

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, on **date** the Mayor and Councilmembers of Town of Taos approved a Town of Taos Personnel Policy that contained the terms of the employment relationship between Town of Taos and its employees;

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 has carefully reviewed the 2024 Town of Taos policy attached hereto as exhibit a;

Whereas, the Town council now desires to adopt a revised and updated Town of Taos Personnel Policy.

Now, therefore, it is resolved as follows:

The 2024 Town of Taos Personnel Policy, attached hereto as exhibit a, is hereby adopted as the Town of Taos' Personnel Policy, replacing Ordinance 18-01 Town of Taos Personnel Policy.

Passed, approved and adopted this ____ day of date

ABOUT THIS HANDBOOK/DISCLAIMER

We prepared this manual 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.

We do not expect this manual to answer all questions. Supervisors and the Human Resources Department also serve as a major source of information.

Neither this manual nor any other verbal or written communication by a management representative is, nor should it 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, nor does it confer any contractual rights whatsoever.

No Town representative other than Town Manager may modify At-Will status and/or provide any special arrangement concerning terms or conditions of employment in an individual case or generally and any such modification must be by an express written agreement signed by the employee and Town Manager.

Many matters covered by this manual, 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.

This manual states only general Town guidelines. The Town may, at any time, in its sole discretion, modify or vary from anything stated in this manual, 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 manual is on the Town website located at www.taosnm.gov, and is maintained by Human Resources.

This manual is subject to the terms of any applicable collective bargaining agreement.

This manual supersedes all prior manuals.

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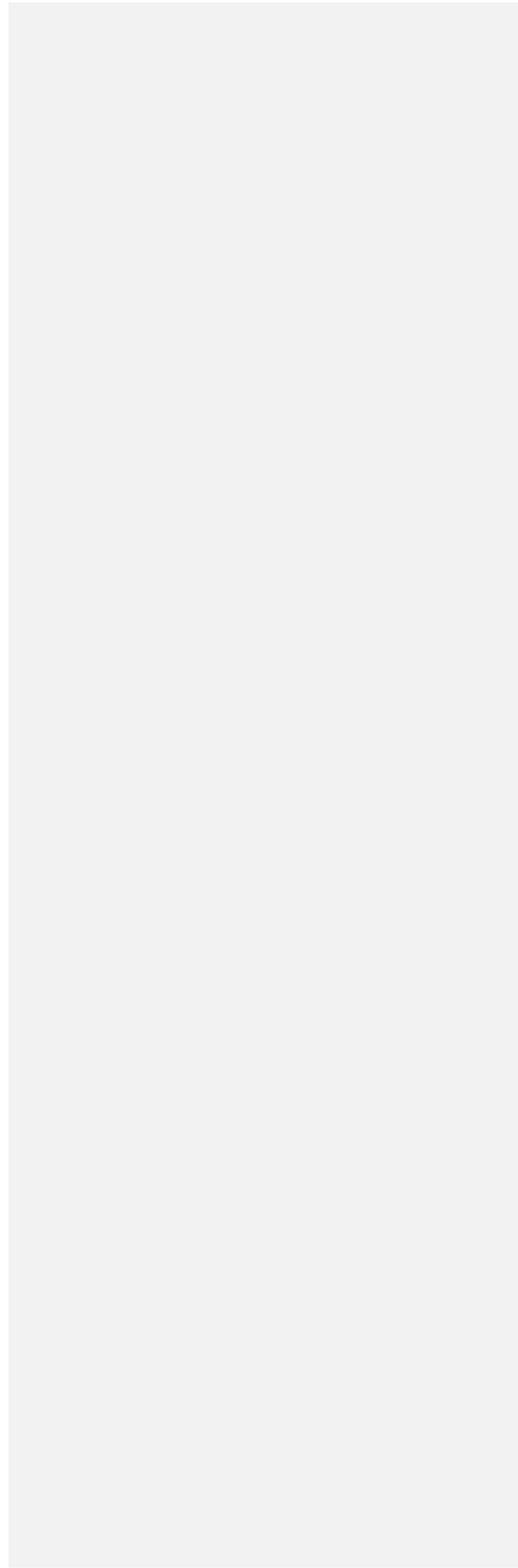
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Section 1 General Provision

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 the Town of Taos to provide the maximum possible service to the public within available funding and to provide courteous treatment to all persons having any dealings whatsoever with the Town, under all circumstances. This manual is intended to be one of the means whereby the Town will 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 adopted pursuant to the Town 's collective bargaining ordinance.

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 adopted pursuant to the Town 's collective bargaining ordinance.

1.4 Purpose.

It is the purpose of this manual to establish a system of uniform and appropriate personnel procedures to improve the quality of personnel administration. It is not the purpose of this manual to create an express or implied contract of employment in any way. This manual will consist of good employment practices such as:

1. Recruiting, selecting and advancing employees on the basis of their knowledge, skill, and ability, as well as open consideration of qualified applicants for initial appointment.
2. Retaining employees on the basis of performance, correcting inadequate performance, and separating employees whose performance cannot be corrected.
3. Assuring fair treatment of applicants and employees in selection, promotion, training, and all other aspects of personnel administration without regard to political affiliation, race,

4. color, national origin, sex, age, religion, handicap, or any other protected status and with proper regard for their privacy and constitutional rights as citizens.
5. Assuring employees are not coerced to support or oppose particular candidates or electoral issues and are prohibited from using their official authority for personal gain for the purpose of interfering with or affecting the outcome of an election.
6. To assist managers in the development of sound management practices and procedures, and to make effective, consistent use of Human Resources throughout the Town.

1.5 Scope.

The scope of this manual includes a compilation of procedures, which governs and affects personnel administration for all departments within the jurisdiction of the Town of Taos Government, unless otherwise specified.

1.6 Chain of Command.

- A. The Mayor is the Chief Executive Officer (CEO) of the Town as a municipal corporation organized under the laws of the State of New Mexico. As such, the Mayor has the responsibilities established in NMSA 1978, Sections 3-11-4, 3-11-5, and 3-11-6, and is thereby charged by Law with the supervision, operation and daily management of the Town, through the Town Manager. The Town Manager is under the direct supervision of the Mayor and shall directly supervise employees of the Town and be responsible for the effective management of the administrative affairs of the Town. Any employee with issues or concerns regarding their employment with the Town shall first attempt to resolve those issues at the lowest level of supervision before addressing their concerns with their department supervisor, superintendent and/or director.
- B. Under the general supervision of the Mayor, the Town Manager shall supervise all aspects of the merit-based personnel system and terms of the Town of Taos Personnel Policy, including but not limited to the authority to hire and fire. The Human Resources Director shall assist the Town Manager in the implementation of these functions as they relate to the daily personnel operations of the Town and shall cause to be performed the administrative and technical personnel activities of the Town in order to ensure legal and statutory compliance by the Town with the provisions of this Personnel Policy, any negotiated and binding Collective Bargaining Agreement (CBA), and the personnel and labor related laws of the State of New Mexico, the United States and applicable funding sources or contracts the Town enters into agreement with.
- C. All employees will adhere to and comply with the policies and procedures herein established for all personnel matters.

D. Municipal Court Employees, consistent with State Law, serve at the will of the Town's Municipal Court Judge and are hired, supervised, disciplined and terminated 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.

1.7 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. A compensation plan will be provided subject to the establishment of a budget for the compensation plan by the Town Council.
- D. Employees will be considered for promotional openings based on their history of job performance, experience, meeting qualifications for the position, including relevant licensing, certifications, training, education and other applicable credentials toward meeting the job specifications, a demonstrated track record of initiative, creativity, leadership and commitment toward their department and Town goals.
- E. 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.
- 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.

1.8 INTERPRETATION OF MATTERS NOT COVERED:

The Town Manager may issue such regulations as are necessary to implement the provisions of the Personnel Policy or of this Ordinance.

1.9 APPOINTMENT AND DISCHARGE OF OFFICIALS AND EMPLOYEES

- A. Pursuant to NMSA 1978, Section 3-11-6 (1965), and subject to the approval of a majority of the members of the governing body, the mayor shall appoint all officers 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. The Town Manager, under the general supervision of the mayor, shall be delegated the responsibility to supervise and administer the merit personnel system of the Town and applicable Collective Bargaining Agreement (CBA), and may sub-delegate any or all of the responsibilities to the Human Resources Director.
- C. 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 his discharge, and be paid any compensation which the employee has accrued.
- D. All employees are subject to a layoff or reduction in force adopted by the governing body.

1.10 Amendments.

The Town Manager shall recommend changes to this manual to the Town Council as needs become apparent. Such changes shall become effective when the ordinance adopting such amendments becomes effective.

The Town specifically reserves the right to repeal, modify or amend these policies at any time, with or without notice.

1.11 Administration of the Personnel System and Manual.

The Town Manager shall administer all aspects of the personnel administration in accordance with these rules in compliance with Town Ordinance, and the laws of the State of New Mexico and the United States of America.

Henceforth the Town Manager may, with sole discretion, appoint a designee to fulfill any or all responsibilities of administration of this manual as deemed appropriate, except those specifically reserved to the Town Manager by statute.

The Town Manager shall:

1. Develop, maintain, and apply these procedures for the recruitment, compensation, promotion, training, discipline, and related aspects of personnel management for all personnel under the Town 's jurisdiction;
2. Maintain the classification and pay plans of the Town;
3. Recommend to the Town Council such new or revised personnel rules as are deemed necessary and desirable;
4. Issue supplemental regulations and directives necessary for the effective implementation of these rules, which shall not invalidate the effect of these rules;
5. 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;
6. 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
7. Maintain or cause to be maintained an adequate employment record of each employee, including a record of official acts under these policies.

1.12 Authority to Develop Departmental Rules and Regulations.

Supplemental personnel rules and regulations, not in conflict with this manual, may be drafted by Department Directors to meet specific needs of their areas of responsibility. Such supplemental regulations must be authorized by the Town Manager prior to implementation.

Proposed departmental rules and regulations should be reviewed by the Town Attorney and the Human Resources Director prior to presentation to the Town Manager for approval.

Such approved 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 rules and regulations shall be forwarded to the Legal Department and Human Resources to facilitate assistance in the management and enforcement of departmental regulations.

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

1.13 Application of Provisions.

The provisions of this Employee Manual shall apply to all persons employed by the Town, except as follows:

1. At Will employees are subject to the grievance procedure(s) outlined in their respective contract(s).
2. Members of Town boards and committees appointed by the Mayor, Town Council, or Town Manager.
3. Contract labor personnel.
4. Employees represented by a collective bargaining unit are covered by any provision of this Employee Manual not modified by their collective bargaining agreement.

1.14 Compliance with Federal/State Employment Laws and Town Ordinances.

The Town of Taos promotes and will use its best efforts to comply with all federal and state employment laws as they apply to municipal government, as well as the Ordinances of the Town of Taos.

1.15 Time. In computing any period of time prescribed or allowed by this Personnel Policy, the day of the act or event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall 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 runs until the end of the next day which is not one of the aforementioned days. Unless otherwise specified the term "day" or "days" shall refer to calendar days.

1.16 Equal Employment Opportunity Policy.

The Town of Taos complies with all local, state, and federal laws relating to discrimination and harassment and will not tolerate discrimination against any applicant for employment or any employee based on race, color, sex, religion, national origin, ancestry, age, physical or mental disability, genetic information, sexual orientation, gender identity, or any other characteristic protected by law.

This policy applies to all employment practices and personnel actions including advertising, recruitment, testing, screening, hiring, selection for training, upgrading, transfer, demotion, layoff, termination, rates of pay, and other forms of compensation.

1.17 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, sex, religion, national origin, ancestry, age, physical or mental disability, genetic history, sexual orientation, 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, Harassment is 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:

Has the purpose or effect of creating an intimidating, hostile, or offensive work environment;

Has the purpose or effect of unreasonably interfering with an individual's work performance;

Adversely affects an individual's employment opportunities.

1.17.1 Prohibited Harassment in the Workplace:

Inappropriate jokes, stereotypes, and insults based upon a person's race, color, sex, religion, national origin, sexual orientation and gender identity.

1.17.2 Prohibited Sexual Harassment in the Workplace:

1. **Verbal-** Unwelcome comments which are inappropriately vulgar, lewd, and sexually suggestive
2. **Physical-** Unwelcome and inappropriate obscene gestures, sexually suggestive touching, hugging, or kissing
3. **Visual-** Display of sexually suggestive photos or posters in the workplace, sharing of sexually lewd emails and web mail using the employer's computer system.

1.17.3 Reporting A Complaint.

If you believe that you or a co-worker has been a victim of harassment, sexual harassment, discrimination, or retaliation from a Town of Taos Department Director or a co-worker, in violation of the Town of Taos Anti-Harassment policy, or if you have witnessed such contact, you must immediately report the incident and the names of the people involved to the Town of Taos Management Team or any of the Town of Taos EEO Officers. If you are unsure how to contact these individuals, please contact the Town of Taos Human Resources Department at (575) 751-2047 and they will immediately put you in contact with the person(s) you should talk to about your complaint.

1.17.4 Investigation.

A representative from the Town of Taos Human Resources Department or an outside EEO Consultant will promptly investigate all employee complaints of unlawful discrimination or harassment. We will take measures to ensure that you 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 complaint. Employees who have knowledge regarding the complaint may be interviewed and are expected to be honest and are expected to fully cooperate during the investigation.

1.17.5 Confidentiality.

The Town of Taos will maintain the Confidentiality, to the extent that it is possible, of any person who reports unlawful discrimination or harassment, or anyone who participates in an investigation into allegations of unlawful discrimination or harassment.

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 only the Town of Taos Human Resource personnel have access to.

1.17.6 Corrective Action.

If the investigation of a complaint of discrimination or harassment is substantiated, The Town of Taos will take immediate appropriate corrective action. Violation of the Town of Taos Anti-Harassment and Anti-Discrimination policy may result in disciplinary action, suspension without pay, and termination depending upon the severity of the offense.

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

1.17.7 Town of Taos Non-Retaliation Policy.

The Town of Taos complies with all local, state and federal laws which state 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 Human Rights Bureau.

If you believe you are being retaliated against in any term, condition or privilege of employment because you filed an internal charge of discrimination, or because you filed a charge of discrimination with a state or federal equal employment agency, or because you participated in an investigation of a charge of discrimination, you must act immediately and report your concerns to the Town of Taos Human Resources

Department or a Town of Taos EEO Officer who will act immediately to insure investigation of your complaint and take appropriate corrective action as needed.

1.18 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 you require a reasonable accommodation to perform the essential functions of your job, please notify your 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 you are an employee who wishes to request ADA Accommodation, please directly contact members of Management in your chain of command or contact the Town of Taos Human Resources Department.

1.19 Town of Taos Management Responsibilities.

Town of Taos Department Directors and Supervisors must enforce and comply with the Town of Taos EEO policy and the Town of Taos Anti-Harassment policy. You 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 by an employee or Department Director.

It is your responsibility 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 Discrimination, Harassment, Sexual Harassment or Retaliation against a Town of Taos Department Director, Supervisor, or Employee is a violation of the Town of Taos EEO policy and the Town of Taos Anti-Harassment policy and may result in disciplinary action and/or discharge. If you receive or report an EEO complaint, you are required to maintain the confidentiality of the complainant and any other parties involved.

1.20 Anti-Bullying.

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

1. If an employee feels that he or she has been subject to conduct in the workplace which violates this policy, he or she 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 and the Town Manager. 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. **The governing body shall be made aware of any complaint involving the Town Manager.**
2. Every report of perceived bullying will be investigated. Corrective action will be taken where appropriate. All complaints will be kept confidential.
3. Reporting bullying is a protected activity therefore, the Town will not allow any form of retaliation against individuals who report bullying to management 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 it in the same manner in which a claim of perceived bullying would be reported under this policy. Violation of this policy including any improper retaliatory conduct will result in disciplinary action, up to and including termination.

The anti-bullying policy is a zero-tolerance policy.

1.21 Workplace Violence.

Town of Taos is strongly committed to providing a safe workplace. The purpose of this policy is to minimize the risk of personal injury to employees and damage to Town and personal property.

Town of Taos prohibits employees from engaging in any physical confrontation with a violent or potentially violent individual. However, we do expect and encourage employees to exercise reasonable judgment in identifying potentially dangerous situations.

Prohibited Conduct.

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.

1.21.1 Procedures for Reporting a Threat.

Emergency 911 should be contacted if needed.

If an employee feels that he or she has been subjected to conduct which violates this policy, he or she should immediately report the matter to the employee's 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.

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.

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.

Reporting workplace violence is a protected activity therefore, 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 it in the same manner workplace violence would be reported under this policy. Violation of this policy including any improper retaliatory conduct will result in disciplinary action, up to and including termination.

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.

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, Town Attorney, Town Clerk, Chief of Police and Finance Director. Appointed Official(s) are not subject to a merit system. Appointed Officials are eligible to receive 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 At-Will Employee. An At-Will Employee is an Assistant Town Manager. **Contract? Probation period? 2.5.4??** 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.

2.3 Full-Time Employee. A full-time employee is a person who is scheduled to work 40 hours or more each week unless otherwise specified by a different schedule.

2.4 Part-Time Employee. A part-time employee is a person who is scheduled to work fewer than forty (40) hours each week on a consistent 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, accrual personal leave and do not receive holiday pay.

2.5 Probationary Period. A person offered employment and who is eligible to become a classified employee begins employment as an at-will employee and must serve a one-year probationary period. During the probationary period, the employment relationship may be terminated without cause or advance notice at any time. Probationary employees cannot grieve or appeal disciplinary actions. Probationary employees accrue annual personal leave and receive benefits.

2.5.1 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.

2.5.2 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.**

2.5.3 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 status.

2.5.4 A probation period will not be served for a contracted at-will employee.

2.6 Temporary position. A Temporary position is 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 position shall not exceed nine (9) months in length. Temporary employees are terminable at-will, do not accrue leave, do not receive benefits and are not paid for holidays. Termination of a temporary position may not be appealed or subject of a grievance.

2.7 Casual position. A casual position is a position created for services on an as needed basis or services that usually require 19 hours or less per week. Casual employees are terminable at-will, do not accrue leave, do not receive benefits and are not paid for holidays. Termination of a casual position may not be appealed or subject of a grievance.

2.8 Unclassified At-Will Employee. An unclassified, at-will employee is an employee who may be terminated at any time, with or without cause. Therefore, unclassified at-will employees are not protected by the grievance procedures set out herein and may not appeal disciplinary actions. The Town Manager's approval is required for the termination of an unclassified at-will employee.

2.9 Employee Identification Cards

The Human Resource Department will issue all employees a Town Employee Identification Card (I.D. Card). The employee will carry the I.D. card when on Official Town business. Each employee is responsible for safeguarding and updating his or her issued I.D. card. All identification cards remain the property of the Town and must be returned to the Human Resource Department upon termination of employment. Failure to return the I.D. card may result in a charge being withheld from the final pay in accordance with the Town Property policy.

Town retirees will be provided with an I.D. card, from the Human Resources Department for required identification when requesting recreational Town benefits. A Town retiree is defined as an employee retiring in good standing under Town Employment and under the New Mexico PERA retirement system. Town retiree I.D. Cards are not required to be returned to the Town.

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 laws and local Ordinances.

3.2 Recruitment. The Human Resources Department policy is to conduct an active recruitment program designed to meet current and projected manpower 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 policy is to 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. These announcements shall include information sufficient to inform applicants of the pertinent features of the job. **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:

1. Regular full-time positions must be open for a minimum of five (5) workdays; and
2. May be advertised in a newspaper of general circulation, and shall advertise on the Town's official web site, except when the Town determines that a given position is to be filled from within the Town organization or through an employment agency such as the New Mexico department of labor.

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 to the Human Resources Department on the standard Town application form either electronically or in hard copy. 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. 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 have his or her name 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. 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 dismissed from Town service as a result of the corrective action process;
- m. Did not give a two week notice before voluntary termination. Two-week notice may be waived, with documented approval, from the Department Director and Human Resources Director to accommodate extenuating circumstances; or
- n. Where an employee resigns to avoid dismissal or other corrective action.
- o. 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 Selection 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 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 directors, elimination of the panel interview.

3.8.1 Interview panels. The Human Resources Department and 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 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 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 Department Director will advise the Human Resources Department of the recommended selection. If the 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 pass the initial interview phase 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 passed the initial interview phase may be considered by the Department Director before re-advertising the position.

3.10 Notice of Non-Selection. The human resource department and/or in some cases, the 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. Department Director s, 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, 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 Department Director s 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, but are not limited to 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. 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 employee's 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, but are not limited, to 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, or his or her designee, has the authority to approve or disapprove a recommended selection. 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. The Town Manager may elect not to hire the chosen candidate or 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 Department Director, the position may be offered by the Human Resources Department** to another candidate from the top three (3), the next highly qualified applicant from the same selection pool, or it may be re-opened for recruitment. A 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.

3.14 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 For.

The prime 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 Director shall assist Departments in determining their training needs and in devising and establishing programs to meet such needs.

4.1.3 Education and Training Program.

The 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 Personnel Policy and

shall review and abide by it. 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 who have maintained satisfactory job performance 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 and **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. Failure to abide by the agreement will result in the repayment of tuition assistance that was reimbursed by the Town.** 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 relevant 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 educational assistance received.

4.4 Educational Leave

4.4.1. 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 classes for courses during normal business hours of 8:00 a.m. To 5:00 p.m. That 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 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 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 such as, 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 pay up to \$120.00 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 good 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, it 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 membership unrelated to the employee's direct work responsibilities.

6.5.2 Solicitation materials shall not be distributed in Town buildings.

6.6 Outside Employment. Employees may obtain part-time outside employment if there is no conflict in working hours, the employee's efficiency is not reduced, and outside employment does not cause a conflict of interest. If an employee's outside work interferes with the performance of his or her position with the Town, the employee will be required to terminate the outside employment immediately. Interference with the employee's performance includes, but is not limited to: attendance, work performance and accuracy, and timeliness. Before beginning any outside employment, an employee shall complete a Town of Taos disclosure statement and forward it to the Department Director and Human Resources Director. Approval authorizes outside employment for a period of one (1) year from the time of approval. The request must be renewed if the employee wishes to continue outside employment.

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 not subject to inspection under inspection of public records act (IPRA) or 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 or **Town officials** shall not campaign for political office during scheduled work hours. In addition, material and literature regarding candidates shall not be dispensed on Town premises, Town equipment, or out of Town vehicles and shall not be created using Town property, like Town computers. Employees are also prohibited from campaigning in Town facilities while off-duty. Employees working in offices administered by an elected official shall not be coerced into campaigning for the elected official to ensure continued employment with the Town.

6.9.2 Running for Town 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. **Steve will look into.**

6.10 Voting Rights. Nothing in this Personnel Policy shall deny employees the right to vote as they choose.

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 repair or replacement may be deducted from the employee's net pay.

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. Violators may be required to reimburse the Town for those goods or services acquired in violation of the aforementioned statutes and policies.

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's general standards of conduct and code of ethics set forth in this Ordinance. Violation of this policy may include disciplinary action up to and including termination.

6.16.1 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 to the Town of goods or services; (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.

6.17 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.

6.18 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. Town employees shall immediately notify the community relations director and Town Manager, or the designated person about media inquiries. Employees shall not make comments to the media on behalf of the Town.

6.19 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.

6.20 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 weapons in a vehicle on Town property.

6.20.1 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.

6.20.2 Failure to comply with this policy may lead to disciplinary action up to and including termination.

6.21 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 in most cases and should therefore refrain from keeping personal items or property in the work area. Purses, backpacks and suitcases are generally not subject to search. 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 this Personnel Policy or a collective bargaining agreement exists. Nothing in this paragraph shall prohibit the Town from searching the work area for work-related, non-investigatory reasons.

6.22 Use of Town Vehicles

6.22.1 Driver Selection/Qualifications. The Town may identify and select certain employees to drive Town vehicles based on the nature of duties of the position. Driver selection 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 involving a Town vehicle must be reported to the Human Resources Department immediately. Where an employee using a personal vehicle for Town business is cited for a traffic violation or is involved in an accident where there is damage to property or person(s), the employee's driving privileges may be suspended or revoked by the **Town Manager**. If an accident results in damage to property or person(s), the accident must be reported to the Human Resources Department immediately. Failure to comply with this section may result in disciplinary action up to and including termination.

6.22.2 Driving rules (additional rules or exceptions to these rules may apply to special or emergency situations or specific department operations, such as police and fire emergency services)

1. Town of Taos vehicles and equipment shall be used for official Town business only. Unnecessary or unauthorized usage of Town vehicles and equipment is prohibited.
2. Authorized Town drivers/operators are required to operate Town vehicles/equipment safely and defensively as defined by defensive driving training. Drivers/operators shall be alert to changing road and weather conditions and adjust their driving/operations accordingly, to include increasing the minimum safe following distance to maintain safety. Employees shall not engage in negligent or careless operation or maintenance of equipment; unsafe practices which endanger the employee, other employees, or the public.
3. The use of seat belts is required while operating Town of Taos vehicles or any vehicle on Town premises or on Town business; and all occupants shall wear seat belts or, where appropriate, child restraints when riding in Town vehicles.
4. The consumption or being under the influence of alcohol, illegal drugs or prescription medication that renders an employee incapable of safely operating vehicles/equipment or negatively influences their ability to perform their job while performing Town business or while in or on Town facilities/property, is prohibited.
5. Employees shall **never** operate Town vehicles/equipment or their own personal vehicle on Town business if they are impaired and not fit to drive. Impairments can be from abuse of alcohol, drug use (illegal, prescription, and over-the-counter medications), sleepiness/fatigue, headaches, vision problems, medical conditions, etc. When on-duty operation of Town vehicles/equipment is necessary, it is the employee's responsibility to immediately notify their Department Director and/or supervisor when they are impaired and not fit to drive or operate Town vehicles/equipment. Department Director s/supervisors must immediately suspend the employee from any vehicles/equipment operations or other safety-sensitive work responsibilities and immediately notify the Human Resources Director or Human Resources Risk Manager in these situations.

Commented [S1]: I would suggest moving the driving rules to a separate document.

Commented [S2]: Are you going to do this now or wait until later? If the latter, remove this.

6. When operating Town vehicles/equipment, authorized Town employees shall not use /operate any items, including any personal electronic devices that could potentially distract the operator from their primary responsibility of driving. Operating Town vehicles/equipment requires your full attention and requires you to constantly search the roadway and surroundings for situations that could require you to take actions to avoid accidents/injuries. Avoid distracted driving. **No use of cell phones or any other personal electronic device while driving or operating Town vehicles/equipment is prohibited.** Whether the vehicle is in motion or stopped at a traffic light. This includes, but is not limited to, answering or making phone calls, engaging in phone conversations, and reading or responding to e-mails, instant messages, and text messages. Employees must avoid other activities such as eating, drinking, reaching for objects, adjusting noncritical vehicle controls while driving, etc. If authorized Town drivers/operators need to use their phones, they must pull over safely to the side of the road or another safe location and use their cell phone from a stopped and parked vehicle. Directors/supervisors shall lead by example and shall avoid pressuring their employees to conduct business on a cell phone while driving. **Some department personnel, police, fire, and transit, because of the nature of their operations and intended use, are exempt from electronic device restrictions and as such, might safely use various electronic devices or equipment in their Town vehicles.**
7. Town drivers/operators are required to observe and obey all federal, state, and local motor vehicle laws, Ordinances, and traffic regulations, and are personally responsible for any citations or fines. Town drivers/operators shall observe and obey all posted signs, signals and speed limits. It is the driver's responsibility to always be aware of the speed limit. The speed limit signs indicate the highest speed allowed or speed limit for that section of road. The authorized driver is responsible for following all the postings on the road.
8. Town drivers/operators shall operate Town vehicles only within the Town of Taos Town limits or outside of those limits as authorized or directed by management for an employee to perform his or her duties. Unauthorized vehicle/equipment usage outside of the assigned work area is prohibited.
9. Town drivers/operators shall not let Town vehicles/equipment sit idle with the engine running unless necessary and reasonable and, in such cases, shall be kept to a minimum of 10 minutes or less. No Town vehicle/equipment is to be left unattended with the motor running, except when running the engine is required to operate specialty accessory equipment. If it is necessary to leave a vehicle unattended, ensure the gearshift is in the park position and the emergency brake is set. **Some department personnel, police and fire, because of the nature of their operations and intended use, are exempt from these restrictions on a case-by-case circumstance/situation.**

Commented [S3]: These should probably be numbered rather than bulleted. It enables later identification of the relevant provision

10. Employees and management shall be fiscally responsible for the effective and efficient use of fuel needed for the performance and deliverance of Town services. Management will be responsible for the oversight and management of fuel resources and usage; Town employees shall operate Town vehicle/equipment in a safe and responsible manner to decrease the amount of fuel used. For example, employees must not speed, accelerate or brake hard, drive unnecessarily, keep tires properly inflated, use the a/c sparingly, avoid unnecessary and excessive idling of Town vehicles, and alert Department Director s/supervisors and fleet maintenance personnel if you encounter vehicle maintenance problems so they can be fixed as soon as possible.
11. No authorized Town drivers/operators shall tailgate another vehicle. It is the driver/operator's responsibility to maintain a safe following distance. "Following distance" is based on the national safety council's defensive driving two-second rule.
12. All cargo or other items, i.e., laptops, electronic equipment, briefcases, suitcases, etc. Shall be loaded and secured to prevent them from creating a hazard in the event of hard braking.
13. No authorized driver or passenger shall smoke or use smokeless tobacco products of any type in any Town vehicle.
14. Avoid backing Town vehicles/equipment whenever possible. Park vehicles/equipment so there is no need to back-up. However, if it is necessary to back-up, before backing, get out of the vehicle and completely walk around the outside of the vehicle to make sure there are no obstacles and the area is clear before backing. When possible, have someone guide you while backing and ensure they remain in in your line of sight. If you lose sight of the person guiding you, you shall immediately stop backing the vehicle/equipment. If necessary, get out and check your safe progress as you back up.
15. Authorized Town drivers/operators shall ensure ice and snow is removed from the vehicle to prevent it from blowing onto other vehicles and removed from every window and mirror to ensure visibility and safety.

6.22.2 Maintenance and Repairs. Employees assigned to a Town-issued vehicle are responsible for the routine maintenance and repairs of Town vehicles and 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.

6.22.3 Vehicle Accidents. If a Town employee is involved in a motor vehicle accident while driving a Town vehicle or while performing official duties in a private vehicle, the

employee shall contact law enforcement immediately, render aid and contact the Human Resources Department. The employee 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 supervisor and Human Resources Department must be notified of the accident immediately. The employee 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.

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

6.22.5 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.

6.22.6 GPS Driver Policy.

OVERVIEW

This policy serves to inform employees of the Town regarding the vehicle operation and monitoring requirements which must be satisfied while operating a vehicle on Town business. Designated Departments will assist Town in maintaining its vehicles, verifying GPS tracking device reporting, reducing the risk of injury to employees and the traveling public, improving utilization efficiencies and minimizing the loss resulting from property damage claims.

APPLICABILITY

This policy applies to all employees operating vehicles on Town business, whether in a personally owned vehicle or a vehicle owned, leased or rented by Town.

STANDARD REQUIREMENTS

Authorized drivers are to adhere to the driving rules listed in this personnel policy.

VEHICLE OPERATION MONITORING

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.

Additionally, Department Directors are required to regularly review GPS data weekly provided by the Human Resources Director or designee(s) to determine whether employees are operating Town vehicles safely within reasonable proximity of assigned work locations, efficient travel routes are being utilized, work activities are being planned efficiently, and reported activities correspond with designated work hours and assigned duties. Operation of a particular vehicle may be assessed at any time for business reasons.

To effectively monitor vehicle operations, the Human Resources Director or their designee(s) are required, on a monthly basis, to access, execute, and review certain reports from the GPS system for Town vehicles. Required reports include the monitoring of idle times, speeding, hours of vehicle operation and proper functioning of the GPS device. The GPS data reports which require review and the frequency to review are as follows:

1. Fleet Utilization Report – Monthly
2. Posted Speed Report – Weekly
3. Idle Summary – Monthly
4. Performance Report – Weekly verification of GPS Monitoring device reporting
5. Any additional reports as needed

When GPS monitoring reveals that an employee may have engaged in conduct violative of this policy or acceptable business practices, the Department Directors shall evaluate all relevant information, including input from the employee. In determining whether corrective action is warranted, consideration shall be given to the nature, severity and frequency of the violation(s).

Disciplinary action shall be the recommended course of action for the following:

1. Reporting work hours on time statements that are inconsistent with GPS data;
2. Reporting work activities on work logs/reports that are inconsistent with GPS data;
3. Excessive idling which results in excess fuel usage;
4. Excessive Speeding;
5. Use of a Town vehicle beyond authorized work hours;
6. Use of a Town vehicle for personal reasons;
7. Use of a Town vehicle beyond the geographical limits reasonably required to perform assigned job duties.

NOTE: Employees are hereby informed that a “zero tolerance” approach will be taken and termination will be the recommended penalty for any identified attempt to remove, disable or otherwise tamper with a GPS device installed on a Town vehicle.

VIOLATION OF POLICY

Since the primary purpose of this policy is to enhance employee and public safety, all failures to comply with the requirements of this policy will be viewed as serious safety violations. Any employee failing to comply with this policy will be subject to disciplinary action, including the possibility of termination.

LOSS OF DRIVING PRIVILEGES

Any employee who is unable to perform the routine job functions of his/her position due to the temporary or permanent loss of driving privileges may be removed from the classified service. Where possible, and in furtherance of the overall interests of Town, job restructuring or employee reassignment to a position which does not require driving may be available.

QUESTIONS

Questions concerning this policy should be addressed to the Human Resources Department.

6.22.7 Use of Tobacco/Marijuana Products. Smoking and other uses of tobacco products and marijuana are prohibited in Town vehicles; this includes vaping.

6.22.8 Vehicle Take-Home Policy. An employee may be assigned a Town vehicle to take home if the Town deems it necessary. An employee assigned a take-home vehicle shall comply with resolution no. Xx, a resolution establishing a vehicle take-home policy for Town of Taos employees and use of the vehicle may be taxable as set forth in resolution no. Xx, a resolution establishing and implementing a taxable fringe benefits policy. 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 home until three (3) years have elapsed from the date of the positive test and/or conviction.

Vehicle allowance- refer to resolution

6.26 Information Technology Resources. The Town provides information technology resources ("IT resources") to designated employees. 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.

6.26.1 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.

6.26.2 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 may not use it resources to engage in any business or for personal gain or profit. Employees are prohibited from accessing private, non-Town e-mail accounts from Town owned or leased equipment within the Town's network. An employee 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.

6.26.3 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. An employee shall reimburse the Town for all long-distance personal calls.

6.26.4 Use of Town Cellular Phones. The Town may provide cellular telephones for employees 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. An employee shall reimburse the Town for all overage charges whether the overage is due to personal calls or business 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. Cellular telephones should be turned off or set to silent or vibrate mode during meetings and in other situations where incoming calls may disrupt the workflow.

6.26.5 Use of Personal Cellular Cellphones. The use of personal cellular telephones while an employee is working, including text messaging and email communication is restricted to necessary brief personal telephone calls. 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 or to conduct any Town business.

6.26.6 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.

6.27 Social Media.

Scope: these rules have general applicability to all prospective and current employees, both classified and unclassified, officials, and others serving in an official capacity on behalf of the Town i.e., Town Representatives.

Purpose: to establish and publish the Town's position on the permitted and prohibited use of all forms of social media by Town representatives, for business use. The policy covers current and future forms of social media.

Policy: The Town may use social media to meet community needs, perform community outreach, problem-solving, and otherwise furthering the goals of the Town. In doing so, the Town's official use of social media must be at the highest professional standard.

6.27.1 Official Use of Social Media

The Town shall maintain a social media presence through its communications and marketing office.

No department shall have their own specific social media page or presence without the express consent of the Town Manager.

1. All department pages that are approved by the Town Manager will be administered by the communications and marketing administrator.
2. Any director wishing to administer their own page shall fill out an application with the community relations director, which will then be considered. If approved, the department will be able to administer their own social media page but shall also continue to include the community relations director as an administrator as well.
3. In order to minimize public confusion, Town employees should only publish or post information under the Town's official username and profile.

4. All social media content shall adhere to applicable state, federal, and local laws, regulations, the Town's general standards of conduct and code of ethics. As such, if the Town Manager or his or her designee feels the post is inappropriate, it will not be posted, at the Town Manager's discretion.
5. All contents published and received by the Town using social media in connection with Town business are public records, and therefore subject to record retention law.
6. First amendment: Town representatives are cautioned that their speech, made pursuant to their employment duties, in the course of their official duties, or relating to their professional responsibilities, whether on or off duty, may not be protected by the first amendment.

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7. No expectation of privacy: communications sent or received using the Town's electronic communications systems or equipment are the Town's property, and are not individual's private property. Town representatives using Town equipment have no right to privacy and no expectation of privacy with respect to those communications, whether communicated via social media sites or otherwise. The Town reserves the right to monitor, review, intercept or gain access to communications initiated or received by Town representatives on the Town's electronic communications systems and equipment. Use of the Town's systems constitutes consent to such monitoring, reviewing, interception or access. The Town is not required to provide notice to Town representatives before or after any review of communications. Social media is subject to the Inspection of Public Records Act (IPRA) and any other open records laws.

6.27.1 Private Use of Social Media by Town Employees

- A. The Town recognizes and respects that Town employees may choose to have their own personal social media accounts and does not wish to regulate personal use.
- B. However, employees should keep in mind that identifying one-self as a Town employee and making disparaging remarks about the Town on a public website is not appropriate, as noted in the Town's general standards of conduct and code of ethics.
- C. Therefore, employees are cautioned that acting in their capacity as a Town employee and making adverse remarks about the Town is considered to be in violation of this policy and disciplinary action may be taken as a result of the remarks.

6.27.2 Violations of the Social Media Policy

- A. Town employees who become aware of or having knowledge of a posting or of any website or webpage in violation of any provision of this policy should notify the appropriate supervisor, Department Director, Human Resources staff person or other high-level management official immediately.
- B. Violations of this policy.
- C. Employees in violation of any provision of this policy are subject to disciplinary action, up to and including termination.

Employee rights: nothing in this policy is meant to restrict or prohibit Town personnel rights under any applicable local, state, or federal laws.

6.28 Recording Devices and Cameras in the Workplace

6.28.1. 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 a participant are prohibited in and on all Town-owned and operated properties.

6.28.2. 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.

6.28.4. Employees should contact their Supervisor, Department Director or the Human Resources Department if they have questions or complaints with regards to this policy or violations thereof.

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. 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 this section.

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 human resources file. A written reprimand is not grievable and not subject to the notice and hearing requirements of the applicable section of this 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 human resources 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 human resources 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.

This conduct 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. Any other behavior that justifies discipline under this category

7.4.2 Tardiness/Absenteeism.

This conduct 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

7.4.4 Improper Conduct.

This 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, an 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 or
- i. Influencing, or attempting to influence, a hearing officer, other than through established hearing procedures
- j. Failure to cooperate in an investigation
- k. Distributing of 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. Any other behavior that justifies discipline under this category

7.4.5 Violation of this resolution, or any federal or state law including all civil right statutes.

7.4.6 Conviction of a misdemeanor or felony.

7.5 Persons Ineligible to Grieve or Appeal a Disciplinary Action. A probationary employee, at-will employee, or employee in a casual or temporary position, or an

employee in a term position who has not completed the probationary period may be disciplined 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.

7.7 Delivery of Correspondence. The Town will make an effort to hand-deliver correspondence 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 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 when that address changes. Items will be delivered to the address of record. 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.

7.7.1 Notification of Proposed Disciplinary Action. To initiate the suspension, demotion, or dismissal of a classified employee or an employee in term status who has completed the probationary period, the employee's Department Director or designee will serve a notice of proposed disciplinary action on the employee. 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.

7.7.2 Pre-Determination Hearing. The employee shall be given an opportunity to respond to the proposed discipline at a pre-determination (louder mill) 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 present during the hearing. Pre-determination hearings will be held within five (5) working days from the date of hand delivery or certified mailing 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 support the proposed discipline.

7.7.3 Decision on Disciplinary 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, and shall describe the conduct that forms the basis for the disciplinary action, give a general explanation of the evidence the Town has, and specify when the disciplinary action will become effective. The notice of final action shall also advise the employee of the appeal rights set forth in section 7.7.5 below.

7.7.4 Appeal of Disciplinary Action. If the employee or past employee wishes to appeal the disciplinary 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 decision on the disciplinary action. The Town Manager will review all pertinent information and will either confirm, modify, or reject the disciplinary 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 Town Manager will notify the governing body of any such appeal.**

7.8 Filing for Post Determination Hearing.

7.8.1 an employee or previous employee must exhaust the administrative remedies described in Section 7.7 prior to filing a request for hearing as set forth in this section.

7.8.2 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 from 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.

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

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

7.8.5 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. This timeline can be extended by the hearing officer for cause **with** written agreement of the employee and the Town.

7.8.6 Representation. The employee may represent him 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 or the Town or may each choose to have an attorney as a representative at the hearing.

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

7.8.8 Employee Testimony. As a condition of employment, employees may be required to appear as witnesses in hearings. Refusal by an employee to testify in an appeal 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.

7.8.9 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 conduct a fair and impartial hearing.

7.8.10 Burden. The Town shall have the burden of proof and its representative will present its evidence first.

7.8.11 Order 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.

7.8.12 Administrative Notice. The hearing officer may take administrative notice of those matters of which courts of this state may take judicial notice.

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

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

7.8.15 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 NMRA rule 74 and 75.

Section 8 Grievances.

8.1 General. A grievance is a complaint by an employee concerning a violation of this human resources 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 make an effort 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 and will be considered served on the date when the item was placed into first class 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 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 that person. ? HR director?
- B. **Time to File Written Grievance.** A written grievance must be submitted within five (5) working days of the step 1 discussion.
- C. **Content of Written Grievance.** Written grievances will be submitted on the established **Town of Taos report of Grievance Form**. The grievant will provide a short and concise statement of the action complained of, brief additional facts as appropriate, the relief requested, and the date when the step 1 discussion occurred.

- D. **Response to the Written Grievance.** The Department Director or designee shall promptly respond in writing to the written grievance, but in any event, within ten (10) working days of the receipt of the written grievance.
- E. **Review by Human Resources Director.** If the matter cannot be resolved at the Department Director level, the grievant may file the grievance with the Human Resources Director and request a meeting with the Human Resource Director or designee. The meeting shall be scheduled within five (5) working days of the Human Resource Director's receipt of the grievance. The Human Resources Director 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.
- F. **Finality.** The grievance process concludes with Step 2.

Section 9 Human Resources Records.

9.1 Requests for Records. All written requests by the public 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 on each employee. The personnel file shall be maintained by the Human Resources Department in a secure location.

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. 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.

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, and position(s) held only and whether the employee is eligible for rehire. No further information will be released without a written authorization and a notarized release signed by the individual who is the subject of the inquiry.

9.6 Medical Files. Medical information on 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 inappropriately inspecting a medical file, or disclosing its contents, is subject to disciplinary action, up to and including termination of employment.

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.

10.2 Personal Leave.

10.2.1 Eligibility. Each full-time probationary employee, and unclassified at-will employee is eligible to accrue personal leave with pay to be used 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.

10.2.2 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.
- 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. After two (2) 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.

10.2.3. 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.

10.2.4. 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.

10.2.3 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.

10.2.4 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 the illness or injury, estimate its duration or certify that the employee may safely return to work.

10.2.5 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.

10.2.6 Transferability. Personal leave is not transferrable.

10.2.7 Personal Leave & Injury On the Job

If an employee is injured on the job during their probationary period, they will have access to their available personal leave balance to cover lost time that they are not compensated for in any other manner for the first seven (7) calendar days. Should the leave balance not be sufficient to cover the time, leave-without-pay (LWOP) may be authorized.

10.2.8 Administrative Leave

It is recognized that certain events arise that make administrative leave necessary. The Department Director or designee may place an employee on administrative leave with pay based on certain events. These events may include:

- A. The removal of an employee for the safety or welfare of other employees, and/or the public;
- B. The removal of an employee for the purpose of protecting the Town's facilities or properties;
- C. The removal of an employee to conduct an investigation;
- D. The removal of an employee whose conduct or welfare is at issue;
- E. When an employee is referred to the employee assistance program by the supervisor as outlined in the employee assistance section. Employees will be granted a reasonable amount of administrative leave for appointments scheduled during normal work hours.

Employees in pre-termination status are not eligible for administrative leave with pay or paid holidays. These employee's will be provided administrative leave without pay pending the outcome of their grievance process.

The basis for such administrative leave shall be documented, in the written administrative leave notice to the employee, and submitted to the Human Resources Director at the time of or within two (2) business days of the administrative leave commencing.

Administrative leave under this section shall not constitute 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.

A Director with concurrence from the Human Resources Director has authority to approve up to five (5) consecutive working days for non-shift workers and seven (7) consecutive calendar days for shift workers. Leave beyond these limitations will only be authorized by the Town Manager.

The Town Manager will inform the governing body of administrative leave granted.

10.2.9 Unauthorized Absence.

Any leave not authorized according to the appropriate rules set forth in this manual 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 under the abandonment section of this manual.

Refer to section 17 separation from employment, abandonment for employees who are absent from their job for one (1) shift or workday without notifying their supervisor.

10.3 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 for the next calendar years designated holidays. The following conditions will apply with respect to holidays and holiday pay:

10.3.1 Eligibility. Each Full-time employee, Full-time probationary employee, and unclassified at-will employee is entitled to time off from work with pay during holidays.

10.3.2 Compensation During the Holiday.

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- 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 before or after 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 hours worked. Employees will be paid overtime based on the rules of the FLSA.

10.3.3 Personal Leave Day. Each Full-time and Part-time classified employee, and unclassified at will employee shall receive one personal leave day with pay each calendar year. A personal leave day must be scheduled in the same manner as annual leave. Personal leave 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. Personal leave cannot be taken in separate blocks of time.

10.5 Bereavement Leave. Each Full-time and Part-time classified employee, probationary employee, and unclassified at-will 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.

Policy.

Employees may be entitled to a leave of absence under the family and medical leave act (FMLA). This policy provides employees information concerning FMLA entitlements and obligations employees may have during such leaves. If employees have any questions concerning FMLA leave, they should contact the Human Resources Department.

Eligibility.

FMLA leave is available to "eligible employees." to be an "eligible employee," an employee must: 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.

Entitlements.

As described below, the FMLA provides eligible employees with a right to leave, health insurance benefits and, with some limited exceptions, job restoration.

A. 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:

1. To care for the employee's child after birth, or placement for adoption or foster care;
2. To care for the employee's spouse, son, daughter or parent (but not in-law) who has a serious health condition;
3. 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
4. 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.

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.

Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, caring for the parents of the military member on covered active duty and attending post-deployment reintegration briefings.

B. 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.

C. Intermittent Leave and Reduced Leave Schedules.

FMLA leave usually will be taken for a period of consecutive days, weeks, or months. However, employees also are entitled to take FMLA leave intermittently or on a reduced leave schedule when medically necessary due to a serious health condition of the

employee or covered family member or the serious injury or illness of a covered service member. Qualifying exigency leave also may be taken on an intermittent basis.

D. No work while on leave.

The taking of another job while on family/medical leave or any other authorized leave of absence is grounds for immediate discharge, to the extent permitted by law.

E. Protection of group health insurance benefits.

During FMLA leave, eligible employees are entitled to receive group health plan coverage under the same terms and conditions as if they had continued to work.

F. Restoration of employment and benefits.

At the end of FMLA leave, subject to some exceptions including situations where job restoration of "key employees" will cause the Town substantial and grievous economic injury, employees generally have a right to return to the same or equivalent position with equivalent pay, benefits, and other employment terms. The Town will notify employees if they qualify as "key employees," if it intends to deny reinstatement, and of their rights in such instances. Use of FMLA leave will not result in the loss of any employment benefit that accrued prior to the start of an eligible employee's FMLA leave.

G. Notice of Eligibility For, and Designation of, FMLA Leave.

Employees requesting FMLA leave are entitled to receive written notice from the Town telling them whether they are eligible for FMLA leave and, if not eligible, the reasons why they are not eligible. When eligible for FMLA leave, employees are entitled to receive written notice of: 1) their rights and responsibilities in connection with such leave; 2) Town's designation of leave as FMLA-qualifying or non-qualifying, and if not FMLA-qualifying, the reasons why; and 3) the amount of leave, if known, that will be counted against the employee's leave entitlement.

The Town may retroactively designate leave as FMLA leave with appropriate written notice to employees provided the Town's failure to designate leave as FMLA-qualifying at an earlier date did not cause harm or injury to the employee. In all cases where leave qualifies for FMLA protection, the Town and employee can mutually agree that leave be retroactively designated as FMLA leave.

Employee FMLA leave obligations.

A. Provide notice of the need for leave

Employees who take FMLA leave must timely notify the Town of their need for FMLA leave. The following describes the content and timing of such employee notices.

1. Content of employee notice

To trigger FMLA leave protections, employees must inform the Human Resources Department of the need for FMLA-qualifying leave and the anticipated timing and duration of the leave, if known. Employees may do this by either requesting FMLA leave

specifically, or explaining the reasons for leave so as to allow the Town to determine that the leave is FMLA-qualifying. For example, employees might explain that:

- a. a medical condition renders them unable to perform the functions of their job;
- b. they are pregnant or have been hospitalized overnight;
- c. they or a covered family member are under the continuing care of a health care provider;
- d. the leave is due to a qualifying exigency caused by a military member being on covered active duty or called to covered active-duty status to a foreign country; or
- e. if the leave is for a family member, that the condition renders the family member unable to perform daily activities or that the family member is a covered service member with a serious injury or illness.

Calling in "sick," without providing the reasons for the needed leave, will not be considered sufficient notice for FMLA leave under this policy. Employees must respond to the Town's questions to determine if absences are potentially FMLA-qualifying.

If employees fail to explain the reasons for FMLA leave, the leave may be denied. When employees seek leave due to FMLA-qualifying reasons for which the Town has previously provided FMLA-protected leave, they must specifically reference the qualifying reason for the leave or the need for FMLA leave.

2. Timing of employee notice.

Employees must provide 30 days' advance notice of the need to take FMLA leave when the need is foreseeable. When 30 days' notice is not possible, or the approximate timing of the need for leave is not foreseeable, employees must provide the Town notice of the need for leave as soon as practicable under the facts and circumstances of the particular case. Employees who fail to give 30 days' notice for foreseeable leave without a reasonable excuse for the delay, or otherwise fail to satisfy FMLA notice obligations, may have FMLA leave delayed or denied.

B. Cooperate in the scheduling of planned medical treatment (including accepting transfers to alternative positions) and intermittent leave or reduced leave schedules.

When planning medical treatment, employees must consult with the Town and make a reasonable effort to schedule treatment so as not to unduly disrupt the Town's operations, subject to the approval of an employee's health care provider. Employees must consult with the Town prior to the scheduling of treatment to work out a treatment schedule that best suits the needs of both the Town and the employees, subject to the approval of an employee's health care provider. If employees providing notice of the need to take FMLA leave on an intermittent basis for planned medical treatment neglect to fulfill this obligation, the Town may require employees to attempt to make such arrangements, subject to the approval of the employee's health care provider.

When employees take intermittent or reduced work schedule leave for foreseeable planned medical treatment for the employee or a family member, including during a period of recovery from a serious health condition or to care for a covered service member, the Town may temporarily transfer employees, during the period that the intermittent or reduced leave schedules are required, to alternative positions with equivalent pay and benefits for which the employees are qualified and which better accommodate recurring periods of leave.

When employees seek intermittent leave or a reduced leave schedule for reasons unrelated to the planning of medical treatment, upon request, employees must advise the Town of the reason why such leave is medically necessary. In such instances, the Town and employee shall attempt to work out a leave schedule that meets the employee's needs without unduly disrupting the Town's operations, subject to the approval of the employee's health care provider.

C. Submit medical certifications supporting need for FMLA leave (unrelated to requests for military family leave)

Depending on the nature of FMLA leave sought, employees may be required to submit medical certifications supporting their need for FMLA-qualifying leave. As described below, there generally are three types of FMLA medical certifications: an initial certification, a recertification and a return to work/fitness for duty certification.

It is the employee's responsibility to provide the Town with timely, complete, and sufficient medical certifications. Whenever the Town requests employees to provide FMLA medical certifications, employees must provide the requested certifications within 15 calendar days after the Town's request, unless it is not practicable to do so despite an employee's diligent, good faith efforts. The Town will inform employees if submitted medical certifications are incomplete or insufficient and provide employees at least seven calendar days to cure deficiencies. The Town will deny FMLA leave to employees who fail to timely cure deficiencies or otherwise fail to timely submit requested medical certifications.

With the employee's permission, the Town may contact the employee's health care provider to authenticate or clarify completed and sufficient medical certifications. If employees choose not to provide the Town with authorization allowing it to clarify or authenticate certifications with health care providers, the Town may deny FMLA leave if certifications are unclear.

Whenever the Town deems it appropriate to do so, it may waive its right to receive timely, complete and/or sufficient FMLA medical certifications.

1. Initial medical certifications.

Employees requesting leave because of their own, or a covered relation's, serious health condition, or to care for a covered service member, must supply medical certification supporting the need for such leave from their health care provider or, if applicable, the health care provider of their covered family or service member. If employees provide at least 30 days' notice of medical leave, they should submit the medical certification before

leave begins. A new initial medical certification will be required on an annual basis for serious medical conditions lasting beyond a single leave year.

If the Town has reason to doubt initial medical certifications, it may require employees to obtain a second opinion at the Town 's expense. If the opinions of the initial and second health care providers differ, the Town may, at its expense, require employees to obtain a third, final and binding certification from a health care provider designated or approved jointly by the Town and the employee.

2. Medical re-certifications.

Depending on the circumstances and duration of FMLA leave, the Town may require employees to provide recertification of medical conditions giving rise to the need for leave. The Town will notify employees if recertification is required and will give employees at least 15 calendar days to provide medical recertification.

3. Return to work/fitness for duty medical certifications.

Unless notified that providing such certifications is not necessary, employees returning to work from FMLA leaves that were taken because of their own serious health conditions that made them unable to perform their jobs must provide the Town with medical certification confirming they are able to return to work and the employees' ability to perform the essential functions of the employees' position, with or without reasonable accommodation. The Town may delay and/or deny job restoration until employees provide return to work/fitness for duty certifications.

D. Submit certifications supporting need for military family leave.

Upon request, the first time employees seek leave due to qualifying exigencies arising out of the covered active duty or call to covered active duty status of a military member, the Town may require employees to provide: 1) a copy of the military member's active duty orders or other documentation issued by the military indicating the military member is on covered active duty or call to covered active duty status and the dates of the military member's covered active duty service; and 2) a certification from the employee setting forth information concerning the nature of the qualifying exigency for which leave is requested. Employees shall provide a copy of new active-duty orders or other documentation issued by the military for leaves arising out of qualifying exigencies arising out of a different covered active duty or call to covered active-duty status of the same or a different military member.

When leave is taken to care for a covered service member with a serious injury or illness, the Town may require employees to obtain certifications completed by an authorized health care provider of the covered service member. In addition, and in accordance with the FMLA regulations, the Town may request that the certification submitted by employees set forth additional information provided by the employee and/or the covered service member confirming entitlement to such leave.

E. Substitute paid leave for unpaid FMLA leave.

Employees are required to use any accrued paid time off while taking unpaid FMLA leave.

The substitution of paid time for unpaid FMLA leave time does not extend the length of FMLA leave and the paid time will run concurrently with an employee's FMLA entitlement. Leaves of absence taken in connection with a disability leave plan or workers' compensation injury/illness shall run concurrently with any FMLA leave entitlement. Upon written request, the Town will allow employees to use accrued paid time off to supplement any paid disability benefits.

F. Pay employee's share of health insurance premiums

During FMLA leave, employees are entitled to continued group health plan coverage under the same conditions as if they had continued to work. Unless the Town notifies employees of other arrangements, whenever employees are receiving pay from the Town during FMLA leave, the Town will deduct the employee portion of the group health plan premium from the employee's paycheck in the same manner as if the employee was actively working.

If FMLA leave is unpaid, employees must pay their portion of the group health premium through a "pay-as-you-go" method. The Town's obligation to maintain health care coverage ceases if the employee's premium payment is more than 30 days late. If the employee's payment is more than 15 days late, the Town will send a letter notifying the employee that coverage will be dropped on a specified date unless the co-payment is received before that date. If employees do not return to work within 30 calendar days at the end of the leave period (unless employees cannot return to work because of a serious health condition or other circumstances beyond their control), they will be required to reimburse the Town for the cost of the premiums the Town paid for maintaining coverage during their unpaid FMLA leave. iv. Exemption for highly compensated employees.

The Town may choose not to return highly compensated employees (highest paid 10% of employees at a worksite or within 75 miles of that worksite) to their former or equivalent positions following a leave if restoration of employment will cause substantial economic injury to the Town. (This fact-specific determination will be made by the Town on a case-by-case basis.) The Town will notify employees if they qualify as a "highly compensated", if the Town intends to deny reinstatement, and of the employee's rights in such instances.

V. Questions and/or complaints about FMLA leave.

If you have questions regarding this FMLA policy, please contact the Human Resources Department. The Town is committed to complying with the FMLA and, whenever necessary, shall interpret and apply this policy in a manner consistent with the FMLA.

The FMLA makes it unlawful for employers to: 1) interfere with, restrain or deny the exercise of any right provided under FMLA; or 2) discharge or discriminate against any person for opposing any practice made unlawful by FMLA or involvement in any proceeding under or relating to FMLA. If employees believe their FMLA rights have been violated, they should contact the Human Resources Department immediately. The Town will investigate any FMLA complaints and take prompt and appropriate remedial action to address and/or remedy any FMLA violation. Employees also may file FMLA complaints with the United States department of labor or may bring private lawsuits alleging FMLA violations.

Vi. Coordination of FMLA leave with other leave policies.

The FMLA does not affect any federal, state, or local law prohibiting discrimination, or supersede any state or local law or collective bargaining agreement that provides greater family or medical leave rights. For additional information concerning leave entitlements and obligations that might arise when FMLA leave is either not available or exhausted, please consult the Town 's other leave policies in this manual or contact the Human Resources Department.

The Town of Taos administers family and medical leaves of absence in accordance with the family and medical leave act of 1993

Volunteer emergency responder job protection act.

An employee's rights under the New Mexico statute chapter 12, Article 10c-1-4, volunteer emergency responder job protection act will be administered in accordance with the act.

The uniformed services employment and reemployment rights act.

An employee's rights under the uniformed services employment and reemployment rights act (USERRA) will be administered in accordance with the act.

Other leave.

Town of Taos recognizes that an employee may have a need to be excused from work in order to attend to personal situations beyond their control. The purpose of this policy is to outline the parameters for domestic victims leave. Under this policy, the following circumstances may be approved for critical personal leaves for employees who are:

1. victims of domestic violence
2. victims of criminal acts
3. victims of natural disasters
4. family members of military service members - refer to FMLA policy.

All regular full and part time employees, regardless of length of service, are eligible for leave which meet any of the above-referenced criteria. Such approved periods of leaves will be unpaid except where an employee elects to use available paid time off.

The leave provided for in this policy is supplemental to any leave that may be required under applicable laws such as the family and medical leave act (FMLA) and the uniformed services employment and reemployment rights act (USERRA). You may have similar rights under state law. Employees should look to their leave rights under such laws before resorting to the leave provided for in this policy.

Any request for leave for one of the reasons itemized above must be made in writing, must be for a specified period, and approved by the Department Director.

All leave requests may require documentation supporting the necessity for the leave. Such documentation must be provided within a reasonable time period following the request and may include court, military, insurance, physician, or other documents that verify the need for leave.

The Town reserves the right to restrict leave or the duration of a leave if the leave will cause a major impact on Town operations.

Domestic victims leave may be taken in a continuous block of time or sporadically and is limited to fourteen (14) workdays in a calendar year; however, employees may submit subsequent documented leave requests for continuation of leave when necessary.

Eligible employees who take leave under this section are entitled to receive group health plan coverage under the same terms and conditions as if they had continued to work and are responsible for ensuring that a benefit payment schedule is arranged with payroll if necessary.

This policy will be administered pursuant to New Mexico Statute 50-4a-1-8, promoting financial independence for victims of domestic abuse act.

For eligibility requirements contact Human Resources.

10.7 Military Leave.

If employees attend yearly reserves, national guard duty, or civil air patrol (civil air patrol per hb22 7.1.2020), of New Mexico, they 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 management with advance notice of service obligations unless they are 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 Jury Duty. Each full-time and part-time classified employee, probationary employee, and unclassified at-will 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 paid to the Town. Employees shall be entitled to administrative leave when appearing during regularly scheduled work hours in obedience to a subpoena as a witness before a grand jury or court or before a federal or state agency. Fees received as a witness, excluding reimbursement for travel, shall be paid to the Town.

10.9 Administrative Leave. Any employee may be placed on administrative leave with pay when it is in the best interests of the Town to do so. The Town Manager or designee must authorize administrative leave for all employees prior to the leave being taken.

10.10 Leave Without Pay (LWOP).

10.11 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 Department Director upon approval of the Human Resources Director. During unpaid leave, an employee shall not accrue any of the **benefits described** in this Personnel Policy, including leave. An employee shall not accrue leave while on leave without pay. 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.

10.12.1 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. Please consult the Human Resources Department if you have questions regarding this policy.

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.

10.12.2. 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.

10.13 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.

Section 11 Employee Benefits.

11.1 Medical, Dental, Vision, Life, Disability. Each eligible classified employee, probationary employee, unclassified at-will employee, 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 these

On-the-job injuries are covered by our workers' compensation insurance policy. If employees are injured on the job, no matter how minor, they should report the incident immediately to their supervisor. Failure to follow Town procedures may affect the ability of the employee to receive workers compensation benefits.

Workers Compensation Benefits will be administered in accordance with the State of New Mexico worker's compensation law.

Workers' compensation benefit explanation:

1. §10-7-13 NMSA prohibits public employees from receiving monthly salary for leave time in combination with workers' compensation benefits that exceeds 100% of the employee's monthly base salary.
2. The workers' compensation benefit is computed at 66 2/3% of the employee's gross weekly base salary up to a specified cap for most individuals, this figure is equal to the pay received in the following manner:
 - a. General employee: 5.3 hours of the normal 8-hour work day
 - b. Police employee: 8.0 hours of the normal 12-hour work day
 - c. Fire employee: 16.0 hours of the normal 24-hour work day
3. It is recorded as workers' compensation leave without pay (LWOP). The remaining hours (1/3) are charged to personal leave, administrative leave or authorized leave without pay (LWOP):
 - a. General employee: 2.7 hours
 - b. Police employee: 4.0 hours
 - c. Fire employee: 8.0 hours
4. Unusual deductions such as private medical, dental, and legal insurance can continue as long as the remaining 2.7 hours (or more) per day are taken as sick and/or annual leave. If an employee runs out of personal leave, the employee must bear the burden of paying his/her and the state's share of such deductions, unless the employee applies, and is approved for, leave under the family and medical leave act (FMLA).
5. The first 5 work days (40 hours, 7 calendar days) that an employee loses time is **not** compensated until the employee has been off work for more than 28 calendar days. The first week is initially charged to sick and/or annual leave or authorized LWOP.
6. After 28 calendar days off work, the first week's benefit check is paid. At this time, unless the employee was on LWOP, or in other words, did not have or use any sick or annual leave for that first 40 hours, the first week's benefit check will constitute an overpayment and violates §10-7-13 NMSA. Therefore, the employee must reimburse the agency for the amount of overpayment received. In return, the agency must reinstate the applicable amount of sick and/or annual leave used during the first week.

7. The amount of overpayment will be computed by the agency upon receipt of the first week's check. Should the check be delivered **directly** to the employee, it is the employee's responsibility to ensure proper procedures are followed.

8. The responsibility for properly coding time sheets rests with the immediate supervisor. The injured employee must also ensure that time sheets are properly and accurately prepared.

9. In some situations, when an employee is injured while performing a work-related function or duty in an inherently dangerous location or under inherently dangerous circumstances and that the member is absent from work and has been placed on approved workers' compensation leave may receive administrative leave in lieu of using personal leave.

Administrative Leave may be granted for certain worker's compensation claims where an Employee is incapacitated and unable to work. Administrative Leave will be granted for a period of up to twelve (12) weeks or total hours as follows:

a. General Employee: 162 hours total

b. Police Employee (non-civilian): 168 hours total

Fire Employee (shift personnel): 192 hours total

Any LWOP time, **including that used for workers' compensation purposes**, does not allow an individual to accrue service time towards retirement. The only exception is those who qualify under House Bill 43 regarding service credit for certain injured members on approved workers compensation leave.

During the 2016 legislative session, house bill 43 requires agencies to pay 100% of the group insurance and PERA contributions for employees on authorized worker's compensation leave due to an injury sustained while performing a "public safety function".

Service credit for certain injured members on approved workers' compensation leave.

A. A member whose affiliated public employer has provided written certification to the association, in the form and manner prescribed by the association, that the employee was injured while performing a work-related function or duty in an inherently dangerous location or under inherently dangerous circumstances and that the member is absent from work and has been placed on approved workers' compensation leave as a result of the injury shall accrue service credit for the period of absence from work while on workers' compensation leave; provided that:

1. The member is a peace officer covered pursuant to state general member coverage plan 3; a state police member; an adult correctional officer member; a municipal fire member; a municipal police member; or a municipal detention officer member;

2. The member retains membership in the association during the period of absence from work on approved workers' compensation leave;
3. The member's affiliated public employer pays the injured employee's member contributions as well as the employer contributions and remits to the association the total amount of employee and employer contributions that would have been paid if the member had not been absent from work while on approved workers' compensation leave. The contribution amounts shall be calculated based upon a salary equal to the member's salary at the time of the injury.

B. The affiliated public employer shall provide an appeal process for an injured employee on approved workers' compensation leave who is determined by the affiliated public employer not to meet the criteria in subsection a of this section.

Note: if you have an employee who qualifies from the above stated house bill 43, or have any questions please contact the Human Resources Department. A PERA employer certification for injured public safety employee service credit form will be required for the Human Resources Department to fill out and submit.

11.4 Retirement Benefits. Each eligible employee must participate in the Town's mandatory retirement program, administered by the public employees retirement association ("P.E.R.A."), unless otherwise specified by P.E.R.A. mandatory employee contributions to the plan are made by payroll deduction and forwarded to P.E.R.A. details concerning eligibility and other details of the retirement program are set forth in New Mexico statutes and the publications of the P.E.R.A., which are provided to the employee directly by the P.E.R.A.

Section 12 Performance Evaluations.

Each regular employee shall be given a written performance evaluation in accordance with the following time factors:

- A. At completion of the probationary period and extension of probationary period if applicable;
- B. At mid-point of probationary period if employee is serving a one (1) year probationary period;
- C. For an annual evaluation period of march 1 through February of the following year; evaluations are due within thirty (30) days of the expiration of the evaluation period.

Special evaluations.

Employees should be evaluated under the following special circumstances:

- A. Progress of an employee's performance may be provided to probationary employees periodically throughout their 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.
- C. Performance evaluations will be submitted to human resources for an initial review of language prior to issuing to the employee. The Human Resources Department may refer questionable evaluations to proper management levels for resolution.
- D. The employee shall have the opportunity to input 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.

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

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.

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 through the Department Director and the Human Resources Department.

Section 13 Compensation.

13.1 Classification and Compensation System. 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 continuous maintenance and administration of the classification and compensation system. **The Town Manager** has the authority to make changes to job classifications, job titles, and ranges in the best interest of the Town. 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. Changes may be made by the **Town Manager** based on budget availability in coordination with the finance director.

13.2 New Positions. The creation of any new position, other than a temporary position or casual position must be approved by Resolution of the Town Council and approved by the department of finance and administration.

13.3 Cost-of-Living Adjustment. Upon approval of the Town Council, compensation may be periodically adjusted to account for changes in the cost of living.

13.4 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 for the range of the employee's position. Higher compensation for an employee can be justified if there is documented evidence showing that the employee's qualifications or other relevant factors merit it. 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 likely includes factors such as job responsibilities, qualifications, experience, and possibly market rates for similar positions. This system ensures fairness and transparency in determining compensation adjustments beyond the standard rates.

13.5 Compensation Upon Range Change. The Human Resources Director has the authority to propose adjustments to the compensation range for a particular classification. 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 following the range modification, or their compensation will be raised if it falls below the minimum compensation of the new range.

13.6 Compensation for Temporary Employees. Compensation for temporary employees may fall below the minimum of the range for the job classification but must comply with federal and state employment laws.

13.7 Temporary Compensation 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.**

13.8 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 both fair labor standards act ("FLSA") covered employees and FLSA section 7 (k) exempt employees shall be paid unless otherwise determined in advance by the Department Director / or designee.

13.9.1 FLSA-Covered Employees. Approved overtime pay for employees covered by the FLSA 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.

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

13.10 Per Diem and Mileage. All payments of per diem and mileage allowance to Town employees will be made pursuant to policies established by the department of finance administration (DFA) of the state of New Mexico.

13.11 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 of 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 and are as follows: 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 be paid for 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.

13.11.2 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.

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

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

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

13.12 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 (FLSA). 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. Town of Taos will 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 section 30-23-2 NMSA1978.

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 or Department Director. At the completion of each pay period, after approvals, the time sheets will be forwarded to the finance department for proper retention schedules. 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 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.

15.1 Working Safely. Each employee must be informed of and observe established safety practices as determined by the supervisor and the human resources. 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 "horseplay."

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 or the Human Resources Department so that the problem can be immediately corrected.

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. 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 employee should immediately attend to any injuries of employees or others, and then refer the matter to his or her supervisor, 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. 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.

15.9 Applicability. This section is applicable to each employee, including but not limited to, classified, probationary, at-will, exempt 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.

15.10 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.

15.11 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 physician's 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 job performance deterioration or accidents occur. 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 intentionally 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.

15.12 Drug and Alcohol Testing add marijuana

15.12.1 Random Testing. Each holder of a commercial drivers' license (cdl) and each employee in a safety related position is subject to random drug and alcohol testing. A safety related 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.

15.12.2 Testing on Reasonable Cause. The Town also tests for drugs and alcohol on reasonable suspicion. If there is reasonable suspicion to believe that an employee may be impaired by drugs or alcohol on the job, if the employee is found with drugs or alcohol in the workplace, or if an employee is involved in an automobile accident, immediate drug and/or alcohol testing shall be ordered. Reasonable suspicion exists when one's experience and training tend to indicate that a given person is under the influence of alcohol or a controlled substance. Acceptable indicators include, but are not limited to, odor of alcoholic beverage on the breath, slurred or incoherent speech, staggering walk, loss of physical coordination, bloodshot eyes, inability to successfully complete a field sobriety test, erratic behavior, unexplained or uncharacteristic irritability, excessive tardiness, poor work performance, arrest for drug/alcohol charges, or excessive unexplained absences from work.

Add in safety sensitive

15.12.3 reserved.

15.12.4 Procedure for testing on reasonable cause

15.12.3.1 step 1 in the event any Town employee has reasonable suspicion to believe an employee may be impaired by drugs or alcohol while on the job, the suspected employee's supervisor must be notified. The supervisor shall notify the human resources risk Manager and the Human Resources Director. A trained supervisor, shall then directly observe the employee's behavior and document any irregularities. If a test is ordered, the trained supervisor must document the specific indicators observed within forty-eight (48) hours and submit to the Human Resources Director.

15.12.3.2 step 2 if reasonable suspicion exists, the employee shall be asked to execute a written consent for immediate alcohol or drug testing. Failure to consent to testing may be grounds for discipline, up to and including termination.

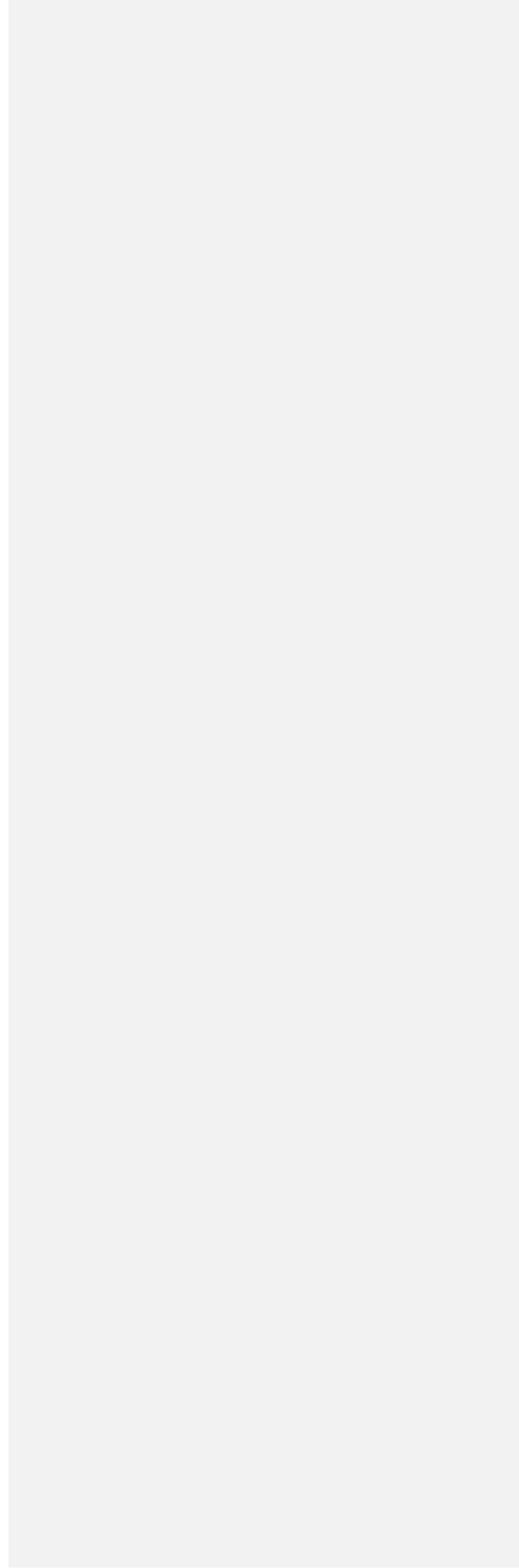
15.12.3.3 step 3 if reasonable suspicion exists, and consent is given, the employee shall be immediately transported for appropriate testing. Testing may include use of the breathalyzer or blood or urine testing. The employee shall be transported by a trained supervisor, the human resources risk Manager or human resources personnel to the testing location. Analysis of any samples collected will be performed by a laboratory selected by the Town.

15.12.3.4 step 4 following completion of testing, the employee will be placed on administrative leave with pay until the test results are available. The Town shall transport the employee home.

15.12.3.5 step 5 if the testing discloses that the employee was not impaired by alcohol or drugs at the time of the test, the employee shall return to work. If the test discloses that the employee was not impaired at the time of the test but does disclose trace amounts of alcohol or drugs, or the test discloses that the employee was impaired by alcohol or drugs at the time of the test, the employee may be placed on unpaid leave until a decision on continued employment is made by the Department Director , Human Resources Director and the **Town Manager**.

15.12.3.6 participation in a treatment program. An employee who is not terminated after a 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 shall be placed on 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.

15.12.3.7 loss of driving privileges. If the results of a drug or alcohol 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



terminated if their driving privileges are suspended or revoked and if no accommodations for other duties can be made.

Human resources

15.15.3 required reporting. If an employee's driving privileges are suspended or revoked, or if the employee is required to use an interlock device, the employee shall be prohibited from driving any Town vehicle and shall immediately notify his or her supervisor. Any employee who fails to report a suspension, revocation, or mandatory usage of an interlock device may be subject to disciplinary action, up to and including termination. The Town will not approve installation of an interlock device in any Town vehicle.

15.15.4 definition. For purposes of this policy, the word "conviction" includes a guilty plea, a no-contest plea, or an *alford* plea.

Section 16 Human Resources Actions.

16.1 All human resources actions, excluding disciplinary action, affecting current employees 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 with a salary increase. An employee must meet the minimum qualifications for the posted vacant position in order 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 Pay and Compensation Plan. 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 the applicable section of this Personnel Policy.

16.3 Demotion. A demotion is the move to a classification with a lower range, which 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 is greater than a fifteen percent (15%)

decrease. No compensation upon demotion shall exceed the maximum compensation of the new range nor fall below the minimum compensation of the new range.

16.4 Transfer. A transfer occurs when an employee or an employee's position is transferred from one department or department/office to another. 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 class range to correct an error in the original assignment or to recognize a change in the duties and responsibilities of a position, or 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 is when 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. 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.

17.0 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 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.

1. The Town Manager is responsible for the Town of Taos' succession plan. The Town Manager shall chair the succession planning committee, which includes the Town's management team. Annually, a succession planning committee meeting will be held. At each meeting, each Department Director will:
 - a. Present to the committee a review of the departmental succession plan;
 - b. Identify key positions and incumbents targeted for succession planning including an analysis of planned retirements, potential turnover, etc.;
 - c. Identify individuals who show the potential needed for progression into the targeted positions and leadership within the Town; and
 - d. Outline the actions taken in the previous six months to prepare identified individuals to assume a greater role of responsibility in the future.
2. The committee will approve targeted candidates. The committee will approve an outline of actions that will be taken in the following six months to prepare individuals to assume a greater role of responsibility in the future. The Town Manager will periodically request updates from the management team on the development process for each targeted candidate.
3. 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 from within or, in the event no viable candidate is available, on an "acting" basis while an external recruitment effort is conducted.

Section 17 Separation of Employment.

17.1 Voluntary Separation.

17.1.1 Resignation. Should an employee decide to leave the Town, he or she shall provide their supervisor with at least two (2) weeks, or four (4) weeks when retiring through PERA, advance written notice of departure. Failure to comply with this policy may be cause for denying re-employment with the Town.

In some cases, it may be in the Town's best interest to release an employee upon receipt of an employee's resignation, such as when an employee is still in training, and it would not be beneficial to continue with training. The release of an employee in situations where it is found to be beneficial for the Town will be at the 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.

17.1.2 Retirement. An employee may retire from Town employment through the Town's retirement program so long as the employee meets the requirements of P.E.R.A. an employee desiring to retire should contact the P.E.R.A. and give his or her supervisor reasonable notice of the retirement. A Department Director retiring through PERA shall give a minimum of six months' notice but one year is preferred. A supervisor shall provide a minimum of four weeks' notice, but preferably three months' notice. A general employee shall provide reasonable notice of the retirement, not less than four weeks.

17.1.3 Retirement Incentive. A Department Director who plans on retiring shall be granted an incentive for notifying the Town of Taos in a timely manner in order to aide with the selection and training of a successor. The incentive will be granted so long as the employee has submitted a timely resignation letter; and the Town and the retiring director have signed an agreement specifying the date of retirement. If a director gives one years' notice of retirement, the retiring director will receive an incentive of \$10,000.00 at the time of final payout. If a director gives six months' notice of retirement, the retiring director will receive an incentive of \$5,000 at the time of final payout. If a retiring director leaves employment before or after the agreed upon date of retirement, the incentive payment will be forfeited.

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17.1.4 Disability Retirement.

This is an involuntary termination that is necessitated by an injury or illness, which renders the employee incapable of performing his or her job duties. The retirement will be in accordance with P.E.R.A. for eligible employees.

17.1.5 Abandonment.

Employees who are absent from their job for one (1) shift or workday 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.

17.2 Involuntary Termination Without Cause.

17.2.1 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.

17.2.2 Furlough. A furlough is the temporary placement of an employee in a reduced work hour schedule, which can either be partial 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 that identifies organizational units to be affected by the furlough. **If a financial emergency exists the Town Manager shall notify the mayor, who shall call an emergency meeting of the Town council.** 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. 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.

17.2.3 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:

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

Order. 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.

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

E. **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.

17.2.4 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. section 2021 and NMSA 1978, sections 28-15-1 to 28-15-3.

17.2.5 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.

17.2.6 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 may be requested to participate in an exit interview on forms provided by the Human Resources Department or the Town's contractor. 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.**

17.2.7 Final Paycheck. Employees separating from Town employment must return all Town property in their possession by their final day of employment. If the Town discharges an employee, the employee 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.

17.2.8 Return of Town Property.

All Town property including, but not limited to i.d. cards, laptop computer, keys, radios, tools, cell phones, Town credit cards, uniforms, policy and procedure and/or rules and regulation manuals, etc., must be returned at separation. Employees also must return all the Town's confidential information upon separation. To the extent permitted by law, employees will be required to repay the Town, (through payroll deduction, if lawful) for any lost or damaged Town property.

Any item that identifies a person as a Town employee must be returned upon separation. This does not include employee appreciation gift items.

Footwear and lifeguard uniforms are not required to be returned.

17.2.9 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.

17.2.10 Compensation for Accrued Personal Leave Upon Separation or Retirement. Upon separation of employment, each classified and unclassified at will employee will be compensated for accrued personal leave earned through the last day of work, subject to the limitations on personal time maximum accrual rates.

17.2.11 Personal Leave Sell-Back. Each classified employee who accruals 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 the request date in January.
2. The personal leave balance must be in excess of 400 hours.
3. Minimum and maximum number of hours requested to be sold back is eighty (80) hours.
4. Sell back of hour will be at eighty (80%) of the employee's hourly rate.
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. This will allow time for the finance department to make the necessary adjustments to the forthcoming budget.

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 18. Whistleblower Protection.

Employees shall have the right, without interference or fear of penalty or reprisal, to disclose in good faith to 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 leak or otherwise disclose confidential or Town information to the press, public or other non-governmental or law enforcement agencies in violation of Town policies for the public obtaining such information through legal means, such as the Inspection of Public Records Act (IPRA).

Closing words

This Personnel Policy is intended to give employees a broad summary of things they should know about employment with the Town of Taos. Should questions arise, the Human Resources Department should be consulted. While the Town intends to continue the policies, rules and benefits described in this document, the Town, in its sole discretion, may amend, delete from, or modify the provisions of this document and/or change its interpretation of any provision set forth herein.

Acknowledgment

Please read the following statements and sign below to indicate your receipt and acknowledgment of this employee manual.

The key provisions of this document have been reviewed with me and I acknowledge my responsibility to know all provisions included herein. I understand that the policies, rules and benefits described in it are subject to change at the sole discretion of the Town at any time.

I understand that my signature below indicates that I have been made aware that the Town's employee manual is available on the Town's website.

I understand that if I have questions about this document, I will contact human resources for any questions.

3/21/2024 DRAFT

I understand and agree that this document establishes henceforth the terms of my employment with the Town of Taos.

I understand that this acknowledgement form will be placed in my personnel file.

Employee's printed name: _____

Employee's signature: _____ Date: _____

DRAFT