard rates.

13.4 Compensation Upon Range Change. The Human Resources Director has the authority to propose adjustments to the compensation range for a particular classification. The Town Manager has the authority to make changes to the compensation range based on the proposal(s) by the Human Resources Director. Changes may be made to the compensation range by the Town Manager based on budget availability in coordination with the Finance Director. If such adjustments are made, no employee will experience a decrease in compensation, even if their current compensation exceeds the maximum of the new range. Unless expressly approved by the Town Manager, any employee whose range is adjusted upwards will maintain their current compensation if their current compensation remains in the adjusted range. If an employee's compensation falls below the minimum compensation of the new range, such compensation will be raised to the

minimum compensation of the new range. The Governing Body shall be made aware of any of these changes.

13.5 Temporary Compensation Increase for Performance of Additional Duties.

Occasionally, an employee will be asked to temporarily assume additional duties. In such cases, the employee's compensation shall be temporarily adjusted to reflect the added responsibility upon approval of the Town Manager. After the employee assumes the additional responsibilities of the higher position for a full pay period, the evaluation process for this higher compensation will be conducted using the Town's Pay and Compensation Plan's job value point system.

When the temporary assignment is completed, the employee's compensation will be readjusted to its previous level. A temporary compensation increase pursuant to this section shall not exceed nine (9) months. The Governing Body shall be made aware of any of these changes.

13.6 Overtime. All overtime work must be approved before it is performed. Employees are expected to report to duty for mandatory overtime. Failure to report for mandatory overtime may result in disciplinary action. All overtime, for non-exempt Fair Labor Standards Act employees and Fair Labor Standards Act Section 7(k) exempt employees shall be paid in accordance to requirements of the Fair Labor Standards Act.

13.6.1 Non-Exempt FLSA Employees. Approved overtime pay for employees which are not exempt from the Fair Labor Standards Act shall be at the rate of one and one-half times the employee's regular hourly rate, applied to the actual hours worked in excess of forty (40) hours per week. Personal leave and all other leave shall not be considered as actual time worked.

13.6.2 FLSA Section 7(k) Exempt Employees. The work period for eligible fire protection employees is established by the collective bargaining agreement.

13.7 Per Diem and Mileage. All payments of per diem and mileage allowance to Town employees will be made pursuant to policies established by the State of New Mexico Department of Finance Administration (DFA).

13.8 On-Call Pay. A non-exempt employee may be required to remain on call after their normal or alternative work schedule to answer and respond to Town emergencies. An employee placed on-call will be provided a radio or cell phone for the purpose of notification to report for work; employees are not paid for all time spent carrying the notification device but are paid for time spent responding to calls. In the event that an emergency requires an employee to work, the employee must physically respond within 20 minutes after receiving the notification. Employees are paid for the actual time when work is performed, as measured from the time the call is received to the time the work is completed. An employee's on-call status shall be recorded on his or her time sheet. On-call time will not be considered time worked in the computation of regular and/or overtime hours.

Town employees assigned to "on call" status shall be provided with a take home Town of Taos vehicle to be used only while responding to calls and to perform the assigned Town duties when necessary.

- A. Vehicles designated for on-call use will be designated by the Department Director.
- B. Various Town positions will be designated as on-call eligible including public utilities foreman, public utilities operators iii, ii, I, and public works coordinator.
- C. On-call schedules are designated by the Department Director.

The nonexempt employee shall receive on-call pay as follows:

- A. One hour at straight time, per day, eight o'clock (8:00) a.m. Monday through five o'clock (5:00) p.m. Friday; then
- B. Two (2) hours at straight time, per day, beginning at five o'clock (5:00) p.m. Friday through eight o'clock (8:00) a.m. Monday;
- C. Two (2) hours at straight time, per holiday observed by the Town.

13.8.1 Requirements for On-Call Pay. An employee who is on-call is not required to remain at any particular location, and is free to engage in his or her own chosen activities so long as the following criteria are met:

- A. The employee on-call shall ensure the cell phone or other means of communication between the Town and the employee is working properly;
- B. The employee shall arrive to work in a "fit" condition within 20 minutes after receiving the notification.

13.8.2. On-call pay cannot be paid when an employee is on any type of leave.

13.8.3. Each job classification that is FLSA exempt will not be eligible to receive on-call pay.

13.8.4. Employees shall be considered to be on-call only when designated in writing and in advance by the employee's Department Director, or designee.

13.9 Call-Back Pay. When an unscheduled employee accepts management's request to report to work immediately, the employee will be paid as directed by the Fair Labor Standards Act. Employees who are called to report to work on their regular day off or that have been recalled to work after having left the employer's premises shall be guaranteed a minimum of two (2) hours of pay at the applicable straight time or overtime rate, as is applicable to the total hours worked by the employee, with call back time, for that pay week.

Section 14 Pay Periods, Paychecks and Timekeeping.

14.1 Pay Period. A "pay period" is a two-week period beginning Saturday at 12:01 a.m. and ending Friday at midnight. This method of payment results in twenty-six (26) pay periods per year in most years; in some years, twenty-seven (27) pay periods will result.

14.2 Paychecks. Will be issued every other Friday at a time and place determined by the Department Director. If a holiday falls on Friday, checks will be issued on Thursday. If extenuating circumstances exist during a holiday pay period, the checks will be issued on Friday. In this situation, the information will be communicated to the employees by the finance department.

14.3 Direct Deposits. The Town encourages employees to use direct deposit for payroll purposes as well as our check stub email system. Authorization forms are available from the Human Resources Department.

14.4 Early Release of Paycheck. The Town may permit the early release of a paycheck prior to a scheduled pay date. Any early release will not be an advance payment of services not rendered as prohibited by NMSA 1978, Section 30-23-2.

Requests for the early release must be submitted on the Town's designated form and have the prior approval of the Department Director, Finance Director, and Town Manager. Approved forms will be submitted to payroll for processing.

14.5 Time Sheets/Time Records. Timesheets/time records shall be completed and signed by the employee, approved by the employee's immediate supervisor, and the Department Director. At the completion of each pay period, after approval by the Department Director, the employee shall deliver the timesheet to the finance department. The finance department shall maintain all such timesheets within proper retention schedule. Failure to comply with payroll deadlines may result in a delay of the issuance of a paycheck. Employees may be required to document time worked and time off through an electronic time-keeping system.

14.5.1 Accuracy of Time Sheets. It is the responsibility of each employee to accurately and truthfully record the time spent on the job performing assigned duties. Each employee must sign the time sheet thereby certifying the accuracy of all time recorded. If the employee makes any corrections or modifications to the time sheet, the supervisor must verify the accuracy of the changes by initialing beside the change. Any adjustments required because of an employee error on a timesheet shall be made in the next full pay period. Supervisors are prohibited from knowingly approving falsified timesheets. Failure to provide accurate timesheets may be grounds for disciplinary action up to and including termination.

Section 15 Workplace Safety.

The Town of Taos strives to provide a safe and healthy work environment for all employees in accordance with all applicable state and federal laws. It is the responsibility of every employee to observe safe working conditions at all times. Violation of this policy may be grounds for disciplinary action, up to and including discharge/termination.

15.1 Working Safely. Each employee must be informed of and observe established safety practices as determined by the supervisor, Department Director, and the Human Resources Department. Each employee is to take all possible precautions to avoid exposure to injury or illness. Each employee must utilize appropriate personal protective equipment such as steel-toed shoes, safety vests, safety glasses, and hard hats. No employee is permitted to remove guards or other protective devices from machinery and equipment. Employees shall refrain from operating, modifying, adjusting or using equipment in an unauthorized manner or working alone. Employees are prohibited from engaging in rough, unruly, or reckless behavior, including but not limited to “horseplay” and practical jokes.

15.2 Duty to Report Hazardous or Unsafe Conditions. Each employee has the duty to report each unsafe working practice or hazardous condition that he or she observes to the Supervisor, Department Director, or the Human Resources Department so that the problem can be immediately corrected. The Supervisor, Department Director, or the Human Resources Department is responsible for mitigating or remedying any safety hazards. If an employee believes he or she is being required to work under unsafe conditions, the employee shall notify his or her Supervisor, Department Director, or Human Resources Department who will immediately investigate the condition and take appropriate action. No employee will be disciplined for refusing to work under unsafe working conditions if the Town has determined that the conditions are unsafe.

15.3 Supervision. Each supervisor has the duty to ensure that each employee is acquainted with proper safety practices and applicable safety rules, that safe practices and safety rules are uniformly followed, and that employees are properly outfitted with the proper safety equipment. In the event an accident occurs, the supervisor is required to immediately complete and forward to the Human Resources Department a notice of accident and all other appropriate forms.

15.4 Safety Training. Each employee shall attend safety training sessions as required by the Town.

15.5 Injuries on the Job. Each employee is required to report all job-related injuries or illnesses to his or her Supervisor immediately and assist in any resulting investigation. If it is necessary for the employee to receive emergency medical care or treatment the Supervisor or Department Director will arrange for transportation of the injured employee. The supervisor shall report all job-related injuries or illnesses to the Human Resources Department immediately.

15.6 Accidents Involving Defective Equipment. When an accident occurs that raises the possibility of defective equipment, the reporting of any injuries should be completed as provided in this Section and the employee shall also report the concern about defective equipment to his or her Supervisor or Department Director, who shall consult with the Human Resources Risk Manager and/or Human Resources Department.

15.7 Safety Committee. The Town maintains a safety committee composed of Town employees appointed by the Town Manager. The safety committee meets at least quarterly to identify safety hazards, review accidents that have occurred, discuss recommendations for improved safety and formulate safety rules and procedures. Each Town employee is required to cooperate with inquiries made by the safety committee.

15.8 Drug and Alcohol-Free Workplace. The Town of Taos is committed to protecting the safety, health, and well-being of all employees and other individuals in our workplace. The Town of Taos is a drug- and alcohol-free workplace and does not tolerate the abuse of drugs and/or alcohol and strives to maintain a workplace that is free from the effects of drug and alcohol abuse. As a condition of employment, the Town requires that its employees adhere to policy regarding the use and possession of drugs and alcohol. Failure to comply may result in disciplinary action up to and including termination. Such violations may also have legal consequences.

15.8.1 Applicability. This section is applicable to each employee and applicants, including but not limited to, Classified, Probationary, Unclassified, Temporary and Casual Employees and volunteers. This section applies during at all times when working, during working hours, while on-call, while on break during the work-day, while on Town property, while attending training, while occupying a Town vehicle, and while utilizing Town equipment.

15.8.2 Prohibited Behavior. It is a violation of our drug and alcohol-free workplace policy to use, possess, sell, buy, trade, be under the influence of, be impaired by, or offer for sale, alcohol, drugs or intoxicants as set forth herein. Employees are prohibited, under the Drug-Free Workplace Act of 1988 from the illegal use, sale, dispensing, distribution, possession, or manufacture of illegal drugs, controlled substances, narcotics, or alcoholic beverages on Town premises or work sites. Employees are further prohibited from possessing, distributing, selling, or manufacturing illegal drugs outside of work hours. Employees violating this policy and any provision herein are subject to disciplinary action, up to and including termination.

15.8.2.1 Sale, Use, and Possession of Drugs or Alcohol. Any employee who illegally sells, purchases, or transfers drugs or any illegal substance, on or off duty, shall be terminated. Any employee who, while on duty, possesses drugs or any substance in Schedules I and II of the Controlled Substances Act, Section 30-31-41 NMSA 1978, without a valid prescription or as otherwise authorized by law shall be terminated. Any employee who is caught consuming alcohol while on duty shall be terminated.

15.8.2.2 Prescription and Over-the-counter medication. Prescription and over-the-counter drugs are not prohibited when taken in standard dosage and/or according to a valid prescription. Any employee taking prescribed or over-the-counter medications will be responsible for consulting the prescribing physician and/or pharmacist to ascertain whether the medication may impair job performance or interfere with the safe performance of his/her job. A physician's note may be required that verifies that use of the medication as prescribed will not impair or affect the employee's performance. Appropriate discipline may be taken if deterioration of job performance or accidents occur while an employee is taking prescription medication. It is the employee's responsibility to report to his or her supervisor the use of prescription medication or over-the-counter medication that may impair job performance or compromise the safety of the employee, fellow employees, or the public. If the employee cannot perform his or her duties while taking a prescription medication or over-the-counter medication, the employee may be required to perform other duties or take personal leave until the course of treatment is concluded. If leave is unavailable, the leave will be without pay. Employees are not required to disclose confidential health information as part of this process. The illegal or unauthorized possession or use of prescription drugs is prohibited. It is a violation of our drug-free workplace policy to misuse and/or abuse prescription medications. Any illegal or unauthorized use or possession of prescription drugs may result in disciplinary action up to and including termination. The use of over-the-counter drugs contrary to the directions on the package may result in discipline up to and including termination.

15.8.2.3. Cannabis. Employees are prohibited from consuming cannabis or cannabis products while on duty. Any employee that is caught consuming cannabis or cannabis products on duty will be terminated. Employees are also prohibited from being impaired as a result of consumption of cannabis or cannabis products while on duty. Administrative Employees, as defined in Section 15.8.3.3 of the Town of Taos Personnel Policy, or applicants for such position shall not be subject to disciplinary action if drug and alcohol testing returns a positive test result for cannabis unless there is just cause to believe that such employee was impaired by consumption of cannabis or cannabis products while on duty. Federally Mandated Employees as defined by Section 15.8.3.1 of the Town of Taos Personnel Policy and Safety Sensitive Employees as defined by Section 15.8.3.2 of the Town of Taos Personnel Policy remain subject to disciplinary action if drug and alcohol testing returns a positive result for cannabis.

15.8.3 Drug and Alcohol Testing. The Town of Taos has a vital interest in maintaining safe and efficient working conditions for its employees and citizens. Employees under the influence of alcohol and/or drugs pose serious safety and health risks not only to the user but also to those in contact with the user. Therefore, the Town of Taos will conduct Drug and Alcohol tests in compliance with accepted testing standards in the following circumstances:

1. Post-Offer/Pre-Employment Testing
2. Post-Accident Testing
3. Reasonable Suspicion Testing
4. Random Testing

15.8.3.1 Federally Mandated Employees. Federally mandated employees are those working under the rules of the U.S. Department of Transportation (DOT) and the Federal Motor Carrier Safety Administration (FMCSA). These are employees whose job requires a Commercial Driver's License (CDL) or for employees holding CDL that is not a requirement of the job descriptions but is found to be beneficial to the Town. Federally mandated employees are subject to pre-employment, post-accident, random, and reasonable suspicion testing.

15.8.3.2 Safety Sensitive Employees. Safety sensitive positions for the purpose of this policy include and are not limited to: Police Department Officers and Law Enforcement Personnel, Animal Control Officer, Fire Department Employees, Public Works Employees, Facilities Services Employees, Youth & Family Center Employees, Emergency Management and Events Employees. A safety sensitive position is one in which an employee operates equipment that is potentially dangerous to other employees or citizens of the Town, one in which an employee has access one in which an employee works in a facility that requires the care of individuals, one in which an employee has access to or carries a firearm, or one in which an employee operates or maintains heavy equipment or coordinates, relays, or controls radio communication for law enforcement, fire or emergency medical services personnel. Safety Sensitive employees are subject to pre-employment, post-accident, random, and reasonable suspicion testing. It shall be the responsibility of the Human Resources Department to notify the affected employees of their status upon hire or in the event of a change in safety sensitive determinations.

15.8.3.3 Administrative Employees. All employees which are not Federally Mandated Employees or Safety Sensitive Employees are subject to post-offer/ pre-employment, post-accident, post-vehicle accident, and reasonable suspicion testing.

15.8.3.4 Privacy During Testing. Any individual subject to testing under this policy, shall provide urine specimens in privacy unless there is a reason to believe that a particular individual may alter or substitute the sample.

A collection site staff member of the same gender as the individual tested, may observe the individual provide the urine specimen when such staff member has a reasonable suspicion to believe that the individual may attempt to alter or substitute. If the collection provider does not have a same gender individual available, the Town will provide an observer who shall be a member of Town Management. The following are grounds for an observed test under this section:

1. The employee has presented a urine specimen that falls outside of the normal temperature range 32⁰ - 38⁰ C or 90⁰ - 100⁰ F; and
2. The employee declines to provide an oral body temperature; or
3. The oral body temperature varies by more than 1⁰ C / 1.8⁰ F from the specimen temperature; or

4. The last urine specimen provided by the employee (on a previous occasion) was determined by the testing lab to have a specific gravity of less than 1.003 and a creatinine concentration below .2g/L;
5. The collection site personnel observe conduct clearly and unequivocally indicating an attempt to substitute or adulterate the sample (e.g., substitute urine in plain view, blue dye in specimen presented, etc.); or
6. The employee has previously been determined to have used a controlled substance without medical authorization.

15.8.3.5 Post-Offer/Pre-Employment Testing. All offers extended for employment with the Town, including promotion, transfer, or placement of a current employee into a federally mandated or safety-sensitive, shall be extended conditionally upon the applicant or employee successfully passing a post-offer/pre-employment drug/alcohol testing. Prior to employment, the applicant or employee must submit to testing for alcohol and controlled substances. The Town shall not employ an individual if they refuse to submit to post-offer/pre-employment drug/alcohol testing or the results indicate a positive drug test result or breath alcohol greater than .04.

15.8.3.6 Post-Accident Testing. An employee involved in an incident must submit to testing for alcohol and controlled substances when the incident results in any on the job injury which requires medical attention for the employee or any other person(s) involved or causes the employee to lose time from work. An employee involved in a motor vehicle accident or equipment accident must submit to testing for alcohol and controlled substances when the employee was driving or operating equipment and the accident involves a fatality, a citation for traffic violation, requires any vehicle or equipment to be towed from the scene, or any individual involved required treatment for injuries. When an employee is required to submit to post-accident testing, the employee will be driven to the collection site by the Department Director or Supervisor. Refusal to submit to post-accident drug/alcohol testing will be regarded the same as a positive drug test result or breath alcohol greater than .04 and the employee shall be subject to disciplinary action.

15.8.3.7 Reasonable Suspicion Testing. An employee may be required to submit to testing for alcohol and/or controlled substances where there is reasonable suspicion to believe that an employee may be impaired by drugs or alcohol. Circumstances which constitute a basis for reasonable suspicion testing include but are not limited to:

- a. A pattern of employee behavior problems, such as declining work performance, argumentative, uncooperative, disruptive behavior, or display of abnormal or erratic behavior (emotional outburst, excessive energy or lethargy, mood swings);
- b. Information provided by a reliable and credible source (with written documentation of when and how information was obtained/observed);
- c. Direct observation of drug or alcohol use; or

d. The presence of typical physical symptoms of drug or alcohol use (e.g., glassy or bloodshot eyes, alcohol odor on breath, slurred speech, sleeping on the job, and/or poor coordination and reflexes).

Employees who believe that another Town employee is under the influence of alcohol or drugs, should immediately report the incident to the Supervisor/Department Director. If such person is not available, or in the event of immediate danger, contact local law enforcement.

The Supervisor/Department Director will respond immediately to any report of suspected intoxication or drug/alcohol use on Town premises/work site during working hours, by investigating the report, enforcing the 'reasonable suspicion' drug testing procedure.

When an employee is required to submit to reasonable suspicion testing, the employee will be driven to the collection site by the Department Director or Supervisor. Refusal to submit to reasonable suspicion drug/alcohol testing will be regarded the same as a positive drug test result or breath alcohol greater than .04 and the employee shall be subject to disciplinary action.

The employee will be placed on Administrative Leave and transported home by a third-party until the results from reasonable suspicion testing are made available to the Town. If the reasonable suspicion testing results establish that the employee was not impaired by alcohol/drugs at the time of the testing, the employee shall return to work. If the reasonable suspicion testing results establish that the employee was impaired, the employee may be placed on unpaid administrative leave until disciplinary action is determined by the Department Director, Human Resources Director, and the Town Manager.

The employee's supervisor shall document the information and circumstances which formed the basis to require reasonable suspicion testing of the employee. The documentation should include the dates and times of the drug or alcohol related observations, names of credible sources of information, rationale leading to the reasonable suspicion testing, and action taken. The documentation should be submitted to the Human Resources Department within forty-eight (48) hours of the reasonable suspicion testing.

15.8.3.8 Random Testing. Federally mandated and safety sensitive employees are subject to random testing complying with the rules and procedures for random testing established by DOT and FMSC. Additionally, an employee who is not terminated after a refusal or positive test result is subject to random testing for a period of two years after the refusal or positive test. Random tests are unannounced and the Town will notify the employee of any selection for random testing immediately prior to testing. The employee so notified must immediately present himself or herself at the designated collection location noted on the notice of random testing form. Any employee not reporting for random testing immediately shall be deemed to have refused and shall be subject to disciplinary action.

Random testing selection will occur as follows:

1. 50% of Federally Mandated Employees will be randomly tested per annum for controlled substances;
2. 25% of Federally Mandated Employees will be randomly tested per annum for alcohol;
3. 25% of Safety Sensitive Employees will be randomly tested per annum for controlled substances and alcohol.
4. 50% of employees not terminated after a refusal or positive test per annum for controlled substances and alcohol.

These selections are completed by a scientifically valid process through a computer-generated program implemented by the Town or facility contracted with the Town to perform drug and alcohol testing.

Refusal to submit to post-accident drug/alcohol testing will be regarded the same as a positive drug test result or breath alcohol greater than .04 and the employee shall be subject to disciplinary action.

15.8.3.9 Participation in a Treatment Program. An employee who is not terminated after a refusal or positive test result may be required to participate in an alcohol or drug treatment program through the employee assistance program or another program and comply with other conditions specified by the Town as a condition of continued employment. Any employee who participates in such a program may, in addition to disciplinary action, be subject to other conditions of continued employment and may be placed on administrative leave without pay while participating in the program. However, an employee may be permitted to use accrued personal leave, in lieu of unpaid leave while participating in the program. Upon successful completion of an agreed-upon treatment program, the employee shall be permitted to return to his or her position.

15.8.3.10 Loss of Driving Privileges. If the results of a test are positive, indicates that the employee was impaired, or that the employee was under the influence while at work, the employee shall not be permitted to operate any Town vehicle (or operate any personal vehicle on Town business), for a period of three (3) years subject to the terms of Section 15.8.3.11 of the Town of Taos Personnel Policy. If the loss of driving privileges makes the employee unable to perform his or her job, the employee may be terminated.

15.8.3.11 Restoration of Driving Privileges. Upon approval by the Human Resources Director and Town Manager, an employee may be authorized to operate a personal vehicle on Town business at the expiration of a one-year period from the date of a positive test if the employee: (1) has not been convicted of any traffic violation since the date of the positive test; (2) has a valid driver's license; (3) has performed satisfactorily in his or her position; (4) has completed a drug/alcohol use assessment by an agency of the Town's choice; (5) has followed each recommendation made as a result of the drug use assessment; and (6) otherwise satisfies the Town of the employee's sobriety and

responsibility. The decision whether to permit the restoration of driving privileges is discretionary and shall not be grievable by any employee.

15.8.3.12 Drug and Alcohol Related Convictions. Any employee who is convicted of a drug or alcohol related criminal offense may be subject to disciplinary action up to and including termination. Employees convicted of the unlawful sale or distribution of drugs in the workplace or while working will be immediately terminated under the Drug-Free Workplace Act of 1988. For purposes of the Town of Taos Personnel Policy, "conviction" includes a guilty verdict, a guilty plea, a no-contest plea, or an *Alford* plea. Any employee must notify the Town of Taos Human Resources Risk Manager of a criminal conviction for drug related activity occurring in the workplace within five (5) days of the conviction. Any employee who is convicted of an alcohol-related driving offense shall notify his or her Supervisor and Department Director of the conviction within five (5) days of the date of conviction. Failure to report such convictions may be grounds for discipline, up to and including termination. If not terminated, at the discretion of the Human Resources Director or the Town Manager, the employee may be required to undergo periodic random drug or alcohol testing, may be required to complete a course of alcohol or drug abuse treatment, or may be required to complete drug and alcohol abuse counseling through the employee assistance program.

15.8.3.12.1 Driving Under the Influence Charges. An employee who is required to operate a Town vehicle or equipment or any vehicle in the performance of his or her job duties and has been charged with driving while intoxicated or driving under the influence of intoxicating drugs or alcohol must report the charge to the Human Resources Risk Manager and the Supervisor and Department Director within forty-eight (48) hours of such charge. Such employee shall not be permitted to operate any vehicle or equipment for business purposes during work hours until resolution of the charges is reached. If such employee is convicted of driving while intoxicated or driving under the influence of intoxicating drugs or alcohol, the employee shall be subject to a loss of driving privileges as described in Section 15.8.3.10 of the Town of Taos Personnel Policy for the duration of any sentence imposed by a court. If an employee's driving privileges are suspended or revoked or if the employee is required to use an interlock device, even if not convicted of the charge, the employee shall immediately report the same to his or her Supervisor and Department Director and the employee shall be subject to a loss of driving privileges as described in Section 15.8.3.10 of the Town of Taos Personnel Policy for the duration of revocation, suspension, or interlock requirements. If the loss of driving privileges makes the employee unable to perform his or her job, the employee may be terminated.

15.8.3.13 Self-Referral by Employee. The Town strongly encourages any employee who believes or suspects that they may have a problem with drugs and/or alcohol to seek help from the Human Resources Department and EAP or other community resources prior to any mandated drug and alcohol testing. The employee may also wish to discuss the matter in confidence with his or her Supervisor, Department Director, or the Human Resources Director. Each employee who suffers from drug or alcohol dependency is urged to seek help before being the subject of disciplinary action. An employee who requests referral to a drug or alcohol rehabilitation program prior to being randomly

selected for drug or alcohol testing shall be referred to such a program without reprisal or disciplinary action, provided that the self-identification is not made to avoid disciplinary action. An employee who makes a self-referral pursuant to this Section may use personal leave or unpaid administrative leave to attend a drug or alcohol rehabilitation program. An employee who submits to a drug or alcohol rehabilitation program shall be cleared by the program to return to work before permitted to return to work. An employee who makes a self-referral pursuant to this Section shall not be subject to retaliation for such self-referral. If an employee feels that they have been subjected to any such retaliation, the employee should report the retaliatory conduct pursuant to Section 1.17.7 of the Town of Taos Personnel Policy.

Section 16 Human Resources Actions.

16.1 Effective Date of Human Resource Actions. All human resources actions, excluding disciplinary action, affecting current employees' compensation shall have an effective date starting at the beginning of a pay period. The Department Director or designee shall submit requests for Human Resources actions upon becoming aware of the recommended change and before the effective date of proposed action.

16.2 Promotions. A promotion is the upward mobility to a position in a higher range of compensation in the classification and compensation system described in Section 13.1 of the Town of Taos Personnel Policy and is compensated with a salary increase. An employee must meet the minimum qualifications for the posted vacant position to be considered for the position.

16.2.1 Compensation on Promotion. Upon promotion, an employee's compensation shall be evaluated using the Town's Classification and Compensation System described in Section 13.1. of the Town of Taos Personnel Policy. No compensation upon promotion shall exceed the maximum compensation of the new position range nor fall below the minimum compensation of the new position.

16.2.2 Temporary Promotion. An employee may be temporarily promoted for a period not to exceed nine (9) months to a vacant position for which he or she meets the minimum qualifications. The Town Manager may grant a temporary salary increase to the temporarily promoted employee pursuant to Section 13.6 of the Town of Taos Personnel Policy. The Governing Body shall be made aware of any of these changes.

16.3 Demotion. A demotion is the downward mobility to a position in a lower range of compensation in the classification and compensation system described in Section 13.1 of the Town of Taos Personnel Policy and is compensated with a lower salary. A demotion may be voluntary or involuntary and may be tied to a disciplinary action.

16.3.1 Compensation on Demotion. Upon demotion, an employee's compensation shall decrease to an amount within the lower compensation range that is not more than a fifteen percent (15%) decrease from the employee's previous compensation, unless the maximum compensation of the new range of compensation is greater than a fifteen percent (15%) decrease. No compensation upon demotion shall exceed the maximum compensation of the new range of compensation nor fall below the minimum compensation of the new range of compensation.

16.4 Transfer. A transfer occurs when an employee or an employee's position is transferred from the supervision of one department or office to another and remains in the same classification and compensation range established by the Classification and Compensation System described in Section 13.1 of the Town of Taos Personnel Policy. An employee or an employee's position may be transferred either voluntarily or involuntarily, if in the best interests of the Town. An involuntary transfer is not grievable.

16.4.1 Compensation Upon Transfer. Compensation of an employee who is transferred shall remain the same unless otherwise approved by the hiring Department Director, the Human Resources Director, the Finance Director, and the Town Manager.

16.5 Reclassification and Reorganization.

- A. Reclassification is the reassignment of a position from one range to a different classification range to correct an error in the original assignment or to recognize a change in the duties and responsibilities of a position, or for purposes of reorganization. Reclassification is not retroactive. Reclassification is subject to the approval of the Town Manager.
- B. Although there may be various instances when a position is reclassified, such as during reorganization or when directed by the Town Manager, the customary time for submitting a request is during preliminary budget preparations. The ideal time for reclassification is during the time a position is vacant.
- C. When an employee is reclassified, there may be a salary adjustment. In reclassification to a lower range, an employee's salary may or may not be reduced. The Town Manager shall make the final determination of whether a reclassified employee shall be subject to a salary adjustment. Reclassification shall not be used as a method of awarding an employee a salary increase.
- D. Reorganization is defined as elimination, creation, or realignment of Town departments, offices, or positions. Reorganization is subject to the approval by the Town Manager. Reassignment due to reorganization can be either voluntary or involuntary.

Reclassification and reorganization are not grievable.

The Governing Body shall be informed of any reclassifications and reorganization changes.

Section 17 Succession Planning.

17.1 Purpose. Recognizing that changes in management are inevitable, the Town has established a succession plan to provide continuity in leadership and avoid extended and costly vacancies in key positions. The Town's succession plan is designed to identify and prepare candidates for high-level management positions that become vacant due to promotions, demotions, transfers, retirement, resignation, death, or new business opportunities.

17.2 Policy. It is the policy of the Town of Taos to assess its leadership needs to ensure the selection of qualified leaders that are diverse and a good fit for the organization's mission and goals and have the necessary skills for the organization.

17.3 Procedures.

A. The Town Manager is responsible for the Town of Taos' succession plan. On an annual basis, the Town Manager shall chair a meeting of the succession planning committee, which includes the Town's management team comprised of Department Directors. At each succession planning committee meeting, each Department Director will:

- i. Present to the committee a review of the departmental succession plan;
- ii. Provide analysis of leadership, director, or supervisory positions which are anticipated to become vacant in the next year and any such positions which are anticipated to become vacant in the next five years;
- iii. Identify key positions and any incumbents targeted for succession planning;
- iv. Identify individuals who show the potential needed for progression into to fill leadership, director, or supervisory positions which are anticipated to become vacant; and
- v. Outline the actions taken in the previous six months to prepare identified individuals to potentially fill leadership, director, or supervisory roles in the future.
- vi. Outline the actions planned to be taken in the subsequent six months to prepare identified individuals to potentially fill leadership, director, or supervisory roles in the future.

B. The committee will approve targeted individuals to potentially fill leadership, director, or supervisory roles in the future. The committee will approve an outline of actions that will be taken in the subsequent six months to prepare individuals to potentially fill leadership, director, or supervisory roles in the future. The Town Manager may periodically request updates from Department Directors on the development process for each targeted individual.

C. The committee shall establish a succession plan that identifies critical executive and management positions, forecasts future vacancies in those positions and identifies potential Managers who would fill vacancies. Vacancies will be filled in accordance with Section 3 of the Town of Taos Personnel Policy. A vacancy may be filled on an "acting" basis by a current employee of the Town and approved by the Town Manager while the Recruitment and Selection process is completed. An employee which fills a vacancy on an "acting" basis may be entitled to a Temporary Compensation Increase pursuant to Section 13.10 of the Town of

Ordinance 24-04

Taos Personnel Policy and/or a Temporary Promotion pursuant to Section 16.2.2 of the Town of Taos Personnel Policy.

The Governing Body will be informed of the succession plans established by the committee.

Section 18 Separation of Employment.

18.1 Voluntary Separation.

18.1.1 Resignation. Should an employee decide to resign from employment with the Town, he or she shall provide their supervisor with at least two (2) weeks advance written notice. If the employee is retiring through PERA, the employee shall provide their supervisor with four (4) weeks when retiring through PERA, advance written notice. Failure to comply with this policy may be cause for denying re-employment with the Town. Upon receipt of advance written notice of voluntary resignation, the supervisor shall provide the same to the Department Director and the Human Resources Director within twenty-four (24) hours of receipt thereof.

In some cases, it may be in the Town's best interest to release an employee upon receipt of an employee's resignation. The release of an employee in situations where it is found to be beneficial for the Town will be at the Department Director's discretion and will not penalize the employee's rehire eligibility.

Where an employee resigns to avoid dismissal or other corrective action, the resignation may be accepted at the discretion of the Department Director with Town Manager approval, and the employee will not be subject to rehire.

18.1.2 Retirement. An employee may retire from Town employment through the Town's retirement program so long as the employee meets the requirements of PERA. An employee desiring to retire should contact the PERA in advance of such retirement. A Department Director retiring through PERA shall give a minimum of six (6) months' notice but one (1) year is preferred. A supervisor shall provide a minimum of three (3) months' notice. A general employee shall provide reasonable notice of the retirement, not less than four (4) weeks.

18.1.3 Retirement Incentive. In order to aide with the selection and training of a successor, a Department Director who plans on retiring shall be granted an incentive for notifying the Town of Taos in writing one (1) year prior to such retirement. Upon receipt of such notice one (1) year prior to such retirement, the Department Director and the Town Manager will execute an agreement specifying the date of anticipated retirement, selection of successor, and training plan for such successor. If the Department Director provides notice one (1) year prior to retirement and executes the agreement described herein, the Department Director will receive an incentive of \$10,000.00 at the time of retirement. In order to aide with the selection and training of a successor, a Department Director who plans on retiring may be granted an incentive for notifying the Town of Taos in writing six (6) months prior to such retirement Upon receipt of such notice one (1) year prior to such retirement, the Department Director and the Town Manager will execute an agreement specifying the date of anticipated retirement, selection of successor, and training plan for such successor. If the Department Director provides notice six (6) months prior to retirement and executes the agreement described herein, the Department Director will receive an incentive of \$5,000.00 at the time of retirement. If a retiring Department

Director leaves employment before or after the agreed upon date of retirement, the incentive payment will be forfeited. The Governing Body shall be made aware that a Department Director has submitted a letter of retirement.

18.1.4 Disability Retirement. Disability retirement results in the involuntary termination of employment with that Town as the result of an injury or illness, which renders the employee incapable of performing his or her job duties. The retirement will be in accordance with PERA for eligible employees.

18.1.5 Abandonment. Employees who are absent from their job for three (3) shifts or workdays within three-months without notifying their supervisor are considered to have abandoned their job voluntarily. The date of termination will be the same date as the first day the job was abandoned. The employee may apply for reinstatement in writing directly to the Town Manager within five (5) working days from the date of termination due to abandonment. Within five (5) working days a meeting will be arranged between the employee and the Town Manager or designee. Time limits may be extended upon mutual agreement between the employee and the Town Manager or designee. If the Town Manager determines that the employee is to be reinstated, such time missed will be charged against the employee's accrued leave or leave without pay. For purposes of administering this section, "working days" is defined as days the Town administrative offices are open for business.

18.2 Involuntary Termination Without Cause.

18.2.1 Abolishment of Position. The Town Council may abolish a position which is no longer needed within the Town work force. If a position is available for which work and funds are available, an employee whose position is abolished shall be laid off. The employee may, alternatively, accept a demotion or transfer, but only if the employee is otherwise qualified for the new position and a position exists. If a position is re-established within six months of its abolishment, the person who was the incumbent when the position was abolished shall be given first consideration for reappointment. The grievance or appeal process is not available regarding the abolishment of a position.

18.2.2 Furlough. A furlough is the temporary placement of an employee in a reduced work hour schedule, which can either be part-time or full-time, for lack of work or funds. In the event of the need for a furlough, the Town Manager shall submit a plan to the Town Council which identifies organizational units to be affected by the furlough. If an emergency exists requiring furlough the Town Manager shall notify the Mayor, who shall call an emergency meeting of the Town Council. The Town Manager shall submit a plan which identifies organizational units to be affected by the furlough to the Town Council at the emergency meeting. The furlough plan shall affect all employees within the organizational unit to the same extent. No furlough may exceed twelve (12) months in duration. A furloughed employee shall be given at least fourteen (14) calendar day's written notice of furlough, unless the time limit is waived by the Town Manager in the event of an emergency. Employees shall be returned from furlough when the reasons for the furlough cease to exist. Wherever possible, affected employees shall be returned at the

same time, to the same extent. The grievance or appeal process is not available regarding a furlough.

18.2.3 Reduction in Workforce (Lay-off and Recall Provisions). Occasionally, despite the best efforts of the Town, certain economic or funding circumstances may result in the unanticipated need to reduce the Town workforce in order to address reduced revenues, loss or reduction in grants, reorganization, reductions in or the elimination of municipal services, or other budgetary, policy and organizational conditions impacting organizational staffing. If such reductions occur, the following procedures are required to be followed in order to provide a minimalized and orderly impact to Town employees:

18.2.3.1. Notice. Employees will be given written notice of any layoff specifying the reasons and the expected duration of the layoff.

18.2.3.2 Procedure. If it becomes necessary for the Town to reduce the number of Town employees because of a lack of funds or a lack of work, such reductions will normally occur in the following manner:

- A. Temporary and probationary employees will normally be laid off before full or part-time classified employees. The Town Manager may determine on a department-by-department basis that a position cannot be filled by a classified employee and a temporary or probationary employee must be retained to meet specific job or Town requirements.
- B. Layoff of classified employees shall be recommended by the Department Director and approved by the Town Manager. Length of Town service will normally be the determining factor in a layoff. However, an employee's suitability for jobs remaining, ability to perform available work, and past job performance may also be considered.
- C. Employees to be laid off may be notified at any time during a pay period and shall be allowed to work through the end of that regular pay period or receive pay to the end of that period.
- D. Accrued personal leave shall be paid on the next regularly scheduled pay day.

18.2.3.2 Seniority. Employees will retain seniority in any position or classification previously held, provided the employee is capable of performing the work.

The Governing Body shall be informed of any changes in the status of Reduction in Workforce (Lay-off and Recall).

18.2.3.3 Recall. Employees laid off or demoted, due to a reduction in force, will normally be called back to work in their seniority order within classification according to the following procedures:

1. All employees laid off by the Town due to lack of work, lack of funds or a reduction in work force are eligible for rehire for up to six (6) months. The employer will advise the employee of their recall by certified or registered United States mail with delivery confirmation. A copy of such recall notice will be furnished to the local union president.

2. No new employees within the affected job and title and classifications will be hired by the Town during the six (6) month recall period until eligible laid off employees have been given the opportunity to return to fill reopened positions.

3. An employee, upon receiving notice of recall, shall within ten (10) working days of delivery confirmation notify the Town Manager in writing of their intent to return to work. A recalled employee must report to work not later than fourteen (14) calendar days from the date of delivery confirmation, unless there are extenuating circumstances approved by the Town Manager. An employee who fails to respond to the recall within ten (10) working days will forfeit any and all recall rights.

4. Laid-off employees have the responsibility of keeping the employer informed as to their correct mailing address. Failure to do so on the part of the employee shall result in the forfeiture of any and all recall rights. Laid-off employees will be kept on an active list for recall for minimum of nine (9) months.

5. A full-time or part-time classified employee who returns to his or her previous position will not have to serve a new probationary period.

18.2.4 Reemployment After Military Service. Any employee who separates from classified service to enter the United States armed forces, national guard, or an organized reserve unit may be reemployed in accordance with the provisions of 38 U.S.C. § 2021 and NMSA 1978, §§ 28-15-1 to 28-15-3.

18.2.5 Death of Employee. In the event of an employee's death, notification to the Town by a family member, confirmation by a law enforcement agency, publication of a notice of death in a newspaper of record, receipt of a copy of a certificate of death or mortuary notices or other reasonable record affirming the death of an employee shall serve to self-terminate employment. The last day of work recorded by the employee shall serve as the termination date for purposes of determining the last date of employment. The deceased employee's estate, as determined by the records on-file with the Town Human Resources Department as stated by the employee during their employment, shall serve as the party entitled to any and all the benefits to which the employee would have been entitled had he/she resigned from Town service in good standing.

18.3 Exit Interview. All employees, either separated voluntarily or involuntarily must report to the Human Resources Department for end of employment processing. All regular employees who separate from the Town's service shall may be requested to participate

in an exit interview on forms provided by the Human Resources Department. Participation in completing the exit interview form is voluntary on the part of the exiting employee.

Exit interviews are often helpful to determine fully not only why an employee has decided to resign, but to seek out opportunities for improvement in the Town's overall operations and employee relations. Department Directors and the employee's supervisor(s) will receive a copy of the ex-employee's exit interview. No retaliatory action may be taken against a former employee as a result of comments made during an exit interview. As such, participation in an exit interview or comments made pursuant thereto may not be considered for evaluation of whether a former employee is eligible for rehire by the Town.

18.4 Final Paycheck. Employees discharged from employment by the Town by any means shall receive his or her final paycheck in accordance with NMSA 1978, section 50-4-4 (1978) which provides:

A. Whenever an employer discharges an employee, the unpaid wages or compensation of such employee, if a fixed and definite amount, and not based on a task, piece, commission basis or other method of calculation, shall, upon demand become due immediately and the employer shall pay such wages to the employee within five (5) days of such discharge.

B. In all other cases of discharged employees, the settlement and payment of wages or compensation shall be made within ten days of such discharge.

C. An employee who resigns shall receive his or her paycheck in accordance with section 50-4-5 NMSA 1978, which provides:

Whenever an employee (not having a written contract for a definite period) quits or resigns his or her employment, the wages or compensation shall become due and payable at the next succeeding payday.

Any unpaid obligations of the employee to the Town may be deducted from the final paycheck.

18.5 Return of Town Property. All Town property including, but not limited to identification cards, laptop computer, keys, radios, tools, cell phones, Town credit cards, uniforms, policy and procedure and/or rules and regulation manuals, or other Town property, must be returned at on the last day of employment with the Town. Employees also must return all the Town's confidential information on the last day of employment with the Town.

Any item that identifies a person as a Town employee must be returned on the last day of employment with the Town. This does not include employee appreciation gift items.

Footwear and lifeguard uniforms are not required to be returned.

18.6 Continuance of Medical Coverage (COBRA). Under the federal Comprehensive Budget Reconciliation Act (COBRA), eligible employees or dependents may elect to continue employee or dependent medical insurance coverage subject to the conditions and limitations set forth in that act. Consult the Human Resources Department for details on eligibility and benefits.

18.7 Compensation for Accrued Personal Leave Upon Separation or Retirement. Upon separation of employment, each Classified Employee, Appointed Official, and Unclassified Employee shall be compensated for accrued personal leave earned through the last day of work, subject to the limitations on personal time maximum accrual rates.

18.7.1 Personal Leave Sell-Back. Each classified employee who accrues personal leave and who has completed five (5) years of service may request to sell back personal leave based on the following criteria:

1. Employee must have completed five (5) years of service by January.
2. The personal leave balance must be in excess of 400 hours and cannot go below 360 hours after sell back.
3. An eligible employee may request to sell back up to a maximum of eighty (80) hours of accrued personal leave; the minimum amount of hours to be requested is ten (10) hours
4. An eligible employee will be compensated at one hundred (100%) of the employee's hourly rate for personal leave sold back;
5. Employee's must submit their requests for the sell back in writing to the Human Resources Department within the first full pay period in March for the following fiscal year.
6. The Human Resources Department shall notify the employee in writing if the sell back of personal leave has been approved;
7. Personal leave sell backs will be paid out the first full pay period in November.

Personal leave sell-back is subject to budgetary constraints.

Section 19. Whistleblower Protection.

Employees shall have the right, without interference or fear of penalty or reprisal or retaliation, to disclose in good faith to Town of Taos management, Town of Taos elected officials, internal auditors, Inspectors General, or other appropriate governmental authorities information that may evidence improper governmental activity, including, but not limited to, action that is in violation of any state or federal law or regulation, action that is economically wasteful, or action that involves gross misconduct, or conditions that may threaten the health or safety of employees or the public. This provision does not protect or entitle an employee to disclose confidential information to the press, public or other non-governmental or law enforcement agencies in violation of any section of the Town of Taos Personnel Policy.