



ORDINANCE 18-01

AN ORDINANCE REPEALING AND REPLACING ORDINANCE 15-05 PERTAINING TO TITLE 3 - GOVERNANCE AND PERSONNEL OF THE TAOS TOWN CODE, AND ADOPTING A REVISED PERSONNEL POLICY CONSISTENT WITH A MERIT EMPLOYMENT SYSTEM AND TO COINCIDE WITH THE TOWN OF TAOS COLLECTIVE BARGAINING AGREEMENT WITH THE AMERICAN FEDERATION OF STATE, COUNTY, AND MUNICIPAL EMPLOYEES, COUNCIL 18, TOWN OF TAOS PUBLIC EMPLOYEES LOCAL 513.

WHEREAS, the Town Council, the Governing Body of the Town of Taos, finds it necessary to amend Title 3 of the Town Code as it applies to governance and personnel, repeal Ordinance 13-09, and re-enact Title 3 of the Town Code with amendments, consistent with the Town of Taos Collective Bargaining Agreement with the American Federation of State, County, and Municipal Employees, Council 18, Town of Taos Public Employees Local 513;

NOW, THEREFORE, BE IT ORDAINED by the Governing Body of the Town of Taos, meeting in Regular Session on the 13th day of January, 2018, and after having held a public hearing on the matter, the following Ordinance is hereby adopted, approved and ratified:

Section 1. Ordinance 13-09 shall be, and hereby is, repealed.

Section 2. [Reserved]

Section 3. Title 3 ("Governance and Personnel") of the Town Code is re-enacted with amendments, to read as follows:

3.04.010: SCOPE:

The provisions of this Ordinance are meant to define the duties of the Mayor, the Town Council and the Town Manager relative to the appointment, nomination, confirmation, hiring and discharging of employees and the supervision and management of the personnel system of the Town of Taos.

This Ordinance does not apply to members of boards and commissions, contractors, including persons engaged under contract to supply professional or technical services, and volunteer personnel appointed or designated by the Mayor or Council.

Notwithstanding Chapter 1.12 of the Town Code, there shall be no penalty for violation of Title 3 of the Town Code.

3.04.020: GENERAL PROVISIONS:

A. Purpose.

1. The Town of Taos Personnel Policy provides a uniform merit-based system of personnel administration and management and is intended to provide information governing the policies and practices for working conditions, workplace expectations, and employee benefits affecting employment with the Town.
2. The provisions of this Personnel Policy become effective upon the effective date of this Ordinance.
3. For employees within the applicable bargaining unit, this Personnel Policy is subject to The Town of Taos Collective Bargaining Agreement (CBA) with the American Federation of State, County, and Municipal Employees, Council 18, Town of Taos Public Employees Local (513), and any mutually adopted amendments thereto.

B. Chain of Command.

1. 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.
2. 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.
3. All employees will adhere to and comply with the policies and procedures herein established for all personnel matters.

4. 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.

C. Amendment of Policy.

Definite rules and regulations cannot be readily formulated for every possible problem, circumstance or situation. Therefore, the need may arise and the Town reserves the right to revise, supplement, or rescind any policies or portion of the Town Personnel Policy from time to time as it deems appropriate, by approval of the Town Council and upon written notification of all affected employees.

D. Equal Employment Opportunity (EEO) Policy.

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

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

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

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

D. Saving Clause/Severability.

A determination by a court of competent jurisdiction that any provision of the Town Personnel Policy is unconstitutional or invalid shall not adversely affect the constitutionality, validity or enforceability of the remaining provisions.

3.04.030: 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.

3.04.040: 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.

3.04.050: DISTRIBUTION OF PERSONNEL RULES AND REGULATIONS:

Copies of the Personnel Policy, the rules and regulations and all amendments thereto shall be issued to all employees. Directors shall maintain a copy in their respective departments. New employees shall be given a copy of the Personnel Policy and the rules and regulations at the time of their orientation and whenever the Personnel Policy is updated. Additionally, employees shall have access to the most recently adopted Town Personnel Policy during regular office hours in the Human Resources Department and on-line through the (S) Shared Drive and the Employee tab of the Town website. Each employee shall be required to sign a form acknowledging they have received a copy of the Personnel Policy and that they both understand and will comply with all the provisions herein.

3.04.060: 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.

3.04.070: EMPLOYMENT RECORDS:

A. The Town of Taos shall establish upon hire and maintain throughout employment and retain as required by law a personnel file record of each employee's employment history in accordance with operational necessity and applicable state and federal law requirements. Personnel files are the property of the Town of Taos and access to the information they contain is restricted. Employees shall have access to their own file upon written request and should contact the Human Resources (HR) Department with reasonable notice to review their file in the presence of a HR Department employee. Employees who review their personnel file will be required to sign a request form and list any documents they request copies of for their records. No original records may be removed from the file. NO personnel files may be removed from the HR offices. Employees may submit written rebuttal to any material placed in their employment history. Employment-related confidential records shall be available for inspection by others only when the employee provides a signed authorization for the release of those records, specifying that individual or entity.

B. Employment records, except confidential records, are subject to inspection by the general public. Confidential records may be inspected with the written permission of the employee or pursuant to a lawful court order.

C. For the purpose of inspection of public records under state or federal law, the following material shall be regarded as confidential and exempted from public inspection: records and documentation pertaining to physical or mental illness, injury or examinations, personal leave and medical treatment of persons; records and documentation maintained for purposes of the Americans with Disabilities Act [42 U.S.C. Section 12010 et seq]; letters of reference concerning employment, licensing, or permits; records and documentation containing matters of opinion; documents concerning infractions and disciplinary actions; performance appraisals; opinions as to whether a person should be re-employed; college transcripts; military discharge; information on the race, color, religion, sex, national origin, political affiliation, age, and disability of employees; home address and personal telephone number unless related to public business; social security number; laboratory reports or test results and as otherwise provided by state or federal law.

D. It is the responsibility of each employee to promptly notify the Town of Taos Human Resources Department of any changes in personal data. Personal mailing addresses, telephone numbers, names and numbers of dependents/beneficiaries, persons to be contacted in the event of an emergency, educational certifications and other such information should be accurate and current at all times. If any personal data has changed, the employee is required to notify the Human Resources Department within fourteen (14) days or sooner.

Chapter 3.08 DEFINITIONS OF WORDS AND TERMS

3.08.010: DEFINITIONS OF WORDS AND TERMS:

As used in this title and as used in the Personnel Policy:

ACTING APPOINTMENT:

1. A non-competitive appointment of an employee to temporarily assume the duties and responsibilities of a vacant position within the Town for a period of time not to exceed six (6) months pending selection of a qualified person to fill the vacancy. The appointment shall be by written recommendation of the responsible Department Director and approval of the Town Manager or, in the absence of a Town Manager, the Mayor. The Town Manager shall appoint acting Department Director positions until filled and the Mayor shall appoint an acting Town Manager or Town Attorney until filled. The acting status appointment may be extended up to three (3) additional months pending selection of a qualified person to fill the vacancy by written recommendation and concurrence of the Department Director, Town Manager or Mayor, as consistent with process for the initial acting appointment.
2. If an acting incumbent is not selected to fill the vacancy in which he/she was acting, the incumbent shall revert to the grade/step and pay held prior to such appointment.
3. A classified employee placed in an "Acting Status" for a supervisor/management position shall retain their classified status, but may be removed from the unclassified position at any time at the

discretion of the Town and reverted to the prior classified position and pay, retaining all prior seniority. A Letter of Appointment outlining the terms and conditions of the “Acting Status” will be developed for the signed acknowledgement of the employee, pursuant to Chapter 3.69.040 Acknowledgement of Conditions of Employment of this Personnel Policy.

ADMINISTRATIVE LEAVE: Paid leave approved at the discretion of the Town Manager. Administrative leave allows the employee to be away from work without losing any work related benefits.

ADVICE AND CONSENT: The action of a majority of the entire Council, meaning not less than three (3) votes, in approving a nomination by the Mayor for an Appointed Officer.

ALLOCATION: The action taken to assign a position to an appropriate classification.

ANNIVERSARY: The date of appointment or reemployment and is changed as of the date of promotion, demotion, reduction, or change to a different classification in the same pay band.

ANNUAL LEAVE: See definition of Personal Leave.

APPEAL: A written, formal complaint by an employee based on an alleged impropriety in the administration of discipline.

APPLICANT: An individual who has filed an application and desires to be considered for appointment to a position in the Town service.

APPOINTED OFFICIAL: Pursuant to NMSA 1978, Section 3-11-6(A), an appointed official is the Town Manager, appointed by the Mayor and approved by the majority of all members of the governing body. 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.

APPOINTMENT: The action for employment in which an employee is appointed to fill a position.

BENEFIT: Anything that furthers a person's financial interest or from which a person hopes to gain in any way.

BONA FIDE OCCUPATIONAL QUALIFICATIONS (BFOQ): A qualification reasonably related to the satisfactory performance of the duties of a job, and for which there is a factual basis for believing that a person of the excluded group would be unable to perform satisfactorily the duties of the job with safety or efficiency.

CALL BACK: Occurs when an employee is on scheduled time off (excluding lunch breaks) and is unexpectedly notified to return to work. The order to return to work is due to an unexpected event beyond control of management and normally results in an increase to the scheduled number of employees on duty. It is not one employee replacing another scheduled employee.

CAUSE: Motive or reason for discipline of a regular employee determined by the standards of job performance and maintenance of the public interest.

CERTIFICATION: Referral by the personnel department to an appointing authority the names of candidates on a list of eligibility for the purpose of making an appointment to any position.

CHIEF ADMINISTRATIVE OFFICER (CAO): The Town Manager.

CHIEF EXECUTIVE OFFICER (CEO): The Mayor.

CLASSIFICATION: A job that is occupationally and quantifiably distinct.

CLASSIFICATION PLAN: A document which describes the Town's employment structure for classified employees and is the foundation for ensuring consistent application of the philosophy.

CLASSIFICATION PROCESS: Research and analysis based on comparative duties, responsibilities and qualifications by which appropriate classifications are determined.

CLASSIFIED POSITION: A job which requires a regularly assigned combination of duties to be performed by an employee in the Town and is a position other than as a temporary, term, or an Appointed Officer.

COMPENSATION PLAN: A series of salary grades. Each position is assigned to a grade, based upon the evaluation of the position.

COMPENSATORY TIME: Hours granted to employees covered by the fair labor standards act in lieu of overtime, on the basis of one and one-half (1^{1/2}) hours compensatory time for each hour of overtime.

CONFIDENTIAL: Work related communication that is not intended to be disclosed to other persons, other than those with a certified need to know.

CONFIDENTIAL EMPLOYEE: An employee who devotes a majority of his or her time to assisting and acting in a confidential capacity with respect to a person who formulates, determines or effectuates management policies in the field of labor relations. (10-7E-4 NMSA 2003)

CONFIDENTIAL INTEREST: Information which by law or practice is not available to the public.

CORRECTIVE ACTION: Oral or written warnings or written reprimands.

DEMOTION: The assignment of an employee from one class to another which has a lower maximum rate of pay (also called downgrade and reclassification).

DEPARTMENT DIRECTOR: Appointed by the Town Manager as the Town Official designated with responsibility for operation and management of a department of the Town government.

DEPARTMENT: The administrative grouping of divisions, sections, as specified by the current Town organizational chart as adopted by the governing body.

DISABILITY: A condition or function judged to be significantly impaired relative to the usual standard of an individual or group. The term is used to refer to individual functioning, including physical impairment, sensory impairment, cognitive impairment, intellectual impairment mental illness, and various types of chronic disease.

DISABLED PERSON: Anyone who has a medically documented physical or mental impairment which substantially limits one or more major life activities or has a record such as impairment or is regarded as having such as impairment. "Life activities" are those that affect employability; "substantially limits" means that a person is likely to have difficulty getting, keeping, or advancing in a job because of an impairment.

DISCHARGE: The involuntary termination of an employee for disciplinary reasons.

DISCIPLINARY ACTION: Action taken by management with regard to any employee, including reprimand (oral or written), suspension, demotion or dismissal.

DISMISSAL: The involuntary termination of an employee's employment with the Town of Taos.

DISPUTE: An expression of dissatisfaction and a request for a review by an employee of a possible violation of Town personnel rules and regulations.

DRESS CODE: Employees' requirements appropriate for the work place as determined by administrative regulation.

DUE PROCESS: The right granted to a full time or part time classified employee, who has completed the introductory period, to pre- and post-disciplinary hearings, for actions of suspension, demotion or dismissal.

EMERGENCY APPOINTMENT: The employment and appointment of an apparently qualified applicant or employee may be made to ensure continuity of municipal services and administration when emergency or unforeseen conditions exist. The employment or appointment shall be made by written recommendation of the Department Director and authorization of the Town Manager or by written directive of the Town Manager for Department Director positions or, in the absence of a Town Manager, the Mayor. The selected employee shall serve in an Acting Status, except that Emergency appointments shall not exceed ninety (90) calendar days in any twelve (12) month period. Positions filled under the Emergency Appointments provisions of this Section by a person who is already a full-time non-probationary employee may be converted to Acting Status at the completion of the ninety (90) day limitation on appointment under this Section, subject to the maximum time limitations of Acting Status Section, less the initial ninety (90) day Emergency Appointment. Emergency appointments that do not meet the definition of a non-probationary Town employee may not be converted to Acting Status without competing for the position.

FAIR LABOR STANDARDS ACT (FLSA): The federal law which sets minimum wage, overtime pay, equal pay, recordkeeping, and child labor standards for employees who are covered by the act.

FAMILY MEDICAL LEAVE ACT: The act enacted by congress effective August 5, 1993, and requires covered employers to provide eligible employees up to twelve (12) weeks of unpaid leave in a twelve (12) month period to care for a newborn or newly placed adopted or foster child, to care for a seriously ill child, spouse or parent; or because of the employee's own illness. Changes to the ACT include provisions for service members and their families.

FINANCIAL INTEREST: Any property ownership, management, professional or private interest from which the employee (or family or household member) receives a financial benefit.

FRINGE BENEFITS: An employment benefit (such as a pension, a paid holiday, or health insurance) granted or offered by the Town that involves a monetary cost without affecting basic wage rates granted.

FULL-TIME CLASSIFIED EMPLOYEE: A full-time employee is one who has successfully completed the probationary period and works forty (40) hours in each Town designated work week (7-day period) or at least 80 hours in each 14-day work period. Full-time employees are required to participate in the Public Employees Retirement Association of New Mexico (PERA) retirement plan and are eligible for full benefits, including Personal Leave and medical coverage.

GRIEVANCE: A written formal complaint by an employee alleging a violation of a Town rule or regulation.

IMMEDIATE FAMILY MEMBER: Also referred to as “relatives” are any persons who are related by blood or marriage to include spouse, domestic partner, parent, mother-in-law, father-in-law, step-parent, children, domestic partner children, son-in-law, daughter-in-law, step-child, brother, step-brother, brother-in-law, sister, step-sister, sister-in-law, grandparent, grandchild, uncle, aunt, nephew, niece, great-grandchild, great-grandparent and cousins.

INSUBORDINATION: An employee is insubordinate when refusing to carry out a reasonable and legitimate work-related order. It is not insubordination to refuse to carry out an illegal act, or an "unethical" act under a professional code of conduct.

JOB DESCRIPTION: The definition of responsibilities an employee is to perform in an appointed position. The description shall include the position title, classification, supervision, process and nature of position, description of task performed, description of tools, machines and work aids used, qualifications, physical requirements and general working conditions.

JOB RECLASSIFICATION: The process of analysis by which an established position is reviewed to determine whether the duties and responsibilities of that position merit a change in class designation.

JOB VACANCY: A budgeted position for which funds are allocated but which is not occupied.

LAYOFF: The separation of an employee which occurs when a regular authorized budgeted position has been abolished because of material changes in duties, reorganization, shortage of

work, shortage of funds or other reasons in the best interest of the Town as determined by the Town Manager. (Also referred to as Reduction in Force).

LEAVE WITH PAY: An authorized paid absence from regularly scheduled work hours for reasons specified in the personnel rules. Leave with pay must be approved by the Town Manager.

LEAVE WITHOUT PAY: A temporary non-pay status and absence from duty that, in most cases, is granted at the employee's request. This may include family medical leave, unauthorized leave or leave of absence. Leave without pay must be approved by the Town Manager.

OFFICE: The Human Resources Director's office.

OFFICIAL POSITION: An office or post of authority in the municipal government for which one has been hired.

ORGANIZATIONAL MEETING: Is as provided for in NMSA 1978 3-8-33 (H). The newly elected officials of the governing body who have taken office, the elected officials of the governing body whose terms have not expired and the elected officials of the governing body whose successors have not taken office shall meet not earlier than the sixth day after the election or later than the twenty-first day after the election for an organizational meeting. Such a meeting may be a special meeting or a regular meeting of the governing body. See also NMSA 1978 § 3-11-5.A. Mayor; appointment of officers after election - At the organizational meeting of the governing body, which shall be scheduled pursuant to NMSA 1978 Section 3-8-33 of the Municipal Election Code, the Mayor shall submit, for confirmation by the governing body, the names of persons who shall fill the appointive offices of the municipality and the names of persons who shall be employed by the municipality. If the governing body fails to confirm any person as an appointive official or employee of the municipality, the Mayor shall, at a subsequent meeting, submit the name of another qualified person to fill the appointed office.

PART-TIME EMPLOYEE: A part-time employee is one who has successfully completed the probationary period and who works more than nineteen (19) hours in a work week, but less than forty (40) hours in each Town designated work week (7-day period). Part-time employees are required to participate in the Public Employees Retirement Association of New Mexico (PERA) retirement plan and are subject to partial fringe benefits. Part-time employees, who regularly work nineteen (19) hours or less in a 40-hour scheduled work week or thirty-eight (38) hours or fewer in an 80-hour pay period may file for an exclusion from PERA membership. The exclusion form must be filed with PERA within thirty (30) calendar days of an employee's hire, job change or change to part-time, temporary or student employee position.

PERFORMANCE EVALUATIONS: A periodic assessment of an employee's work, based on quantifiable goals for performance completed by the employee's supervisor. (Also referred to as performance appraisals).

PERSONAL LEAVE: A benefit earned, with pay, granted to a classified or qualified unclassified employee after accrual at a specific rate to be used by an employee with approval from management.

PROBATIONARY EMPLOYEE: A probationary employee is a full-time or part-time employee who has not yet successfully completed the mandatory one (1) year probationary period. A probationary employee accumulates leave and benefits as any other employee, according to their part-time, full-time or other assigned status.

PROBATIONARY PERIOD: A period of twelve (12) months for regular status employees beginning on the date of appointment during which time the employee performance is monitored and evaluated by supervisor to determine the ability of the employee to perform the functions of the job satisfactorily. (Also referred to as Introduction period.)

RECLASSIFICATION: The promotion, demotion or lateral change in job assignment or position.

RECRUITMENT: The process of soliciting applications from the general public and current employees for vacant positions.

REFERENCE CHECK: The process employed by the Town for verification of both the education and employment history information provided by an external job applicant.

REGULAR APPOINTMENT: Appointment of an employee to a regular budgeted authorized position to continue for an indefinite period in accordance with the personnel rules.

RETALIATION: An action taken by an employer against an employee for actions taken by the employee which the employer viewed as harmful to the organization.

SEVERANCE PAY: The money received by an Appointed Officer or Department Director upon discharge other than for cause.

SUSPENSION: An involuntary leave of absence without pay for disciplinary reasons for a period not to exceed 30 calendar days.

TEMPORARY EMPLOYEE:

1. A temporary employee is any employee hired by the Town on either a full-time or part-time basis to fill a position that has been established to meet a need for a specific period of time, such as, seasonal work or on specific short-term projects, sometimes grant-funded. Temporary employment will normally be for a period of not more than six (6) months and may be extended up to three (3) additional months, for a total period of time not to exceed 9 months by recommendation of Department Director and approval of the Town Manager. A temporary employee's employment status is at-will, subject to the needs of the Town, and subject to termination at any time with or without cause and without right of appeal or hearing at any time. Temporary employees do not receive Town benefits, do not accrue personal leave and may not grieve or dispute employment decisions. The Town Manager may authorize the hire of a temporary employee on an emergency basis without competition, pursuant to and consistent with the provisions of Chapter 3.69.050 (I) Emergency Appointment of the Town of Taos Personnel Policy.

2. At the successful completion of their temporary assignment and upon the request of the Department Director and approval of the Town Manager, HR and Finance Departments, a temporary employee may apply for or be converted to a classified position, should a permanent opening exist, and shall be credited with time of service towards completion of the probationary period at the time of the conversion from temporary status to classified status, if the title and responsibilities are similar in nature, or with the concurrence of the above managers.

TERM EMPLOYEE: An employee hired for a specific period of time to perform a specific service whose terms and conditions of employment are determined by contract between the employee and the Town.

UNCLASSIFIED EMPLOYEE: Unclassified employees are exempt under the Fair Labor Standards Act (FLSA) and are terminable-at-will. Unclassified positions will be filled only after the positions have been properly advertised, applications screened, and qualified applicants interviewed.

UNDUE HARDSHIP: A term often used in discrimination laws as to why employers are unable to make reasonable accommodation for members of protected classes. An undue hardship is defined under the Americans with Disabilities Act as an action requiring significant difficulty or expense.

VESTING: A benefit plan provision that a participant will, after meeting certain requirements, retain a right to the benefits he or she has accrued (or some portion of them) and that the money will not be forfeited for any reason.

Chapter 3.12 FORM OF GOVERNMENT

3.12.010: FORM OF GOVERNMENT:

The Town of Taos is incorporated as a general law municipality under the Mayor-Council form of government, as provided for in NMSA 1978 Chapter 3, as amended. The Town was incorporated on May 7, 1934.

Chapter 3.16 TOWN SEAL

3.16.010: TOWN SEAL; CLERK CUSTODIAN:

A seal, the impression of which shall be the logo of the Town of Taos including the year of incorporation "1934" in the center, and on the outer edge, the words "Town of Taos, New Mexico", shall be, and is declared to be, the seal of the Town. The Town Clerk shall be the official custodian of the Town seal.

Chapter 3.20
ELECTED TOWN OFFICERS GENERALLY

3.20.010: ELECTIVE OFFICERS OF THE TOWN:

The elective officers of the Town are:

- A. The Mayor;
- B. Four (4) members of the governing body forming the Town Council, also known as Councilors;
and
- C. The Municipal Judge.

3.20.020: OATH OF OFFICE:

Any officer elected or appointed to fill any vacant elected Town office shall take an oath or affirmation to support the constitution of the United States, the constitution and laws of the state of New Mexico, and to faithfully perform the duties of said office.

3.20.030: FAILURE TO TAKE OATH:

The Town Council may declare vacant the office of any person who fails, within ten (10) days after he or she has been notified of his or her election or appointment to office, to take the oath of office as required.

3.20.040: COMPENSATION OF MAYOR AND TOWN COUNCIL ELECTED TO OFFICE AT NEXT ELECTION:

Compensation for the Mayor, Mayor Pro Tem, and Council members is authorized by section 3-10-3, New Mexico Statutes Annotated, 1978, as amended. The Mayor and members of the Town Council who shall be elected to office at the regular municipal election for office to be held on March 3, 1998, and those elected or appointed thereafter, shall be compensated for their services to the municipality as follows:

- A. The annual compensation of the Mayor shall be one hundred sixty percent (160%) of the authorized annual salary of an elected county commissioner of a Class B county as provided in Section 4-44-4.1 New Mexico Statutes Annotated, as amended.
- B. The annual compensation of each member of the Town Council shall be eighty percent (80%) of the authorized annual salary of an elected county commissioner of a Class B county as provided in section 4-44-4.1 New Mexico Statutes Annotated, as amended.
- C. In addition to the above enumerated salaries, compensation for the Mayor and Council members shall include those benefits, including travel allowances under the per diem and mileage act, as are afforded other Town employees and as may be provided by law, ordinance, or Town policy. Compensation shall be prorated and paid on a biweekly basis.

Chapter 3.24
TOWN FINANCES

3.24.010: BOARD OF FINANCE; COMPOSITION AND DUTIES:

- A. The Town Council is the Board of Finance of the Town.
- B. The Town Manager and Finance Director shall serve as the non-voting members to the Board of Finance.
- C. The Mayor shall convene meetings of the Board of Finance, to hear the Town Manager's budget recommendations, prior to June 1 of each year. The Mayor may also convene a meeting of the Board following the completion of the audit of the Town's financial records, or at any time he deems it necessary to review the Town's finances.
- D. The Board of Finance shall designate the banks qualified to receive or deposit money entrusted to its care.

3.24.020: RECEIPTS FOR MONEY RECEIVED:

- A. Any Town officer or employee, receiving money for or on behalf of the Town, shall make a receipt, in not less than duplicate form, which shall show the amount received, the date of payment, and the account or reason for which payment is made. One copy shall be provided to the person paying the money and the other copy retained by the finance department. All receipts shall be numbered sequentially.
- B. The Finance Director shall supervise the receiving, depositing, and safekeeping of any money received by or belonging to the Town.

3.24.030: WARRANTS; EXECUTION AND REGISTRATION:

- A. No payment of Town funds shall be made, except upon a warrant of the Town. A warrant shall be signed by the Mayor or another member of the Town Council, authorized on the bank signature cards. In addition, the warrant shall be countersigned by either the Town Manager or Finance Director. The Mayor may authorize an additional staff member to countersign, as authorized on the bank signature cards, in the absence of the Town Manager or Finance Director.

The Town Council has authorized the Finance Director to keep, in custody for safekeeping, a facsimile signature stamp for use solely on the payroll warrants of the Town. The Finance Director shall provide a copy of the payroll stubs to the Mayor or Town Manager to review, prior to the distribution of the warrants. The facsimile signature stamp shall not be authorized for any other purpose.

- B. A warrant shall state the account and account number to which the warrant shall be charged and the name of the person to whom the warrant is payable.

- C. The Finance Director shall keep a record of all warrants issued. The record shall contain, at a minimum, the number of the warrant, the date it was issued, the amount of the warrant, the account to which the warrant was charged, and the name of the person to whom the warrant was issued.

**Chapter 3.28
TOWN COUNCIL**

3.28.010: GOVERNING BODY; LEGISLATIVE BRANCH:

- A. The corporate authority of the Town is vested in the governing body, the Town Council, which shall constitute the legislative branch of the Town, and shall not perform any executive functions, except those assigned to it by law.
- B. A majority of the governing body is a quorum for the purpose of transacting business.
- C. Unless otherwise provided by law, a question before the governing body shall be decided by a majority vote of the members of the quorum present.
- D. The governing body of the Town is the Town Council, whose members are the Mayor and the four Councilors. The election of the Mayor and Councilors shall be on an at large basis.
- E. Whenever there is a requirement that a certain fraction or percentage of the members of the entire Town Council, or all the members of the Town Council, or of the entire membership of the governing body, or other similar language, other than the requirement of a simple majority, in order for a measure to pass, the Mayor shall have no vote except in the case of a tie, and the Mayor shall not be counted in determining the actual number of votes needed.

3.28.020: POWERS AND DUTIES:

The Town Council shall:

- A. Elect one of its members to act as Mayor Pro Tem as provided in section 3.32.040 of this title;
- B. Possess all powers granted by law, and such other municipal powers not conferred by law or ordinance on another officer of the Town;
- C. Manage and control the finances and all property, real and personal, belonging to the Town;
- D. Determine the time and place of holding its meetings, which shall be in accordance with the New Mexico open meetings act;
- E. Determine the rules and/or procedures of Council proceedings;

- F. Keep minutes of its proceedings;
- G. Adopt rules and regulations necessary to effect the powers granted to municipalities;
- H. Prescribe the compensation, including but not limited to benefits and fees, to be paid to Town officers and employees;
- I. Prescribe the powers and duties of those officers whose terms of office or powers and duties are not defined by law, and impose additional powers and duties upon those officers whose powers and duties are prescribed by law.
- J. Discharge any Appointed Officer, Department Director, classified or other employee by a majority vote of the entire Council subject to the provisions of this Ordinance, any Collective Bargaining Agreement (CBA), the merit employment system described in this Ordinance, and this Personnel Policy, as applicable.

3.28.030: FISCAL RESPONSIBILITIES:

The Town Council shall:

- A. Control the finances and property of the Town;
- B. Appropriate money for municipal purposes only;
- C. Adopt the annual operating budget of the Town;
- D. Prescribe policies and procedures for fiscal control; and
- E. Provide for payment of debts and expenses of the Town.
- F. Meet at least annually as the Board of Finance.

3.28.040: PUBLIC MEETINGS OF THE TOWN COUNCIL:

- A. The Town Council shall determine at least annually in a public meeting, and provide public notice of the dates, times, locations and notice requirements of all public meetings.
- B. The Town Council may compel the attendance of absent members, in such manner and under such penalties, as it deems desirable.
- C. The Town Clerk shall be responsible for the preparation of the agenda and for providing notice to all members of the Town Council and to the public which shall be made available to the public pursuant to the provision of the Open Meetings Act NMSA1978 § 10-15-1et seq. as amended.

3.28.050: EMERGENCY MEETINGS:

- A. Meetings of an emergency nature may be called by the Mayor to consider any matter that needs emergency action because of a clear and present danger to the health, safety, and welfare of the citizens of the Town.

B. The only subjects for discussion at an emergency meeting shall be the matters designated by the Mayor in his emergency call.

C. Notice of such an emergency to the members of the Council shall be by telephone, direct home delivery, or by the Town police.

D. Notice to the public of such meeting shall be by whatever notice is practical under the circumstances.

3.28.060: VACANCIES:

A. Any vacancy on the Town Council shall be filled by appointment of a qualified elector, by the Mayor, with the advice and consent of the Town Council.

B. Any qualified elector, appointed to fill a vacancy on the Town Council, shall serve to fill the remaining unexpired term, if any, until the next regular municipal election; or any special election called for such purpose, at which time a qualified elector shall be elected.

C. A special election, for the purpose of filling a vacancy on the Town Council, may be called by the Mayor with the consent of the Town Council, or by the Town Council.

**Chapter 3.32
MAYOR**

3.32.010: CHIEF EXECUTIVE OFFICER; POWER AND DUTIES:

The Mayor is the chief executive officer of the Town, and shall:

A. Cause the ordinances and regulations of the Town to be enacted and obeyed;

B. Exercise, within the Town, those powers conferred upon sheriffs of counties, to suppress disorders and keep the peace;

C. Perform such other duties compatible with the office and which the Town Council may require;

D. Supervise the operation and management of the Town, through the Town Manager;

E. Appoint the Town Manager, subject to the advice and consent approval of the majority of the members of the Town Council, as authorized by this code;

F. Sign all commissions, licenses and permits granted by the Town Council and other acts that the law or ordinances may require.

3.32.020: VACATED MAYOR'S OFFICE; APPOINTMENT BY TOWN COUNCIL:

In the event of the death, disability, resignation, or change of residence from the Town of the Mayor, the Town Council shall appoint, by majority vote, a qualified elector of the Town of Taos to fill the vacancy for the unexpired term of office.

3.32.030: PRESIDING OFFICER OF THE TOWN COUNCIL:

The Mayor shall be the presiding officer of the Town Council at all meetings of the Council. The Mayor shall vote only when there is a tie vote or as otherwise required by law.

3.32.040: MAYOR PRO TEMPORE:

The Town Councilors shall, at the organizational meeting after the regular municipal election, elect from their own body a Mayor Pro Tempore to act in the absence of the Mayor, except as may otherwise be provided by law or ordinance. The Town Councilors may change the Mayor Pro Tem at their pleasure at any time. The Mayor shall have the power to break a tie vote on the election of the Mayor Pro Tempore.

**Chapter 3.36
TOWN MANAGER**

3.36.010: CREATION OF OFFICE:

There is created the Office of Town Manager of the Town.

3.36.020: APPOINTMENT AND SELECTION:

The Town Manager shall be appointed by the Mayor with the approval of the majority of all members of the governing body. The Town Manager shall be appointed solely on the basis of administrative qualifications, experience and criteria set forth in the job description. The Town Manager is an at-will employee.

3.36.030: POWERS AND DUTIES:

Under the direct supervision of the Mayor, the Town Manager is the Chief Administrative Officer and shall:

- A. Be responsible for the effective management and administrative affairs of the Town;
- B. Give general direction to the programs and activities of all Town departments;
- C. Be responsible for the proper execution of the policies set by the governing body;
- D. Enforce and carry out all ordinances, rules and regulations enacted by the governing body;

- E. Keep the Mayor and Town Council informed of the conditions and needs of the Town and make such reports and recommendations as may be deemed desirable, or as may be requested by the Mayor or the governing body;
- F. Attend all meetings of the governing body, and of committees thereof, and may make suggestions and/or recommendations, but shall not have the right to vote;
- G. Prepare and submit an annual budget to the governing body;
- H. Supervise all employees of the municipality, excepting the elected officials;
- I. Consistent with this Personnel Policy and any CBA in effect at the time, shall hire, discipline and discharge through the approved HR Department hiring policies and procedures all employees who are not elected officials;
- J. Perform such other duties appropriate to the office or as may be assigned by the Mayor and the governing body.

3.36.040: LIMITATION ON APPOINTMENT OF ELECTIVE OFFICER OF TOWN AS TOWN MANAGER:

No elective officer of the Town shall be appointed Town Manager, or acting Town Manager during the term for which he has been elected, or within one year after the expiration of said term.

3.36.050: RELATIONSHIP WITH MAYOR AND COUNCIL:

The Town Manager shall be responsible, to the Mayor and governing body, for the efficient administration of all branches and departments of Town government. The Mayor and members of the Town Council shall deal with Department Directors and employees of the Town solely through the Town Manager. Neither the Mayor nor any member of the Town Council shall give any order directly to any department or employee, either publicly or privately.

3.36.080: ACTING TOWN MANAGER; COMPENSATION:

In the absence of an Assistant Town Manager, the Town Manager is authorized to appoint an acting Town Manager whenever he or she will be away from the office for an extended period of time due to attendance at conferences, training seminars, authorized leave, or other purposes. The acting Town Manager will have general supervisory authority over all Department Directors and staff, and will report to the Mayor and Town Council. Employees, other than the Assistant Town Manager, appointed in such capacity shall be authorized a supplemental pay allowance of fifty dollars (\$50.00) per day, when such person is appointed to the Acting Manager's position for periods of three (3) full days or longer.

**Chapter 3.40
TOWN ATTORNEY**

3.40.010: DUTIES AND RESPONSIBILITIES:

- A. The Town Attorney shall be either (1.) a classified employee and a non-appointed department director or (2.) an independent contractor with the Town and shall be the official legal advisor to the Mayor, Town Council and Town Manager. He or she shall also provide legal advice to the Department Directors of the Town. He shall also provide such other responsibilities as are contained in the job description and serve under the general supervision of the Mayor and Town Manager.
- B. When called upon by the Town Manager, he shall render oral or written opinions upon legal questions that may arise in the administration of the laws of the Town or relating to proposed legislation or policy.
- C. The Town Attorney shall represent the Town in all suits brought by or against it.
- D. The Town Attorney will be required to advise and render legal opinions to the appointed boards and commissions of the Town from time to time as directed by the Mayor or Town Manager.
- E. The Town Attorney shall be directly responsible for the maintenance and updating of the code of ordinances of the Town.
- F. The Town Attorney shall also be responsible for the risk management program of the Town. He shall identify and recommend programs to minimize exposure and liability to Town government. He shall also coordinate with all Department Directors to ensure compliance with the risk management program.

**Chapter 3.44
TOWN CLERK**

3.44.010: DUTIES AND RESPONSIBILITIES:

- A. The Town Clerk shall be a classified employee and a non-appointed department director and shall perform the responsibilities contained in the job description and as required by statute and serve under the general supervision of the Mayor and Town Manager.
- B. The Town Clerk shall be the primary custodian of records for the Town. The Town Clerk may assign responsibility for temporary custody of records to certain employees for the efficient operation of the Town and can prescribe the manner in which the records shall be maintained.
- C. The Town Clerk shall record, and keep in custody, all minutes, ordinances and resolutions that are approved by the governing body. The Town Clerk shall attend all meetings of the governing body, or may designate an alternate in his or her absence.
- D. The Town Clerk shall be in charge of all municipal elections of the Town, and be responsible for their compliance with the state election code.

E. The Town Clerk shall furnish, upon written request, copies of municipal records to the public. The governing body shall adopt a resolution prescribing reasonable fees for the cost of furnishing copies of municipal records.

Chapter 3.48
FINANCE DIRECTOR AND TOWN TREASURER

3.48.010: DUTIES AND RESPONSIBILITIES:

A. The offices of the Finance Director and Town Treasurer are created and combined. The Finance Director shall be and act as the Town Treasurer. The Finance Director shall be a classified employee and a non-appointed department director and shall perform the responsibilities contained in the job description and as required by statute and serve under the general supervision of the Mayor and Town Manager.

B. The Finance Director shall receive and receipt all money belonging to or coming into possession of the Town. He or she shall deposit all money, in accounts approved by the governing body, in a manner prescribed by law.

C. The Finance Director shall maintain full and completed records of all finances and financial transactions consistent with rules and regulations prescribed by the state auditor and the department of finance and administration.

D. The Finance Director shall expend public monies only as directed by the governing body, and in accordance with procedures established by the state department of finance and administration.

E. The Finance Director shall prepare and certify a monthly financial report of the receipts and expenditures of the Town. The report shall be submitted to the governing body, the Town manager, and as required by law to the state department of finance and administration.

F. The Finance Director shall assist the Town Manager in the preparation of the annual operating budget. He or she shall also be responsible for ensuring that all expenditures are consistent with the approved budget.

G. The Finance Director shall ensure that an annual audit is conducted at the close of each fiscal year, by an auditor approved by the office of the state auditor. The audit shall be presented to the governing body for their review and inspection not later than six (6) months following the close of the fiscal year.

Chapter 3.56
CHIEF OF POLICE

3.56.010: OFFICE CREATED; APPOINTMENT:

A. There is created the office of Chief of Police. He or she shall be the chief law enforcement

officer for the Town, and have direct supervision over all police officers hired by the Town. The Chief of Police shall be a classified appointee and a non-appointed department director and shall perform the responsibilities contained in the job description and as required by statute and serve under the general supervision of the Town Manager.

B. The Chief of Police shall prepare and maintain rules governing the standards of conduct, general orders and internal procedures, not in conflict with the Town's Personnel Policy, for the efficient operation of the police department. Such rules shall be presented to the governing body for approval.

Chapter 3.64 TOWN MANAGER

3.64.110: TERMINATION AND SEVERANCE PAY:

A. The Town Manager shall earn severance pay to be paid only upon separation from employment or if not reappointed at the organizational meeting of the governing body.

B. The Town Manager may negotiate up to three (3) months (90 days) severance commencing at hire. The Town Manager and (if a full-time employee) the Town Attorney shall earn additional severance pay benefits, in addition to their basic compensation, at the rate of thirty (30) days' base pay for each year of satisfactory service to the Town, commencing at the completion of the second year as follows:

At the completion of their second year of service to the Town: Thirty (30) days earned.

At the completion of their third year of service to the Town: Thirty (30) days earned.

At the completion of their fourth year of service to the Town: Thirty (30) days earned.

C. The maximum accrual benefit that can be earned by the Town Manager shall be one hundred eighty (180) days. Negotiations for the Town Manager shall be made with the Mayor.

D. The Assistant Town Manager may negotiate to three (3) months (90 days) severance commencing at hire. The Assistant Town Manager shall earn additional severance pay benefits, in addition to their basic compensation, at the rate of thirty (30) days' base pay for each year of satisfactory service to the Town, commencing at the completion of the second year, as follows:

At the completion of their second year of service to the Town: Thirty (30) days earned.

At the completion of their third year of service to the Town: Thirty (30) days earned.

At the completion of their fourth year of service to the Town: Thirty (30) days earned.

The maximum accrual benefit that can be earned by the Assistant Town Manager shall be one

hundred eighty (180) days. The Assistant Town Manager shall be a non-appointed classified employee. Negotiations for the severance and compensation of the Assistant Town Manager shall be made with the Town Manager.

E. The Finance Director shall establish a special agency fund, and deposit therein, an amount sufficient to pay the severance pay benefits that may be reasonably estimated to be due each fiscal year. No expenditures may be made from this fund unless the Human Resources Director/Personnel Administrator certifies that the employee has been terminated pursuant to this title. Payment shall be made to this employee by the Town as provided in Section 3.90.140.

F. In the event of termination of the Town Manager, Town Attorney (if a full-time employee), or Assistant Manager, the Town shall also cause to be paid to him/her any personal leave pay which he/she may have accrued, subject to the limitations of the Personnel Policy and the terms of the employment contract in effect at the time.

G. In the event the Town Manager, Town Attorney (if a full-time employee), or Assistant Manager voluntarily resigns his/her position with the Town before expiration of the aforesaid term, then the Town Manager shall give the Town a minimum of four (4) weeks' notice in advance, unless the parties otherwise agree. Voluntary resignations shall automatically result in forfeiture of the severance pay, unless otherwise specified in the employment contract of the employee.

3.64.130: DEPARTMENT DIRECTORS:

B. Department Director is a management position and is exempt from overtime pay requirements under the FLSA administrative exemption.

C. Department Directors eligible for and accumulating severance under the Town Personnel Policies adopted prior to this adoption date shall continue to be eligible for severance and entitled to their accumulated severance per those policies until separation. Department Directors employed on or after the date of adoption of this amended ordinance shall not be eligible for nor accumulate severance unless otherwise approved by the Town Manager and Council.

**Chapter 3.68
MUNICIPAL JUDGE**

3.68.010: CREATED:

There is created the office of Municipal Judge in, and for, the Town of Taos.

3.68.020: QUALIFICATIONS:

Any qualified elector, being a resident of the Town, shall be eligible to occupy the office of Municipal Judge of the Town

3.68.030: ELECTION:

The Municipal Judge shall be elected for the term of four (4) years at the regular municipal election and shall serve until his/her successor is duly elected and qualified.

3.68.040: VACANCIES:

Vacancies in the office of Municipal Judge shall be filled by appointment of the Mayor with the approval of the Town Council, at either a regular or special meeting called for that purpose. The Municipal Judge, so appointed, shall serve until the next regular municipal election.

3.68.050: OATH OF OFFICE:

The Municipal Judge shall be qualified to act, in such capacity, upon the issuance of a certificate of election, taking an oath of office as prescribed by law, and filing the required bond.

3.68.060: COMPENSATION:

The compensation of the Municipal Judge shall include those benefits, including travel allowances under the Per Diem and Mileage Act, and other fringe benefits as are provided all regular employees of the municipality, and as may be provided by law, ordinance, or Town policy. Compensation shall be prorated and paid on a biweekly basis.

3.68.070: COMPENSATION OF JUDGE ELECTED TO OFFICE AT NEXT MUNICIPAL ELECTION:

The Municipal Judge who shall be elected to office at the regular municipal election for office to be held on March 3, 1998, and those elected or appointed thereafter, shall be compensated for their services to the municipality as follows:

- A. Any new Municipal Judge shall be compensated at the rate of forty-four thousand dollars (\$44,000.00) annually; any existing Municipal Judge shall be compensated at their existing rate, and thereafter as that rate may be increased from time to time, in the same fixed amount or percentage increase and at the same time, that the majority of the other municipal employees receive an increase in compensation.
- B. Any increase granted subsequent to this chapter shall be incremental and shall apply to each subsequent Municipal Judge. (Ord.14-04, 2014)

3.68.080: POWERS AND DUTIES:

- A. The Municipal Judge will maintain regular office hours of at least a forty (40) hour work week, and shall be available for emergency reasons at all reasonable times.
- B. The Municipal Judge shall preside over all municipal court hearings, at every stage of any

proceedings, concerning violation of any provision of this code, or ordinance of the Town.

C. The Municipal Judge shall issue warrants for tickets and fines which have not been paid to the Town.

D. The Municipal Judge shall exercise all powers conferred upon a Municipal Judge by law. (Ord. 14-04, 2014)

3.68.090: TEMPORARY INCAPACITY; ACTING MUNICIPAL JUDGE:

During the temporary incapacity, or absence, of the duly elected or appointed Municipal Judge, under circumstances not tantamount to, or constituting, a vacancy in office, including, but not limited to, vacations, temporary absences, unavailability, determination of conflict in hearing a case, or incapacity, the Mayor shall appoint any registered voter, who resides within the Town, to serve as acting Municipal Judge. Such acting judge shall exercise all powers of the Municipal Judge until the return of the duly elected or appointed Municipal Judge. Ord. 14-04, 2014)

3.68.100: COMPENSATION FOR ACTING MUNICIPAL JUDGE:

The duly appointed acting Municipal Judge shall be paid at a rate of one hundred twenty five dollars (\$125.00) per day, provided, however, that if the temporary incapacity or absence of the duly elected or appointed Municipal Judge extends more than five (5) days beyond absences for incapacities, or other authorized absences by the Town for regular employees, then the compensation to be paid to the acting Municipal Judge shall be deducted from the regular authorized salary of the duly elected or appointed Municipal Judge. (Ord. 14-04, 2014)

3.68.110: REPORTS AND REMITTANCES:

The Municipal Judge shall furnish monthly written reports, to the Finance Director, of all monies collected by the municipal court, not later than the tenth day of each month. The Municipal Judge shall deposit all monies received, by the municipal court, within twenty-four (24) hours after receipt, to the Finance Director. All reports shall include an itemized statement showing the different amounts collected, the purpose of collection, the name of the person paying and the date of payment. All receipts shall be numbered sequentially in a manner prescribed by the Finance Director. (Ord. 14-04, 2014)

**CHAPTER 3.69
EMPLOYMENT STATUS**

3.69.010: PURPOSE:

The Town of Taos will develop and maintain a classification plan and employment categories for all Town of Taos positions. The Town will have a job description for each position in the classification plan. Job descriptions shall include a position title, the specific designation of Exempt or Nonexempt under the Fair Labor Standards Act (FLSA), pay grades, essential tasks, duties, responsibilities and minimum qualifications. The job descriptions will also specify knowledge, skills, abilities, education, experience, physical requirements, and working conditions

required of applicants and meet all State and Federal legal requirements. These employment classifications do not guarantee employment for any specified period of time.

3.69.020: PROCEDURE FOR EMPLOYMENT STATUS CHANGES:

All employment status changes (change in category of employment, such as, from part-time to full time status, from probationary to classified status, pay changes, etc.) shall be documented in writing on an Employment Status Change Form filled out by the Department Director who will forward it to the Finance Director and Town Manager for approval signatures. The Town Manager will forward the approved Employment Status Change Form to the Human Resources Department for processing and transmittal to the Finance Department for implementation on the designated effective pay period.

3.69.030: PROBATIONARY PERIOD:

- A. The successful completion of a probationary period of one (1) year is required of all newly hired employees (full-time or part-time). The purpose of the probationary period is to give new employees the opportunity to demonstrate their ability to achieve a satisfactory level of work performance and to determine whether the new position meets their expectations. The Town uses this period to evaluate the employee's skills, knowledge, ability, work habits/behavior, and overall performance. A probationary employee accrues Personal Leave and is entitled to specific full-time or part-time benefits and serves at the convenience and will of the Town and is subject to termination of employment at any time, and cannot grieve or dispute employment decisions.
- B. If the probationary employee successfully completes the probationary period, the Department Director will recommend with an Employment Status Change Form that the employee become a Classified Employee (full-time or part-time), pursuant to Chapter 3.69.020 Procedures for Employment Status Changes.
- C. A break in employment of at least one work day or more, without written Town approval in advance, will require an unclassified/probationary employee to serve another probationary period upon rehire, with the exception of those employees returned to work under Return from Reduction in Force, Re-employment of Job-Related Injured, or Ill Former Employees provisions of the Personnel Policy.
- D. Any approved full-time continuous leave, except for military leave, taken during the probationary period which exceeds thirty (30) calendar days shall extend the probationary period by the same number of days of leave that leave exceeds the initial thirty (30) calendar days.

3.69.040: ACKNOWLEDGEMENT OF CONDITIONS OF EMPLOYMENT:

All employees upon hire or change in employment status shall sign a Letter of Appointment acknowledging their understanding of the terms and conditions of the employment

appointment with the Town and shall also read and sign the job description for the position. These documents shall become part of the employee's personnel file. Failure by the employee to provide such an acknowledgement may be grounds for dismissal. Failure by the employee to provide or by the Town to obtain such an acknowledgement shall not alter the terms and conditions of the employee's appointment.

3.69.050: CATEGORIES OF EMPLOYMENT:

A. Appointed Officer.

The Town Manager, who is nominated by the Mayor and whose nomination is confirmed or reconfirmed at the organizational meeting. Any person holding an appointed office at the time of the municipal election shall continue in that office until his successor has been appointed.

B. Department Director.

A classified, non-appointed, exempt employee who is exempt under the Fair Labor Standards Act (FLSA) and is designated with responsibility for the operation and management of a designated department of the Town government.

C. Unclassified Employees.

Unclassified employees are exempt under the Fair Labor Standards Act (FLSA) and are terminable-at-will. Unclassified positions will be filled only after the positions have been properly advertised, applications screened, and qualified applicants interviewed.

D. Full-Time Classified Employee.

A full-time employee who has successfully completed the probationary period and works at forty (40) hours in each Town designated work week (7-day period) or at least 80 hours in each 14-day work period. Full-time employees are required to participate in the Public Employees Retirement Association of New Mexico (PERA) retirement plan and are eligible for full benefits, including Personal Leave and medical coverage.

E. Part-Time Classified Employee.

A part-time employee is one who has successfully completed the probationary period and who works more than nineteen (19) hours a work week, but less than forty (40) hours in each Town designated work week (7-day period). Part-time employees are required to participate in the Public Employees Retirement Association of New Mexico (PERA) retirement plan and are subject to partial fringe benefits. Part-time employees, who regularly work nineteen (19) hours or less in a 40 hour scheduled work week or thirty-eight (38) hours or fewer in an 80 hour pay period may file for an exclusion from PERA membership. The exclusion form must be filed with PERA within thirty (30)

calendar days of an employee's hire, job change or change to part-time, temporary or student employee position.

F. Probationary Employee.

A probationary employee is a full-time or part-time employee who has not yet successfully completed the mandatory one (1) year probationary period, pursuant to Chapter 3.69.030 of this Personnel Policy. A probationary employee accumulates leave and benefits as any other employee, according to their part-time, full-time or other assigned status.

G. Temporary Employee.

1. A temporary employee is any employee hired by the Town on either a full-time or part-time basis to fill a position that has been established to meet a need for a specific period of time, such as, seasonal work or on specific short-term projects, sometimes grant-funded. Temporary employment will normally be for a period of not more than six (6) months and may be extended up to three (3) additional months, for a total period of time not to exceed 9 months by recommendation of Department Director and approval of the Town Manager. A temporary employee's employment status is at-will, subject to the needs of the Town, and subject to termination at any time with or without cause and without right of appeal or hearing at any time. Temporary employees do not receive Town benefits, do not accrue personal leave and may not grieve or dispute employment decisions.
2. The Town Manager may authorize the hire of a temporary employee on an emergency basis without competition, pursuant to and consistent with the provisions of Chapter 3.69.050 (I) Emergency Appointment of the Town of Taos Personnel Policy.
3. At the successful completion of their temporary assignment and upon the request of the Department Director and approval of the Town Manager, HR and Finance Departments, a temporary employee may apply for or be converted to a classified position, should a permanent opening exist, and shall be credited with time of service towards completion of the probationary period at the time of the conversion from temporary status to classified status, if the title and responsibilities are similar in nature, or with the concurrence of the above managers.

H. Acting Status Employee.

1. A non-competitive appointment of an employee to temporarily assume the duties and responsibilities of a vacant position within the Town for a period of time not to exceed six (6) months pending selection of a qualified person to fill the vacancy. The appointment shall be by written recommendation of the responsible Department Director and approval of the Town Manager or, in the absence of a Town Manager, the Mayor. The Town Manager shall appoint acting Department

Director positions until filled and the Mayor shall appoint an acting Town Manager opening until filled. The acting status appointment may be extended up to three (3) additional months pending selection of a qualified person to fill the vacancy by written recommendation and concurrence of the Department Director, Town Manager or Mayor, as consistent with process for the initial acting appointment.

2. If an acting incumbent is not selected to fill the vacancy in which he/she was acting, the incumbent shall revert to the grade/step and pay held prior to such appointment.

A classified employee placed in an “Acting Status” for a supervisor /management position shall retain their classified status, but may be removed from the unclassified position at any time at the discretion of the Town and reverted to the prior classified position and pay, retaining all prior seniority. A Letter of Appointment outlining the terms and conditions of the “Acting Status” will be developed for the signed acknowledgement of the employee, pursuant to Section 3.69.040 Acknowledgement of Conditions of Employment of this Personnel Policy.

I. Emergency Appointment.

The employment and appointment of an apparently qualified applicant or employee may be made to ensure continuity of municipal services and administration when emergency or unforeseen conditions exist. The employment or appointment shall be made by written recommendation of the Department Director and authorization of the Town Manager or by written directive of the Town Manager for Department Director positions or, in the absence of a Town Manager, the Mayor. The selected employee shall serve in an Acting Status, per Chapter 3.69.050 (H) of the Personnel Policy, except that Emergency appointments shall not exceed ninety (90) calendar days in any twelve (12) month period. Positions filled under the Emergency Appointments provisions of this Section by a person who is already a full-time non-probationary employee may be converted to Acting Status at the completion of the ninety (90) day limitation on appointment under this Section, subject to the maximum time limitations of Acting Status Section, less the initial ninety (90) day emergency appointment. Emergency appointments that do not meet the definition of a non-probationary Town employee may not be converted to Acting Status without competing for the position.

CHAPTER 3.70 RECRUITMENT AND SELECTION OF EMPLOYEES

3.70.010: PURPOSE:

This section establishes policies and procedures for recruiting and hiring of applicants and advancing employees within the Town of Taos personnel system. Selecting and advancing employees shall be on the basis of education (to include current certifications and or licenses as deemed necessary), experience, ability, knowledge, and skill levels relevant to the vacant position and as directly applicable to the requirements outlined in the job description for the position. Current and past work references may also be considered and a skills test may be

administered for some positions. The Town strives to recruit and select the best qualified persons for positions in an open and competitive manner and to ensure equal employment opportunity for all applicants.

3.70.020: RECRUITMENT:

- A. When a vacant position in the Town needs to be filled, the hiring Department Director will fill out and submit a Request for Recruitment Form to the Finance Director and Town Manager for approval and signatures. The Town Manager will forward the approved Request for Recruitment Form to the Human Resources Director for action. The Human Resources Department will develop the vacancy announcement with a specific number assigned and shall specify position title, opening/closing dates for recruitment period, a complete job description (including minimum qualifications), the place and manner of completing employment application, and other pertinent information. The Human Resources Department will take appropriate action to recruit or solicit employment applications from the general public and current employees interested in the vacant position.
- B. The Human Resources Department, upon consultation with the Town Manager for management/director vacancies or the hiring department director for department vacancies, shall establish a means to effectively advertise and recruit for vacant positions. Job vacancy announcements shall specify title, FLSA classification, basic duties, minimum qualifications, place and manner of accepting employment application and other pertinent information.
- C. Internal Posting - All vacant full-time and part-time positions will normally first be posted internally for consideration by current employees. Internal postings will be for a minimum of five (5) working days. Postings will be made in the lobby of the Human Resources Department Offices. Copies of postings may be given to every Department Director and employee union. All interested applicants must complete a Town of Taos Employment Application Form and any other specified application documents and submit all required materials, fully completed, to the Human Resources Department by the closing date listed on the vacancy announcement.
- D. External Posting - If no internal employees apply, or if an internal applicant is not selected for the vacant position, the Human Resources Department will post the position externally. The position at a minimum will be listed on the Town of Taos website and the New Mexico Department of Labor/Workforce Solutions website. External postings will be for a minimum of five (5) working days. All interested applicants must complete a Town of Taos Employment Application Form and any other specified application documents and submit to the Human Resources Department by the closing date listed on the vacancy announcement.
- E. Internal/External Posting - The Town Manager may order a position to be simultaneously posted both internally and externally based on the specific needs of the Town or the position.

F. Incomplete, late or inaccurate applications - Applications submitted which are not complete, do not include all required information or materials or are not submitted at or prior to the indicated deadline may, at the sole discretion of the Town, be rejected. Applications that include inaccurate or false information may be rejected or excluded from further consideration.

3.70.030: APPLICATION PROCESS:

Applicants must submit a Town of Taos Application for Employment and any other specified application documents for full-time, part-time and temporary vacancies during the recruitment period. A separate application must be submitted for each position for which the person wishes to be considered. The employment application submitted should specify the vacancy announcement # and the position title for the vacant position to which the applicant is applying. The Town reserves the right to reject any or all application that indicates on its face that the applicant does not possess or meet the minimum qualifications required for the position. Applicants and subsequently hired applicants who make false statements or who are found to have engaged in any type of deception or fraud in the application, testing, or background check process shall be rejected or immediately terminated from employment. In addition, an applicant shall be considered ineligible for hire and/or rehire, if the applicant fails to successfully complete or refuses to complete the required written, verbal or physical agility testing, skills or abilities testing or other requirements as directed by the Human Resources Department.

3.70.040: RETENTION AND DESTRUCTION OF APPLICATION RECORDS:

Rejected employment applications and other specified application documents collected by the Human Resources Department will be retained for three years from the closing date of the recruitment period. Rejected employment applications will be scheduled for records destruction with the Town Clerks office on the following year after completion of the third year of retention.

3.70.050: TESTING:

Applicants may be subjected to competitive testing which may include, but not limited to: rating of education and experience, written, oral, or physical test. The Town may request a demonstration of the skills or abilities needed to perform the essential job function in accordance with the Americans with Disabilities Act of 1990 (42 U.S.C. Section 12101. See 29 C.F.R. Part 1630.14 (a) Pre-employment inquiry). The Human Resources Department shall maintain and assure the confidentiality and security of all examinations and processes. Examinations shall be developed in accordance with established professional techniques and relevant federal laws, regulations, and guidelines.

3.70.060: EVALUATION OF APPLICANTS AND SELECTION PROCESS:

- A. Once the recruiting process is closed, all applications, including references and employment history, will be reviewed/evaluated to make sure they are complete and the applicants meet the requirements of the position. Applicants who best meet the requirements of the position will be invited to appear for an employment interview with the Department Director in whose department the vacancy exists and other designated interview panel members, normally consisting of three (3) to five (5) individuals with general or specific knowledge of the position or field. Interviews of candidates for classified union-eligible positions shall typically also include a representative of the employee union. The interview panelists will evaluate each candidate and make a hiring recommendation to the Department Director and/or Town Manager.

- B. The Department Director will make a selection to fill the vacant position and shall justify the selection in writing on the Recommendation for Hire Form (for external candidate) or Employment Status Change Form (for internal candidate). The Department Director will submit the Recommendation for Hire Form to the Human Resources Director, the Finance Director (for verification of funds) and the Town Manager. The Town Manager, in consultation with the Department Director and upon reviewing the panel findings and recommendations of the HR and Finance Departments, will make the final hiring decision for all vacant positions and will authorize the selection by his/her signature.

3.70.070: PHYSICAL EXAMINATION:

Public health and safety demand that employees be physically able to perform the duties of the job classification to which they are hired. The physical requirements of the job constitute bona-fide occupational qualifications. The Town will also accommodate employees and applicants in compliance with the Americans with Disabilities Act (ADA) and provide "reasonable accommodation" when the cost of such is deemed "reasonable" within the Town's ability to pay, and where to do so does not impair the Town in its business necessities.

A physical examination may be required before an applicant is appointed/hired to any full-time, part-time or temporary vacant position conducted at the expense of the Town. The results of the exam will be evaluated by the Human Resource Director and if needed, the Department Director. If the results of the exam give indication of physical limitations that would prevent the applicant from reasonably performing the duties of the position, consistent with ADA regulations, the applicant may be rejected as not meeting the required qualifications for the job. A disabled applicant may be required to submit to a physical exam only subsequent to a job offer being made and only if all new hires are required to do the same.

3.70.080: DRUG TESTING:

Candidates selected for any position will be required to submit to, and successfully pass, a post-offer drug and alcohol testing process. Failing or refusing drug testing will make it impossible to qualify the candidate, therefore resulting in a denial of employment. Subject to

the provisions of the Americans with Disabilities Act (ADA), any applicant who tests positive for the presence of illicit drugs will be denied employment.

3.70.090: BACKGROUND CHECKS:

All candidates selected for employment with the Town of Taos must agree to a thorough background check which may include previous employment verification, reference checks, motor vehicle driving history, proof of education level and professional certifications, criminal record check, National Sex Offender Registry. Positions in the HR and Finance Department, as well as public safety positions, will additionally require a full credit check. The Town is subject to the Criminal Offender Employment Act, Sections 28-2-1 to 28-2-6 NMSA 1978, and may take into consideration a conviction, but the conviction will not operate as an automatic bar to obtaining public employment. Employers may only take into consideration a conviction after the applicant has been selected as a finalist for the position.

If you are a finalist (one of the top three applicants being interviewed and considered for a position) you will be asked about and the employer will verify any motor vehicle or criminal violations as part of the employment investigation process.

3.70.100: EMPLOYMENT ELIGIBILITY VERIFICATION:

- A. All candidates who have accepted an offer of employment with the Town shall complete and sign the Employment Eligibility Verification I-9 Form the first day of employment or no later than three (3) days of hire. On the form, an employee must attest to his or her employment authorization. Also, the employee must present to the Human Resources representative acceptable documents evidencing identity and employment authorization. The Town will examine the employment eligibility and identity documents an employee presents. This list of acceptable documents can be found on the last page of the I-9 Form. The Town of Taos Human Resources representative will complete the I-9 Form to document verification of the identity and employment authorization of each new employee (both citizen and noncitizen) hired for employment and will retain the I-9 Form for three years after the date of hire or for one year after employment is terminated, whichever is later. I-9 Form records retain by the Town will be made available for inspection by authorized government officials from the Department of Homeland Security, Department of Labor or Department of Justice, if necessary.
- B. The Town of Taos participates in E-verify and uses an internet based system to compare information from an employee's Employment Eligibility Verification I-9 Form, to data from the U.S. Department of Homeland Security and Social Security Administration records to confirm employment eligibility.

The Town of Taos Human Resources Department also reports new hires and rehires to the New Mexico New Hires Directory through their internet based system as required under New Mexico Law (Sections 50-13-1 to 50-13-4 NMSA 1978) and the Federal Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996, which requires employers to report newly hired and re-hired employees to a state directory within 20 days of their hire date.

3.70.110: EMPLOYMENT OF RELATIVES:

- A. Relatives or immediate family members of current employees are disqualified from occupying a position (either through hiring, promotion, or transfer) that will be working directly for or supervising a current Town employee. The Town Council, with recommendation and advice of the Human Resources Director and/or Town Manager, may waive this provision by approval of a resolution, when this relationship will not create a direct or indirect supervisor/subordinate relationship; or will not create either an actual conflict of interest or the appearance of a conflict of interest and another qualified candidate or employment alternative is unavailable.
- B. For the purposes of this provision, relatives or immediate family members are any persons who are related by blood or marriage to include spouse, domestic partner, parent, mother-in-law, father-in-law, step-parent, children, domestic partner children, son-in-law, daughter-in-law, step-child, brother, step-brother, brother-in-law, sister, step-sister, sister-in-law, grandparent, grandchild, uncle, aunt, nephew, niece, great-grandchild, great-grandparent and cousins.
- C. Employees who marry or become part of a relative relationship or members of the same household after assuming a position may continue employment as long as there is not:
 - 1. A direct or indirect supervisor/subordinate relationship between the employees; or
 - 2. An actual conflict of interest or the appearance of a conflict of interest.

If one of the above situations occurs, the Town will attempt to transfer one of the affected employees to another suitable position within the Town of Taos organization, without loss of pay or seniority to the employee. If an accommodation of this nature is not feasible, the employees will be permitted to determine which of them will resign.

3.70.120: NEW HIRE ORIENTATION:

All new employees will be provided with a new hire benefits orientation upon hire with the Town of Taos. Benefit and insurance enrollments will be conducted by the Human Resources Department.

**CHAPTER 3.80
CHANGES IN EMPLOYMENT STATUS**

3.80.010: PROCEDURE FOR EMPLOYMENT STATUS CHANGES:

All employment status changes (change in category of employment, pay changes, transfers, promotions, demotions, separations, etc.) shall be documented in writing on an Employment Status Change Form, pursuant to Chapter 3.69.020 Procedure for Employment Status Changes.

3.80.020: PROMOTION:

The Town of Taos encourages the professional growth of its employees and rewards the initiative, creativity, effort, commitment, and diligence of its employees through the promotional process. Town employees are encouraged to take advantage of promotional opportunities and apply for higher paying positions for which they qualify. An employee's eligibility for promotion will be determined by the requirements of the vacant position and their education, work performance, work behavior/conduct, skills, knowledge, ability to meet those requirements.

- A. When an employee is selected to fill a vacancy at a higher pay grade, the employee will normally be paid at the entry level of the new position.
- B. When an employee is selected for promotion, the employee shall sign a Letter of Appointment acknowledging their understanding of the terms and conditions of the employment appointment with the Town, pursuant to Chapter 3.69.040 Acknowledgement of Conditions of Employment and also read and sign the job description of the position. Failure to obtain such an acknowledgement shall not alter the terms and conditions of the employee's appointment.

3.80.030: TRANSFER:

- A. General Transfer. An employee may be moved from one position to another of the same pay grade and salary range, without a change in current salary, either voluntarily or involuntarily. An employee may be transferred if it is in the best interest of the Town. Involuntary transfers cannot be disputed or grieved. An employee may be transferred from one position to another position in the same classification and pay grade within a department or office. Intradepartmental transfers may be made with the recommendation of the Department Director and the signature approval of the Town Manager. If such a transfer involves a probationary employee, time served in the former employment status shall be credited toward achievement of classified status and accumulated personal leave shall be retained.
- B. Medical Transfer. An employee who has been certified by a licensed physician as being physically unable to perform the duties of the employee's current position may be transferred to a position in which the physician certifies the employee is able to work, if one is available that the employee is qualified to perform. Employees shall meet with a member of the Human Resources Department to engage in an interactive communication process about the need for any work accommodations. Transfers require the signature approval of the Town Manager.

3.80.040: DEMOTION:

An employee may be demoted to a vacant position for which the employee is qualified when the employee would otherwise be terminated because the employee's position is being abolished and there are no appropriate vacancies at the same level, or when the employee's job is being reclassified, or when the employee does not have the ability to perform satisfactorily

in their current position in the estimation of the Town, or when the employee voluntarily requests a demotion.

- A. Demoted employees will normally receive a reduction in pay to the entry level of the new pay grade.
- B. When an employee is approved for Demotion, the employee shall sign a Letter of Appointment acknowledging their understanding of the terms and conditions of the demotion employment status with the Town, pursuant to Chapter 3.69.040 Acknowledgement of Conditions of Employment and also read and sign the job description of the position. Failure of the employee to sign or the Town to obtain such an acknowledgement shall not alter the terms and conditions of the employee's appointment.

3.80.050: SEPARATION OF EMPLOYMENT:

Town Property and Access. At the time of separation from employment with the Town, all keys, phones, pagers, ID cards, passwords, computers, vehicles, equipment, assets, records or other items of Town property or access to Town property and records in the employee's custody or known to the employee shall be made known to and provided/returned to the Department Director or designee and documented on an Exit Clearance Checklist for submission to the Human Resources Department. An employee's access to Town equipment, computers, websites and property shall terminate completely (with the exception of all access granted to any member of the public) immediately upon termination.

- A. Benefit/Exit Interview. A Benefit/Exit Interview with the Human Resources Department will be scheduled with the separating employee prior to their last day, when possible. A Benefit/Exit Interview is conducted to apprise the employee of their options for the continuation of any benefits available upon separation, as well as to determine the employee's input as to how to improve the employment process.
- B. Financial reconciliation. When an employee separates they will be required to clear all financial obligations involving their employment with the Town prior to receiving their final paycheck.
- C. Types of Separation:
 - 1. Resignation. An employee who voluntarily resigns their position with the Town is required to give written notice of their intent to resign two (2) weeks in advance of their final work day. Failure to provide a written two week notice of resignation may be grounds for refusal of future employment with the Town and may affect employment references.
 - a. The original letter or written notice of resignation shall be forwarded to the Human Resources Department within two (2) days of notification to the Department Director and must be accompanied by an Employment Status Change Form; or

- b. If the employee gives a verbal resignation, the Department Director shall ensure that an Employment Status Change Form with explanation of the verbal resignation documented on the form is forwarded to the Human Resources Department within two (2) days of the notification.
 - c. The Town Manager and/or the Department Director may waive the two (2) week work requirement, if documented in writing on the Employment Status Change Form.
 - d. An Employee may rescind his or her resignation within three (3) work days of submitting their resignation; the Town will honor the rescission of resignation if it is submitted within the prescribed time limit.
 - e. If an Employee gives a verbal resignation, the Supervisor/Department Director shall advise the employee of the Town requirement for a written notice of resignation.
2. Constructive Resignation. An employee will be considered to have voluntarily resigned if the Employee: is absent from work for three (3) consecutive work days without authorization/notification or a satisfactory reason for such absence.
3. Dismissal. The employee's Department Director may recommend dismissal of a classified employee to the Town Manager for reasons which shall include, but are not limited to: continued unsatisfactory performance after being given the opportunity to correct, violence or threatened violence in the workplace, theft, fraud, the possession or use of alcohol/drugs, illegal activity, gross misconduct, a criminal conviction, loss of license or other condition that makes it impossible for the employee to carry out the duties of their job title or that adversely impacts the Town, unacceptable conduct on the job, or insubordination, engaging in an unsafe practice that places the employee, other employees, or public or private property at-risk. The decision to dismiss a classified employee shall be made by the Town Manager after due process, pursuant to the termination and disciplinary processes of the Town, as outlined within the Town of Taos Personnel Policy and the Current Collective Bargaining Agreement (CBA) in force at the time of the violation, as applicable to the employee and violation.

While the preference of the Town shall be to utilize progressive discipline in order to afford an Employee reasonable opportunity to improve on the job, the Town recognizes that some infractions that are illegal, immoral, unethical, of a violent, potentially violent, prejudicial or unsafe nature or that may prove so disruptive to the workplace, other employees, the organization or the public or so offensive or dangerous that they require immediate removal from the workplace environment may result in immediate suspension, suspension or administrative leave pending investigation, or permanent dismissal.

4. 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:

- a. Notice. Employees will be given written notice of any layoff specifying the reasons and the expected duration of the layoff.
- b. 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:
 - i. 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.
 - ii. 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.

F. Retirement. Employees who are contemplating retirement should contact the New Mexico Public Employees Retirement Association (PERA) to certify their eligibility for retirement benefits and obtain an estimate of benefits. The employee's Supervisor/Department Director and the Human Resources Coordinator should also be notified of the employee's intent to retire with an estimated date of retirement in order to assist in the process and facilitate a smooth transition. Employees who file notice with the Town and PERA for retirement are NOT eligible for unemployment compensation.

G. Death. 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 notice 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 HR 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.

CHAPTER 3.90 PAY AND COMPENSATION

3.90.010: POLICY:

The merit compensation plan and assignment of employees to positions and pay rates shall be recommended by the Human Resource Director and submitted for approval of the Town Manager and ratification by the Town Council annually or from time-to-time to the Town Council. Any wage and salary increases, when authorized, shall be dependent upon the financial and budgetary constraints of the Town as outlined in the Town's annual operating

Budget. Neither the Merit Compensation Plan or any salary ranges established within the Plan or individual job descriptions shall be considered an obligation by the Town unless authorized within the annual budget and for each employee by the employee's Department Director, the Town HR Department, the Town Finance Department and the Town Manager through the execution of a properly executed and approved Employment Status Change Form.

3.90.020: POSITION CLASSIFICATION:

Every job in Town of Taos will be classified using a job factor analysis. All jobs will be evaluated using a systematic methodology utilizing the following four factors: Job Knowledge, Responsibility, Difficulty of Work, and Work Environment. The Town of Taos Compensation Plan will include Pay Grades and Salaries developed from the analysis.

3.90.030: PAY GRADES AND SALARIES:

Pay grades and salaries are developed from the position classification process, and as adjusted for Cost of Living; or for any negotiated change, and shall be submitted to the Town Manager and Town Council each year for approval.

3.90.040: ANNUAL SALARY ADJUSTMENTS:

It is the intent of the Town to consider and negotiate Cost of Living adjustments (COLA) and other adjustments to wages and salaries on an annual basis. The amount and frequency of these adjustments, if any, will ultimately be based upon the Town budget and other economic constraints.

3.90.050: TOTAL COMPENSATION:

In determining the total compensation value of any employee position, the full cost of the Town providing benefits to the employee must be considered. Total compensation is calculated as base salary plus cost of benefits. Preference will always be given to maintaining the cost and level of benefits to employees, before considering salary adjustments. In comparing benefit packages provided in the labor market, the Town may evaluate both level and total compensation costs or other factors as deemed appropriate.

3.90.060: INITIAL PAY:

All initial employment appointments to Town service will normally be at the minimum rate of a pay grade. Exceptions may be approved by recommendation of the Department Director and signature authority of the Finance Director, based upon the funds being allocated and available for the position and to the Department and, ultimately are at the discretion of the Town Manager based upon organizational resources and priorities. The Town Manager may authorize paying up to mid-range for the job classification. If an employee cannot be recruited for the position at the minimum rate or the qualifications of the individual selected for the position exceed the minimum requirements, the Town Manager may seek Council

permission to exceed mid-range, to reset the salary range to market rate or to reclassify the position, and then to re-advertise for the opening.

3.90.070: PAY PROGRESSION:

Progression through a pay grade normally is based on negotiated annual cost of living adjustments and merit pay increases when recommended by the Employee's immediate supervisor, Department Director and the HR Director, and approved by the Finance Director and Town Manager based on funding in the Town budget. The organizational pay plan, including any cost of living increase and/or merit pay, longevity, union negotiated or other incremental increases to remain competitive shall be based on proven continued long-term operational funding in the Town's current and future budgets based on the recommendation of the Town's Finance Director, and Town Manager, with the approval of the Mayor and Town Council.

3.90.080: PAY PERIODS:

Employees shall be paid bi-weekly, with 26 pay periods per year. If a payday lands on a holiday, the day of pay shall be the last working day proceeding the normal payday. The designated work week is a period to time which begins at 12:01 a.m. Saturday, and ends at 12:00 midnight, the following Friday; the work week for full-time employees will normally consist of eight (8) hours per day, five (5) consecutive days per week. The Town Manager may approve an alternative work week.

3.90.090: TIME AND ATTENDANCE:

Payroll Time and Attendance procedures and records will be administered by the Finance Department and Payroll Administrator.

3.90.100: ACTING STATUS PAY:

Assignment of Acting Status to any Town position shall normally entitle the employee to be compensated at the entry level of the position in which he/she is acting, though not less than the employee is making at their position prior to being transferred to the Acting Status, or adjusted for appropriate placement within the pay grade dependent upon the percentage of assigned job responsibilities within the Acting Status, subject to recommendation of the Department Director and based on budget availability and signature approval of the Finance Director and Town Manager, or the Mayor, in the absence of.

3.90.110: PAY UPON PROMOTION:

When an employee is selected to fill a vacancy at a higher pay grade, the employee will normally be paid at the entry level of the new position or adjusted for appropriate placement

within the pay grade, subject to recommendation of the Department Director based on budget availability and signature approval of the Finance Director and Town Manager.

3.90.120: PAY UPON DEMOTION:

When it becomes necessary to demote an employee pursuant to Section 4.3 Demotion, the employee will normally receive a reduction in pay to the entry level of the new position or adjusted for appropriate placement within the pay grade. The amount of the pay reduction shall be determined on a case-by-case basis. The pay recommendation from the Department Director shall be based on budget availability and signature approval of the Finance Director and Town Manager.

3.90.130: SHIFT DIFFERENTIAL PAY:

Shift differential pay is intended to compensate police officers and paid fire fighters who report to work at odd hours, to relieve the previous shift as part of their duties and responsibilities. Shift work is recognized where more than one group of employees report to work during the same twenty-four (24) hour workday. Employees who work a swing shift shall receive an additional fifty cents (\$0.50) per hour and graveyard shall receive an additional one dollar (\$1.00) per hour for each hour of regular shift pay for the entire shift.

3.90.140: FINAL PAY.

An employee who is dismissed or discharged shall receive his or her final pay in accordance with Section 50-4-4 NMSA 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.

3.90.150: OVERTIME AND FLEX TIME:

- A. The workweek is a period of time which begins at 12:01 a.m. Saturday, and ends at 12:00 midnight, the following Friday. The Town Manager may approve an alternative

workweek in writing when requested by a Department Director or an Employee under special circumstances and where the request does not interfere with the productivity of the department or Town.

- B. The Town shall not change the workweek to avoid payment of overtime. A change to the scheduled work hours within the workweek shall not be considered a change to the workweek.
- C. Time worked in excess of 40 hours by non-exempt Employees during the designated workweek shall be compensated in accordance with the provision of the Fair Labor Standards Act (FLSA).
- D. With the permission of the Town Manager, Department Directors may, at their discretion, permit exempt and non-exempt Employees to use Flex Time on a case by case basis, where meetings, training, or other approved work related assignments require an employee to work extended hours outside of their normal work day and where subsequent attendance at work may interfere with employee performance, productivity, safety or well-being. Flex hours must be used within the same Town pay period in which they were accrued, unless otherwise approved by the Town Manager in writing and in advance.
- E. The Department Director shall determine the need for employees to work overtime, and be responsible for authorizing overtime work in advance and in writing approved before and after by Town Manager.
- F. All time spent in training, at workshops, meetings, and related travel when such attendance is made mandatory (non-voluntary) by the Town shall constitute hours worked and shall be used to calculate overtime eligibility under the FLSA.
- G. Time spent attending authorized and voluntary training, workshops, conferences, meetings, seminars, etc. shall not count towards overtime and shall count as work time only if it occurs during an employees' normal work day and work time (i.e., for a traditional Monday through Friday work schedule) (Voluntary attendance at functions listed above on Saturdays and Sundays is not counted as work time, nor shall any other time not identified above, unless directed or approved in advance for compensation by the Town Manager, or the Mayor).
- H. The special exemptions under Section 207 of the Fair Labor Standards Act (FLSA) allowed for law enforcement and fire protection personnel with regard to overtime will be applied as follows:
 - 1. For those employees engaged in fire protection activities (defined by the Town of Taos as Firefighters) who have a work period of at least seven (7) but less than twenty-eight (28) consecutive days, no overtime compensation is required under 29 USC §207 (k) until the ratio of the number of hours worked exceeds the number of hours which

bears the same relationship to two hundred twelve (212) as the number of days in the work period bears to twenty-eight (28) days.

2. For those employees engaged in law enforcement activities (defined by the Town of Taos as Patrol Officers/Police Officers) who have a work period of at least seven (7) but less than twenty-eight (28) consecutive days, no overtime compensation is required under 29 USC §207 (k) until the ratio of the number of hours worked exceed the number of hours which bears the same relationship to one hundred seventy-one (171) as the number of days in the work period bears to twenty-eight (28) consecutive days.

- I. Flex Time. With the permission of the Town Manager, Department Directors may, at their discretion, permit employees to use Flex Time on a case by case basis, where meetings, training, or other approved work related assignments require an employee to work extended hours outside of their normal work day and where subsequent attendance at work may interfere with employee performance, safety or well-being. Flex hours must be used within the same Town pay period in which they were accrued.

3.90.160: 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 and shall be informed by a call, text, or e-mail to the dispatching supervisor. 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.

- A. 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.
- B. Vehicles designated for on-call use will be designated by the Department Director.
- C. Various Town positions will be designated as on-call eligible and are as follows: Public Utilities Foreman, Public Utilities Operators III, II, and I.
- D. On-call schedules are designated by the Department Director.

The nonexempt employee shall be paid for on-call pay as follows:

- 1. 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

2. 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;
3. Two (2) hours at straight time, per holiday observed by the Town.

3.90.170: 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.

3.90.180: HOLIDAY PAY:

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:

- A. Temporary Employees and Part-Time Employees are not entitled to holiday pay.
- B. 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.
- C. When a holiday falls during an employee's authorized leave, the day shall be counted as a holiday, and not as a leave day.
- D. 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.
- E. Holiday pay will be based on the employee's regular hours and rate of pay for that day.
- F. 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.

3.90.190: BENEFIT PLAN:

The Town of Taos participates in an overall benefit plan provided by the State of New Mexico and other various supplemental insurance and benefit providers. The Town of Taos offers

benefits to full-time and partial fringe benefits to part-time employees. Specific details of the benefits available and costs to an employee are available in the Human Resources Department.

CHAPTER 3.100 ABSENCE AND LEAVE

3.100.010: AUTHORIZED LEAVE:

Authorized Leave is any absence, with or without pay, during regularly scheduled work hours which has been approved by the Town Manager, Department Director or other designated Supervisor. Leave is granted in accordance with work load requirements and must be approved in writing in advance whenever possible, using the Town of Taos Leave Request Form before the date of the leave. Approved Leave Request Forms will be submitted to the Finance Department/Payroll Administrator with the time and attendance records each pay period. Employees and their Department Director or other designated Supervisor are mutually responsible for planning and scheduling the use of Employees' Personal Leave throughout the year. Employees should request leave in a timely manner, and Supervisors should provide timely responses to Employees' requests. The Department Director or designated Supervisor shall approve or deny the requested leave within three (3) days of receipt of the request. Personal Leave will not be unreasonably denied.

3.100.020: UNAUTHORIZED LEAVE:

Unauthorized leave is any absence without the approval of the Town Manager, Department Director or other designated Supervisor. Unauthorized leave is subject to loss of pay and/or disciplinary action, up to and including termination. If an Employee is absent without authorized leave for a period of three (3) consecutive days, he or she will be considered to have voluntarily resigned from Town employment, without appeal.

3.100.030: PERSONAL LEAVE:

- A. Personal leave is an employee authorized leave benefit provided by the Town government which provides time off from regular duty, with pay, when an employee schedules time off from work; is unable to work due to the employee's illness; or due to illness in the employee's immediate family. Personal leave may be taken from time to time in full workday increments or in smaller increments depending on unused accrual and subject to approval by the employee's immediate supervisor.
- B. Eligibility. All full-time employees earn personal leave. Part-time and temporary employees do not earn personal leave.
- C. Personal Leave Request and Approval. All personal leave requests are subject to the approval of the Department Director, designated Supervisor and/or Town Manager.

1. Employees must submit a Leave Request Form (TOT 103) at least seven (7) days in advance, except in cases of emergency or unanticipated illness. Every effort will be made to accommodate the Employee's request, but final approval will depend upon the Town's needs being fully met. Leave requests not received and approved in advance of the leave being taken and which are not of an emergency nature may result in the employee being charged for the time as leave without pay.
 2. In the event a recognized holiday occurs during an Employee's personal leave, the Employee will be paid for the holiday and the time not charged to personal leave.
 3. In case of an emergency or illness, notification must be made to the Employee's Department Director and/or immediate Supervisor of the Employee's request to take personal leave within fifteen (15) minutes of scheduled time to work or as soon as reasonable. A doctor's certificate attesting to an Employee's illness and ability to resume regular duty may be required by the Employee's Department Director/immediate Supervisor.
- D. Abuse of Personal Leave. Pattern of absence which may impact Town work load, performance and services provided, is defined as, but not limited to, when an Employee's attendance record shows a somewhat consistent sequence of absences, i.e. almost always Mondays, Fridays, Mondays and Fridays before and/or after Holidays, times of overtimes, certain week(s) of the month, or pay days; abuse of personal leave may result in disciplinary action up to and including termination. Failure to submit a doctor's certificate when requested will prohibit the Employee from receiving sick leave within the pay for the period in dispute and may result in disciplinary action, up to and including termination.
- E. Accrual of Personal Leave.
1. Classified 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.
 2. Appointed Directors and 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.
- F. 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.

- G. Retirement or Separation from Employment. 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 manager.
- H. Voluntary Personal Leave Transfer. There are times when employees may face conditions, which require an extended absence from duty and subsequently result in the exhaustion of their Personal Leave. In such cases, the Town Manager may permit a regular full-time employee to receive Personal Leave donations or accrued Administrative Leave from other qualifying employees under the following circumstances:
1. The employee has submitted a request for Family Medical Leave (FMLA); has provided all required documentation, and has been approved to be placed on FMLA by the HR Director. The employee must abide by all personnel rules regarding FMLA in accordance to Section 3.100.050
 2. The employee must submit a separate written request for the donation of supplemental Personal and/or Administrative Leave to the HR Director.
 3. The HR Director has verified the circumstances of the request and has recommended eligibility for supplemental personal and/or Administrative Leave (on a case by case basis) to the Town Manager.
 4. The HR Director has confirmed that the employee has depleted or will shortly deplete his or her accrued Personal Leave balance.
 5. The HR Director has confirmed that the employee has abided by all personnel rules regarding Personal Leave use, in accordance to Section 3.100.030.
 6. The Town Manager, based on the recommendation of the HR Director, shall determine the amount of donated Personal and/or Administrative Leave transferred to the requesting employee, if any. The total amount of donated Personal and/or Administrative Leave which an employee may receive under this section, shall not exceed the equivalent of two (2) full pay periods for that employee.
 7. If the employee exhausts his or her FMLA hours they are no longer eligible to receive the Personal Leave Transfers.

Requests for donated Personal and/or Administrative Leave shall be considered by the Town in the order which they were received and shall be based on the availability of donated hours.

Such leave shall be donated in one (1) hour increments, with the minimum donation being 8 hours per donor.

If there are no donated hours available, the Town Manager may, in his or her sole discretion, and with the recommendation of the HR Director, permit up to two (2) weeks of administratively granted Personal and/or Administrative Leave.

Donations of Personal and/or Administrative Leave shall only be considered from employees who have accrued a Personal Leave balance of at least 160 hours. In no event may the employee request a transfer of an amount of Personal Leave that would result in his or her own Personal Leave going below 160 hours.

Any amount of donated Personal and/or Administrative Leave transferred by employees for use under this section which remains unused after satisfying the requests for which the Leave is donated shall be banked for use in future or additional requests by other employees determined to be eligible under this subsection.

The Voluntary Personal Leave Transfer program is a completely voluntary and discretionary service coordinated by the Town on behalf of the employees who have expressed a desire to transfer time to assist other fellow employees and in no way constitutes an entitlement or offering of a negotiable employee or union benefit, right, or privilege, nor legal obligation by the Town. The Voluntary personal Leave Transfer program is not offered or to be considered an automatic employee benefit under the either the Town Personnel Policy or the Collective Bargaining Agreement. (Ord. 17-02, 2017)

3.100.040: BEREAVEMENT LEAVE:

Leave with pay for which the Employee is not charged personal leave due to the death of an immediate family member. An Employee who wishes to take time off due to the death of an immediate family member should notify his or her Department Director or Supervisor immediately. Employees may be required to provide documentation that provides proof of familial relationship. Failure to provide such proof shall result in the Employee being charged with unauthorized leave without pay. An Employee may, with his or her Department Director's or Supervisor's approval, use available personal leave for additional time off as necessary. At the discretion of the Town, up to a maximum of 120 hours (15 days) of bereavement leave may be taken by an Employee per calendar year.

Bereavement Leave may be granted based on the following schedule:

1. Employees are allowed up to forty (40) hours of Bereavement Leave from regularly scheduled work duty with pay in the event of the death of the Employee's mother, father, stepmother, stepfather, sibling, spouse, children (adopted, biological, or stepchildren) or grandchildren and those like-relatives of Employee's spouse or domestic partner.
2. Employees are allowed up to eight (8) hours of Bereavement Leave in the event of the death of an Employee's grandparents or great-grandparents within the State of New Mexico. Employees are allowed up to sixteen (16) hours of Bereavement Leave in the event of the death of grandparents or great-grandparents outside of the State of New Mexico. The Employee must provide proof of travel and a copy of the obituary.

3.100.050: FAMILY AND MEDICAL LEAVE ACT (FMLA).

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

A. Eligibility. Employees who have worked for the Town for at least twelve (12) months (which need not be consecutive) and have worked at least one thousand two hundred fifty (1,250) hours or more during the 12-month period immediately preceding the start of FMLA leave.

B. Reason for Leave. Eligible employees may receive FMLA leave for the birth and care of a newborn child, for the placement of a child with the employee for adoption or foster care, to care for an immediate family member (parent, spouse, or child) with a serious health condition, when an employee is unable to work because of a serious health condition, or when the employee's own serious health condition makes them unable to perform an essential function of his or her job.

Covered Service Member. An eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered service member who is recovering from a serious illness or injury sustained in the line of duty on active duty is entitled to up to twenty-six (26) weeks of unpaid FMLA leave in a single twelve 12-month period to care for the service member. This military caregiver leave is available during a single 12-month period during which an eligible employee is entitled to a combined total of twenty-six (26) weeks of all types of FMLA leave. The 12-month period is calculated forward from the date an employee's first FMLA leave begins.

C. Serious Health Condition. A serious health condition is an illness, injury, or physical/mental condition that involves:

1. Any period of incapacity or treatment that requires inpatient care in a hospital, hospice, or residential medical care facility; or
2. Any period of incapacity requiring continuing treatment by a healthcare provider. Continuing treatment by a healthcare provide is two or more visits, or one visit that results in continuing treatment under the healthcare provider's supervision; or
3. Pregnancy or pre-natal care; or bonding.
4. A permanent or long-term condition for which treatment may not be effective.

Serious health conditions do not include short-term conditions such as illnesses that last a few days or out-patient surgeries that typically require only a brief recovery period. Employees may use personal leave to cover time off for these conditions.

- D. Notice and Verification. Employees who want to take FMLA leave ordinarily must provide the Town with at least 30 days' notice of the need for leave, if the need for leave is foreseeable. If the need is not foreseeable, the employee should give as much notice as is practicable. Request for FMLA leave forms are available from the Human Resources Department. Employees must submit a Medical Certification Form with their request for FMLA leave for medical reasons. The Medical Certification for intermittent leave or leave on a reduced schedule for planned medical treatment must include the dates on which the treatment is expected and the duration of treatment.
- E. Calculation of Leave. Eligible employees can use up to twelve (12) weeks of leave during any twelve (12) month period. The Town will use a rolling 12-month period measured backward from the date an employee uses any FMLA leave. Each time an employee uses leave, the Town computes the amount of leave the employee has taken under the FMLA, subtracts it from the twelve (12) weeks and the balance remaining is the amount the employee is entitled to take at that time.
- G. Maintenance of Benefits. An employee shall be entitled to maintain all Town insurance benefits for the employee on the same basis as if the employee had continued to work for the Town. To maintain uninterrupted coverage for spouse, partners, and other dependents, the employee will have to continue to pay their share of the cost.
- H. Temporary Work Assignments. Where medical necessity dictates the need to use scheduled intermittent leave or a reduced work schedule, the Town may require the employee to transfer temporarily to an alternative position that better accommodates recurring periods of leave than the employee's regular position. In addition, the Town may transfer an employee to a part-time job with the same hourly rate of pay and benefits as long as the employee is not required to take more leave than is medically necessary.
- I. Return to Work. Employees returning to work from an FMLA leave due to their own serious medical condition must submit a doctor's statement certifying that they can return to work and perform the essential functions of their job with or without a reasonable accommodation. If an employee does not return to work within three (3) days after approved FMLA leave has expired and has not contacted the Human Resources Department to get an approved extension, they will be considered to have abandoned their job and will be separated from employment.
- J. Holidays and Personal Leave. Employees on FMLA leave without pay are not eligible for holiday pay and shall not accrue personal leave while on unpaid FMLA leave.
- K. Confidentiality of Medical Records. The Human Resources Department will keep medical records and documents pertaining to an employee or an employee's family separate from the employee's personnel file and will treat them as confidential medical records. Department Directors may be informed regarding necessary restrictions on work and accommodations.

3.100.060: ADMINISTRATIVE LEAVE:

Administrative leave with pay may be authorized, subject to the approval of the Town Manager, when it is in the best interest of the Town to do so, such as for an Employee to attend training or official meetings as it pertains to the Employee's current or potential future work-related duties, to conduct Town associated business at a location other than the Employee's normal work station, to compensate an employee for volunteering or performing additional duties or hours for which they would not otherwise be compensated, for safety or health reasons, or such other circumstances as the Town Manager sees fit for the mutual benefit of the Town and Employee.

Employees may be placed on administrative leave with pay should any action of the Employee require investigation, or should it be determined by the Town Manager to be in the best interests of the Town, employee or other employees while the investigation is conducted.

The Town Manager may authorize administrative leave with pay should the Town close its offices and send employees home, whether due to inclement weather, a Town sponsored holiday or employee event, safety considerations, in conjunction with community or Town special events or other unusual circumstances.

Should Town offices be closed for any reason and Administrative Leave be granted to Town employees as a result, all public safety, public works, facilities, management and other essential personnel required to report to work regardless of the delay or closure as part of their essential duties (as may be designated by the Town Manager, Department Director or outline in their job description) will be compensated for their actual time worked, any overtime or Holiday Pay that may apply, as prescribed by the Personnel Policy or CBA, and will additionally be credited with the full amount of approved Administrative Leave granted to all other employees..

Employees that cannot make it to work due to inclement weather will be credited with the Administrative Leave authorized for any delayed opening or early closing and shall be charged with personal leave or, if no such leave has been accrued, leave without pay for all other normal work hours missed on that work day.

The Town Manager may in their discretion grant up to two (2) weeks paid Administrative Leave in lieu of required notice by the employee upon separation. The Town Manager may also, at his or her discretion, additionally authorize up to an additional two (2) weeks for service credit at separation from Town employment for Full Time employees not on probation, if deemed to be in the best interest of the Town.

Administrative Leave accrued by an employee may be contributed to another employee in accordance to Section 3.100.030: Personal Leave: Letter H. (Ord. 17-02, 2017)

3.100.070: WITNESS AND JURY LEAVE:

Employees will be granted leave with pay when subpoenaed to appear in a Court of competent jurisdiction as a witness on behalf of the Town or called to serve as a juror by a Court of competent jurisdiction. Fees received by an Employee for compensation as a witness or as a juror, excluding reimbursement for mileage, shall be paid over to the Town Finance Department. Upon being subpoenaed or called for jury duty, an Employee shall immediately notify his/her Department Director and/or Supervisor. Employee must also provide a copy of the jury summons, which will be forwarded to the Human Resources Department. If possible, the Employee shall state the estimated time he/she will be absent from work in order that necessary staffing adjustments can be made. In addition, if the employee serves on a Jury or appears in court, they will need to obtain written documentation from the courts about the actual time/days spent in court proceedings to submit with their payroll records to the Finance department/Payroll Administrator.

3.100.080: VOTING LEAVE:

Employees are allowed up to two (2) hours with pay to vote on Election Day. Time taken off for voting shall not be used for any other purpose. Voting time off, with pay of up to two (2) hours, will not be granted to any Employee whose normal work days begin more than two (2) hours after the opening of the polls or ends more than two (2) hours prior to the closing of the polls. Employees may be required to show they are registered eligible voters to qualify for voting leave.

3.100.090: MILITARY LEAVE:

A. Military Leave with Pay. All Employees of the Town who are members of the Armed Forces of the United States or members of organized reserve units or the National Guard shall be entitled to a maximum of fifteen (15) calendar days of military leave with pay per federal fiscal year (The federal fiscal year is the accounting period for the federal government which begins on October 1 and ends on September 30) when called or placed on active duty or required to attend organized courses of instruction or training periods thereof. A copy of the Employee's official military orders is required to be provided to the Human Resources Department prior to the commencement of such leave; leave to be kept in the respective employee's personnel file. In the event an Employee is called to military duty for a period beyond the fifteen (15) days allowed for military leave, the period in excess of fifteen (15) days may be charged to an Employee's personal leave or leave without pay, at the employee's discretion. Employees on military leave with pay shall accrue personal leave.

B. The Uniformed Services Employment and Reemployment Rights Act (USERRA).

1. USERRA protects the job rights of individuals who voluntarily or involuntarily leave employment positions to undertake military service. USERRA prohibits employers from discriminating against past and present members of the uniformed services, and

applicants to the uniformed services, with regard to initial employment, reemployment, retention in employment, promotion, or any benefit of employment.

2. Employees who leave Town service to undertake military service and who meet the reemployment eligibility rights under USERRA, will be restored to the job and benefits they would have attained if they had not been absent due to military service or, in some cases, a comparable job. Employees must:
 - a. Ensure that the Town is given advance written or verbal notice of your service.
 - b. Have five years or less of cumulative service in the uniformed services while working with the Town.
 - c. Return to work or apply for reemployment in a timely manner after conclusion of military service, and
 - d. Have not been separated from service with a disqualifying discharge or under other than honorable conditions.
3. Employees who leave their job to perform military service have the right to elect to continue their existing employer-based health plan coverage (personal and dependent coverage) for up to 24 months while in the military. If an employee does not elect to continue coverage during their military service, they have the right to be reinstated in the Town's health plan when reemployed, generally without any waiting periods or exclusions except for service connected illnesses or injuries.

3.100.100: EDUCATIONAL LEAVE:

Educational Leave is subject to recommendation of the Department Director and the approval of the Town Manager and must be related to employee career advancement related to present or future job skills that may benefit both the employee and the Town. Employees may be granted leave without pay or a flexible schedule to attend courses at a high school, vocational school, college or other educational institution of higher learning, or other specialized training. Full-time or Part-time Employees required or recommended by the Employer to attend classes will be paid their normal wages for all hours in attendance. Any Employee attending any courses or classes as a requirement of maintaining a professional license or certificate or other specialized training required by the Employer will receive regular pay if approved by the Town Manager.

3.100.110: LEAVE WITHOUT PAY (LWOP):

A Department Director, upon recommendation and with the approval of the Town Manager or the Town Manager, may grant classified employees leave without pay for a period not to exceed six (6) months, when the Department Director or Town Manager deems that such leave without pay is in the best interest of the Town.

- A. Re-employment upon Return. If an employee returns to work within six (6) months, the employee will be returned to the same position, if possible, or a position of like classification and pay.

- B. Vacancies may be filled by Temporary Employees. Temporary employees may be hired to fill vacancies created by an employee who is on leave without pay.
- C. Benefits at Employee's Expense. An employee on leave without pay does not accrue leave, nor does the employee receive Town benefits. An employee wishing to continue receiving insurance benefits may do so at the employee's expense by submitting the employee's and the Town's share of the premium to the Finance Department on the regular pay day.
- D. Failure to Report Work. Employees who fail to report to work upon expiration of approved leave without pay shall be considered to have voluntarily resigned from their job.

3.100.120: ON THE JOB ACCIDENTS AND WORKERS COMPENSATION:

Any Employee who suffers an on-the-job injury or illness is required, unless incapacitated, to immediately prepare and submit a Notice of Accident form to their Supervisor/Department Director. If the employee is unable to do so, the Supervisor or Department Director will fill out the Notice of Accident. An Employee who suffers an on the job injury or illness that requires immediate emergency treatment and returns to work on the same workday will not be charged personal leave. The Supervisor/Department Director shall submit the Notice of Accident form and the required Supervisor's Investigation Report form to the Human Resources Department within seventy-two (72) hours. The injured or ill employee must sign a Worker's Authorization for Disclosure of Protected Health Information for Workers' Compensation Purposes form, Doctor Selection Notice and submit to the Human Resources Department. The Human Resources Department will send the forms, the Notice of Accident, and a New Mexico Workers' Compensation Administration - Employer' First Report of Injury or Illness to the New Mexico Self-Insurers Fund for evaluation. Workers' Compensation benefits will be awarded as provided by law. Post-Accident drug testing may be required as defined in the Town of Taos Personnel Policy.

A. Workers Compensation Process.

1. Employees injured on the job may choose any physician for their initial evaluation and treatment.
2. Employee and Supervisor must complete all necessary forms and submit to the Human Resources Department as soon as possible.
3. If the employee is not able to work, the first seven (7) days after filing a Workers' Compensation claim are considered a waiting period during which no Workers' Compensation benefits are paid. The injured or ill employee will have to use personal leave or leave without pay, if necessary, during this period. After seven (7) days out of work, an injured or ill employee that has been approved for Workers' Compensation benefits may elect to be paid 66 2/3% of their average gross pay for the preceding twenty-six (26) weeks (pursuant to Section 6.10 C Benefits at Employee's Expense) –OR– continue using personal leave. The employee's decision to receive workers' compensation

benefits or to use personal leave while out of work must be designated on an Election of Benefits Form forwarded to the Human Resources Department.

4. Employee's out on Workers' Compensation will also be placed on Family and Medical Leave which will run concurrently with their Worker's Compensation absence.
5. After sixty (60) days, the NM Self-Insurers' Fund can require an injured employee to be seen another designated physician for reevaluation and treatment.

CHAPTER 3.110 GENERAL WORKING CONDITIONS

3.110.010: POLICY:

It is the policy of the Town of Taos that certain rules and regulations regarding employee behavior, conduct, and work performance are necessary conditions of employment to allow efficient Town operations and for the benefit and safety of all employees. Conduct, behavior and work performance that interferes with operations, discredits the Town, or is offensive to the public or other employees will not be tolerated.

3.110.020: REPORTING FOR WORK:

All employees are to be at their designated work areas on time and ready to work. They shall work until the scheduled quitting time, unless permission of the Supervisor/Department Director has been obtained for different work hours. Employees shall adhere to their work schedules with regularity and punctuality.

- A. Time clock Attendance Records- Employees' set-up to clock-in and clock-out for the recording of hours worked using the time clock hand-scanners must ensure they use these time clock scanners with consistency. Written Time Clock Adjustment Report corrections shall be kept to a minimum and shall not be used to replace the use of the time clock hand-scanners. Repeated failure to use the time clocks consistently may be grounds for disciplinary action.
- B. Timesheet Attendance Records- Employees required to record hours worked on timesheets, shall keep accurate records of hour worked and submit to the designated timekeeper when directed.
- C. Unsatisfactory work habits and work behavior to include failure to properly recording hours worked, departing the work area prior to the designated time, excess absenteeism, neglecting work duties/responsibilities, or wasting time during work hours may be grounds for disciplinary action up to and including termination.

3.110.030: PERSONAL APPEARANCE:

Town employees are expected to always be dressed in a manner suitable to their employment position to assure public safety and in order to maintain an excellent public service

environment; wear the proper attire and maintain an appropriate personal appearance. Employees are also expected to maintain good personal hygiene in order to maintain a good public image and foster harmonious working environments.

Employees required to wear uniforms should wear uniforms that are kept clean and neat. Uniforms bearing Town of Taos identification patches or words may not be worn during off duty hours. Upon separation from the Town, any and all Town issued equipment and uniform items must be returned to Supervisor/Department Director.

3.110.040: CONFLICT OF INTEREST:

Employees must disclose promptly any circumstance that might constitute a conflict of interest or appear to be a conflict of interest. If such a situation develops, the employee must immediately notify their Department Director and complete a Town of Taos Disclosure Statement Form, pursuant to the New Mexico Governmental Conduct Act (NMSA 1978, Section 10-16-1 et seq.) an employee or public official of the Town of Taos is required to make disclosure of potential conflicts of interest with regards to outside employment, familial relationships, and disclosure of substantial business interests. In addition, Employees must complete a Town of Taos Disclosure Statement Form every twelve (12) months. Failure to complete the Town of Taos Disclosure Statement Form or failure to provide complete and accurate information may subject an employee to disciplinary action and may result in any authorization to engage in self-employment, supplemental or outside employment being terminated.

A. No employee shall:

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

5. Represent the private interests of any third-party in any action or proceeding before any Board or Committee before which the employee appeared on behalf of the Town while an employee of the Town or within one year of terminating his employment with the Town.
6. Participate in the selection, in the negotiation or the making of any contract with any business or entity in which he has a direct or indirect financial interest.

B. Self-Employment, Supplemental or Outside Employment.

1. The Town has the right to refuse authorization or to terminate authorization to engage in self-employment, supplemental or outside employment which:
 - a. Involves the use of Town time, facilities, equipment, or supplies.
 - b. Causes the employee to be less efficient in performing his duties for the Town.
 - c. May cause or lead to a conflict of interest with the Taos for the employee or any of the employee's subordinates.
 - d. Involves the acceptance of any gift or gratuity whether in the form of money, service, loan, thing or promise, by the employee or any of the employee's subordinates to perform any services related to his duties or his subordinate's duties with the Town.
 - e. Results in an increase in the employee's use of leave.
2. The authorization for Outside Employment may be denied in the Town's sole discretion due to inadequate performance, attendance, number of hours of outside employment, perceived conflict of interest, or any other reason with the Town deems is necessary for the efficient operation of Town government.

3.110.050: WORKPLACE VIOLENCE PREVENTION:

The Town of Taos is committed to preventing workplace violence and to maintain a safe work environment. If the employee displays any violence in the workplace or threatens violence in the workplace, the employee is subject to immediate discharge/termination of employment. No talk of violence or joking about violence will be tolerated. The Town defines "violence" to include physically harming another, shoving, pushing, intimidation, coercion, fighting, brandishing weapons, acts of bullying, stalking, assault, vandalism, unauthorized possession or use of a firearm or prohibited weapon in the workplace or during work hours and threats or talk of violence. This list is not all-inclusive, and any other acts deemed inappropriate will also be investigated. The Town reserves the right to take disciplinary action against this type of behavior and conduct, up to and including discharge or termination of employment.

The Town is committed to providing a safe environment for employees, customers and visitors. In order to provide a safe workplace, the Town required compliance with the following provisions:

- A. All weapons prohibited. With the exception of Town Police Officers, the Town will not tolerate employees being in possession of any weapons on Town property and also while on work duty on other premises.
- B. Inspections. Desks, telephones, issued cell phones, computers, lockers, etc. are the property of the Town and as such, the Town reserves the right to enter or inspect your work areas including, but not limited to, offices, desks, lockers, issued cell phones, computers, etc. and with or without notice of inspection.
- C. Reporting Requirements. It is everyone's responsibility to prevent violence in the workplace. If you observe or experience such behaviors and/or conduct, you should report it immediately to a Supervisor/Department Director. Supervisors and Department Directors shall immediately notify the Human Resources Director and Town Manager. If the Supervisor or Department Director is responsible for the behavior and/or conduct, the employee should report to a non-involved Department Director, Human Resources Director and Town Manager. If the employee believes the situation requires immediate action in order to avert a violent situation, the employee should contact the appropriate law enforcement agency immediately.
- D. Investigation and Findings. Any reported violation of this policy will be thoroughly investigated. The Town of Taos will take appropriate disciplinary action based on the findings of the investigation. An employee whose behavior is determined to be in violation of this policy is subject to disciplinary action, up to and including discharge/termination.
- E. Training. As part of the Town's commitment to preventing workplace violence, the Town provides training on this policy during an employee's new hire orientation and encourages Employees, Supervisors, and Department Directors to take periodic training to learn about workplace violence prevention, conflict resolution, building effective working relationships, stress management and related or similar course topics. The Town offers monthly safety training as provided by our insurance provider, New Mexico Self-Insurers' Fund and department should make efforts to budget for specific related training for their department work assignments, clients served, and needs.
- F. Employee Assistance Program. The Town of Taos provides an employee assistance program (EAP) for all employees. The Town's EAP offers free and confidential assessment, short-term counseling, prevention, crisis intervention, education, and referral services to employees and their eligible dependents. The EAP is a completely confidential service and is available 24/7, 365 days of the year to help employees and their dependents. Employees are encouraged to use the EAP whenever the employee feels the need for guidance in coping with life.

3.110.060: PROHIBITED POLITICAL ACTIVITIES:

All employees, Department Directors and Elected Officials are prohibited from:

- A. Using official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for office, or for any other political purpose.
- B. Directly or indirectly coercing, attempting to coerce, commanding or advising a state or local officer or employee to pay, lend, or contribute anything of value to a party, committee or organization, agency, or person for a political purpose.
- C. Threatening to deny promotions to any employee who does not vote for certain candidates, requiring employees to contribute part of their pay to a political fund, influencing subordinate employees to buy tickets to political fund-raising events and similar events, advising employees to take part in political activity and matter of a similar nature.
- D. Engaging in political activity while on duty or campaigning on Town property.
- E. Displaying political stickers or posters on Town owned vehicles or in any Town office.
- F. Using any Town owned equipment, supplies, vehicles, space or property for political purposes.
- G. Soliciting or handling political contributions or participating in any way in partisan fund-raising activities during work hours.
- H. Serving in connection with, preparation for, organizing or conducting a political meeting on any partisan political matter or taking any other active part therein, during work hours.
- I. Engaging in activity at the polls either during primary or general elections, such as soliciting votes, assisting voters to mark ballots, transporting or helping voters to the polls on Election Day, unless the employee has been granted annual leave.
- J. Acting as a recorder, checker, poll watcher or challenger of any party or candidate, unless the employee is granted annual leave. Serving in any position of election officer in which partisanship or partisan political management may be shown.
- K. Writing for publications or publishing any letter or article signed or unsigned, soliciting votes in favor of, or against any political party or candidate, during work hours.
- L. Initiating or circulating partisan political nominating petitions during work hours.
- M. Engaging in political caucuses, or canvassing a district, or soliciting political support for a party, faction or candidate during work hours.
- N. Serving on or for any political committee, party, or other similar organization or serving as a delegate or alternate to a caucus or party convention on the county, state or national level, during work hours.

3.110.070: PUBLIC/POLITICAL OFFICE:

A Town employee who declares their candidacy for elected office must comply with the provisions of the federal Hatch Act, 5 U.S.C. Sections 7321-7328. The Hatch Act prevents any employee from running for office if the employee's job is in any way supported by federal funding.

- A. Employees covered by the provisions of the Hatch Act, 5 U.S.C. Sections 1501-1508, may not be candidates for partisan political office elections.
- B. Employees not covered by the provisions of the Hatch Act, 5 U.S.C. Section 1501-1508, may be candidates for any partisan political office and must take leave from their position with the Town of Taos for thirty (30) calendar days immediately prior to the election. Personal leave may be used, if available. Leave without pay may be used, if approved under the provisions of the Leave Without Pay Section 6.11.

3.110.080: DISCRIMINATION AND HARASSMENT PREVENTION:

The Town of Taos strives to provide a place of employment free of discrimination and harassment based on sex, race, religion, color, age, ancestry, national origin, sexual orientation, gender identity, genetic information, serious medical condition, disability, spousal affiliation, status as a veteran, or any protected status as defined in Title VII of the Civil Rights Act of 1964 and New Mexico Human Rights Act. All employees and job applicants are entitled to a work place or recruitment process that is free from discrimination and/or harassment. Every Town employee has a responsibility to prevent discriminatory harassment (including sexual harassment) from occurring.

Discriminatory harassment within the workplace will not be tolerated. All employees are prohibited from engaging in discriminatory harassment of any other employee or other persons in the course of, or in connection with employment. Any employee, including supervisor or manager, who is found to have engaged in any form of discriminatory harassment in the course of his or her employment will be subjected to appropriate disciplinary action, up to and including termination of employment. Disciplinary action will vary depending on the severity of the infraction. The desired standard for Town employee conduct and behavior is one of cooperation, mutual respect, and professionalism.

- A. Definitions.
 - 1. Discrimination in the workplace. Employment action or employment conditions that result in unfair or unequal treatment of an individual employee (or group of employees) based on their membership in a protected class: race, religion, sex, age, national origin, ancestry, disability, spousal affiliation, pregnancy, sexual orientation, or serious medical condition, etc.
 - 2. Harassment. Any unwelcome or unwanted conduct or behavior that is based on race, color, sex, religion, national origin, ancestry, spousal affiliation, sexual orientation,

serious medical condition, age, disability or other protected class and is pervasive or severe and offensive both to the recipient of the conduct and to a reasonable person.

3. Sexual Harassment. Form of harassment that consists of unwelcome and unwanted sexual advances, requests for sexual favors, communication of a sexual nature or other verbal or physical conduct of a sexual nature that is pervasive or severe which adversely affects a person's employment relationship or working environment and is offensive both to the recipient and to the reasonable person.
 4. Retaliation. The act of attacking in return, as in taking revenge, reciprocating, settling a score or getting even; negative or adverse action taken against employee/witness because they report discriminatory harassment or provide information related to such complaints.
- B. Reporting Requirements. It is everyone's responsibility to prevent discrimination and discriminatory harassment in the workplace. Any employee who believes that he or she has either witnessed or been subjected to any form of discriminatory harassment on the job has the obligation to take step to prevent discrimination/harassment and report such discrimination/harassment immediately to his or her Supervisor and/or Department Director. Any Supervisor/Department Director who has been notified of alleged discriminatory harassment must take immediate action to stop such behavior and report the behavior to the Human Resources Director immediately. If the offender is the employee's supervisor and/or department director, the employee shall report discriminatory harassment to any other non-involved department director or the Human Resources Director. Retaliation against an individual who in good faith reports or provides information in an investigation about behavior or conduct that may violate the policy is against the law and will not be tolerated. Failure to report allegations of harassment and sexual harassment may result in disciplinary action, up to and including discharge/termination.
- C. Investigation and Findings. Any reported violation of this policy will be thoroughly investigated. The Town of Taos will take appropriate disciplinary action based on the findings of the investigation. An employee whose behavior, conduct, or actions is determined to be in violation of this policy is subject to disciplinary action, up to and including discharge/termination.

3.110.090: LUNCH PERIOD:

- A. The Town will provide employees a non-paid meal period of at least one-half (1/2) hour but not more than one (1) hour.
- B. If an employee voluntarily chooses to work through their allotted lunch period, they will not be paid overtime pay and may not leave early unless authorized in advance by the Supervisor /Department Director.

3.110.100: BREAKS:

Employees will be provided one paid fifteen (15) minute break during each four (4) hour period worked. Any other allowances for break times must be requested in writing from the employee and have prior written approval of the Department Director.

- A. Management will schedule the employees' breaks in such a way as to fulfill the operational needs of the Town.
- B. Breaks may not be accumulated or used in connection with meal periods or taken at the end or beginning of a workday.

3.110.110: PERSONAL BUSINESS:

Personal business shall not be conducted during work hours while on Town premises. Town phones and other equipment, including, but not limited to, copiers, fax machines, vehicles, etc. are to be used for Town business only.

3.110.120: SAFETY AND HEALTH:

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

- A. Reporting Unsafe Conditions. Employees should bring unsafe working conditions, practices or procedures of which they are aware of to the attention of the Supervisor or Department Director who is responsible for mitigating or remedying such safety hazards. If an employee believes he or she is being required to work under unsafe conditions, the employee shall notify his or her Supervisor and/or Department Director, who will immediately investigate the condition and take appropriate action. No employee will be disciplined for refusing to work under unsafe working conditions if the Town has determined that the conditions are unsafe. If an employee disagrees with the supervisor's or Department Director's determination as to the safety of the working conditions, the employee may appeal the determination to the Town Manager.
- B. Notification of Injury. Any employee injured on the job must immediately notify his or her Supervisor/Department Director and, except in the case of a serious emergency, complete an Employee Notice of Accident/Incident Report. If it is necessary for the employee to receive emergency medical care or treatment the Town thru the Department Director/Supervisor will arrange for transportation of the injured employee. The Department Director or designee will immediately notify the Town Manager and Human Resources Director about the injury by calling/leaving a phone message or emailing.

- C. **Emergency Care.** In the event an employee is injured on the job and requires immediate emergency care, the time for the emergency shall be charged to Administrative Leave. This leave will be granted for immediate care through the end of the shift. Additional time may be approved, if necessary, on a case-by-case basis. A written Release to Return to Work from a qualified physician will be required before returning to work and must be submitted to the supervisor/Department Director, who will in turn forward a copy to the Human Resource upon receipt. In the case of on-the-job injuries, the employer reserves the right to conduct a preliminary medical investigation at the time of the incident. Drug testing may be required as per the Town of Taos Personnel Policy.
- D. **Early Return to Work Modified Work Assignment.** An injured employee may return to work only when his/her treating physician or doctor releases the employee to return to work with written documentation which must be provided to the Employer-Supervisor/Department Director and Human Resources Director. An employee will be given “light duty” only when the employer has light duty positions available.

3.110.130: DRUG AND ALCOHOL ABUSE POLICY:

Drug and Alcohol Free Workplace. The Town of Taos does not tolerate the abuse of drugs and/or alcohol and strives to maintain a workplace that is free from the effects of drug and alcohol abuse. Employees are prohibited, under the Drug-Free Workplace Act of 1988 from the illegal use, sale, dispensing, distribution, possession, or manufacture of illegal drugs, controlled substances, narcotics, or alcoholic beverages on Town premises or work sites. Employees are further prohibited from possessing, distributing, selling, or manufacturing illegal drugs outside of work hours. Employees violating this policy and any provision herein are subject to disciplinary action, up to and including termination. 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 or job performance is impaired, 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 Directors/Supervisors must immediately suspend the employee from any vehicles/equipment operations or other safety-sensitive work responsibilities and immediately notify the HR Director in these situations. Failure to report the use of such drugs or other substances which can impair job performance will result in disciplinary action.

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

- B. Employee Cooperation. All employees are expected to cooperate in the testing process. Any conduct that clearly obstructs the testing process such as tampering with the specimen or the testing procedure will result in termination of employment.
- C. Call Back Duty. Employees called back to work at a time when they are off from work and not on On-Call duty status, and they have been consuming intoxicants, those employees shall report this usage to the person calling them to return for special duty. The person receiving the notification from the employee shall promptly notify the requesting Supervisor/Department Director.
- D. Employee Categories.
1. Federally Mandated Employees. Federally mandated employees are those working under the rules of the U. S. Department of Transportation (DOT) and/or the Federal Motor Carrier Safety Administration (FMCSA). At the Town of Taos these are employees whose job requires a Commercial Driver's License (CDL). Federally mandated employees are subject to pre-employment, post-vehicle accident, random, and reasonable suspicion testing following the rules and procedures established by DOT and FMCSA.
 2. Safety Sensitive Employees. Employees that are in designated Safety Sensitive positions are subject to pre-employment, post-accident, post-vehicle accident, random and reasonable suspicion testing. Designated Safety Sensitive positions include, but are not limited to, Police Department Officers and Law Enforcement Personnel, Animal Control Officer, Fire Department Employees, Public Works Employees, Facilities Services Employees, Youth & Family Center Employees, Emergency Management and Events Employees. These employees are subject to pre-employment, post-accident, random, and reasonable suspicion testing following the rules and procedures established by DOT and FMSCA.
 3. Administrative Employees. All other Town employees are subject to post-offer / pre-employment, post-accident, post-vehicle accident, and reasonable suspicion testing.
- E. Drug Testing. The Town of Taos has a vital interest in maintaining safe and efficient working conditions for its employees and citizens. Employees under the influence of alcohol and/or drugs pose serious safety and health risks not only to the user but also to those in contact with the user. Therefore, the Town of Taos will conduct Drug and Alcohol tests in compliance with accepted testing standards in the following circumstances:
1. Post-Offer Testing/Pre-Employment
 2. Post-Accident Testing
 3. Post-Vehicle Accident Testing
 4. Reasonable Suspicion Testing

5. Random Testing

F. Categories for Drug And/Or Alcohol Testing.

1. Post-Offer/Pre-Employment Testing. Prior to employment, the applicant or employee must submit to testing for alcohol and controlled substances. The Town shall not employ an individual if they refuse to submit to the drug/alcohol testing or the results indicate a positive drug test result or breath alcohol greater than .04.
2. Post-Accident Testing. After an accident/incident resulting in any on the job injury which requires medical attention for the employee(s) and/or any other person involved, and/or causes the employee to lose time from work. It is also considered an accident when Town of Taos property has been damaged. When an employee is required to submit to a drug and/or alcohol test, the employee will be driven to the collection site by the Department Director or Supervisor. Refusal to submit to the drug/alcohol test will be regarded the same as a positive drug test result or breath alcohol greater than .04 and the employee shall be subject to disciplinary action.
3. Post-Vehicle Accident Testing. After a vehicle/motorized equipment accident/incident in which an employee is involved in driving or operating a Town vehicle/motorized equipment and the accident involves a fatality, or the employee receives a citation under state or local law for a moving traffic violation arising from the accident; or if any vehicle had to be towed from the scene; or if any individual involved in the accident had to be treated for injuries away from the accident site. When an employee is required to submit to a drug and/or alcohol test, the employee will be driven to the collection site by the Department Director or Supervisor. Refusal to submit to the drug/alcohol test will be regarded the same as a positive drug test result or breath alcohol greater than .04 and the employee shall be subject to disciplinary action.
4. Reasonable Suspicion Testing. An employee shall be required to undergo a drug/alcohol test if there is a reasonable suspicion that the employee is under the influence of alcohol or drugs. The Department Director or a designated supervisor will accompany the employee the collection site for testing. Results will be reported to the Human Resources Department after review and certification by the MRO. Refusal to submit to a drug or alcohol test shall be deemed cause for immediate termination. Circumstances which constitute a basis for determining "Reasonable Suspicion" may include, but are not limited to:
 - a. A pattern of employee behavior problems, such as declining work performance, argumentative, uncooperative, disruptive behavior, or display of abnormal or erratic behavior (emotional outburst, excessive energy or lethargy, mood swings);
 - b. Information provided by a reliable and credible source (with written documentation of when and how information was obtained/observed);

- c. Direct observation of drug or alcohol use; or
 - d. The presence of typical physical symptoms of drug or alcohol use (e.g., glassy or bloodshot eyes, alcohol odor on breath, slurred speech, sleeping on the job, and/or poor coordination and reflexes).
 - e. Employees who believe that another Town of Taos employee is under the influence of alcohol or drugs, should immediately report the incident to the Supervisor/Department Director. If they are not available, or in the event of immediate danger, contact local law enforcement.
 - f. The Town of Taos Supervisor/Department Director will respond immediately to any report of suspected intoxication or drug/alcohol use on Town premises/worksites during working hours, by investigating the report, enforcing the 'reasonable suspicion' drug testing procedure, and taking appropriate corrective and disciplinary action up to and including termination of an employee engaged in such behavior, if necessary.
4. Random Testing. Federally mandated and safety sensitive employees (as defined above) are subject to random testing complying with the rules and procedures for random testing established by DOT and FMSCA.
5. Random Testing Procedures: The Town will require the following groups to be randomly drug tested as follows:
- a. DOT regulated employees: 50% of workforce per annum for controlled substances; 10% for alcohol.
 - b. Safety Sensitive employees: 25% of workforce per annum.

G. Positive Test Results.

- 1. Unclassified, probationary, or temporary employees who test positive for drugs or alcohol will be terminated.
 - 2. A classified employee who tests positive for drugs or alcohol is subject to termination unless they elect to enroll in the Town's Employee Assistance Program (EAP). Employees who elect to enroll in the EAP may use their accumulated personal leave to seek treatment. When all authorized leave is exhausted, they will be placed in a leave without pay status. Any employee who is not cleared to return to work within ninety (90) calendar days of referral to the EAP will be terminated.
- H. Voluntary Self-Referral. The Town strongly encourages any employee who believes or suspects that they may have a problem with drugs and/or alcohol to seek help from the Human Resources Department and EAP prior to any mandated drug and alcohol testing.

The initial EAP screening is free to an employee. Any costs for required additional treatment shall be borne by the employee. Voluntary self-referrals may use personal leave and unpaid administrative leave in order to complete the EAP. Self-referrals must be cleared to return to duty within ninety (90) calendar days of entering the EAP program or they may be terminated.

1. Non-Safety Sensitive Employees. Non-Safety Sensitive Employees will be referred to the EAP for evaluation. Such employees are expected to be at work and performing satisfactorily unless they have been removed from duty by the EAP for treatment.
 2. Federally-mandated and Safety Sensitive Employees. Federally mandated and Safety Sensitive Employees will be removed from duty, placed in an appropriate leave status, and referred to the EAP for evaluation. Such employees may be assigned to a non-federally mandated or safety sensitive job, if available and approved by the EAP. If assigned to such a position, the employee is expected to be at work and performing satisfactorily unless removed from duty by the EAP for treatment.
 3. Mandatory Testing During and After the EAP. Employees enrolled in the EAP are subject to random drug and alcohol testing. Once an employee has successfully completed the EAP, they shall be subject to random drug and alcohol testing in the twelve (12) month period following their return to work.
- H. Failing to Complete the EAP. An employee who has elected the EAP in lieu of termination, or who has self-referred to the EAP, who fails to successfully complete the EAP and all recommended follow up treatment will be terminated.

CHAPTER 3.120 EMPLOYEE CONDUCT

3.120.010: POLICY:

Employees are expected at all times to conduct themselves in a positive manner in order to promote the best interests of the Town and to maintain high standards of cooperation, efficiency and integrity in their work performance. Employees shall deal with the public and all Town employees with courtesy, diligence, and promptness. Supervisor and Department Directors are responsible for providing leadership and mentoring that creates an opportunity for employees to achieve professional standards of performance and conduct and, at the same time, holding employees accountable for their actions. Appropriate Town of Taos employee conduct and behavior expectations includes but is not limited to the following areas:

- A. Employees are expected to perform job duties, responsibilities and assigned tasks in accordance with management expectations, established quality standards, and in a

manner that reflects the highest ethical and professional standards. Employees shall carry out direct and appropriate work instructions/assignments from their Supervisor/Department Director and shall comply with these rules and regulations;

- B. Create a harmonious work environment for co-workers, supervisors/management, and the public by maintaining a positive, cooperative and helpful attitude; be willing to get along with others and communicate respectfully with each other. Each employee has a role and responsibility to support a productive and healthy workplace;
- C. Support teamwork and workplace behavior that fosters collaboration, customer service, and working for the good of the Department and the Town of Taos. Be receptive to constructive feedback; be open to input from your co-workers, supervisor's/department directors, Town Administration and the public;
- D. Cooperating fully and in a timely manner with Town investigations and providing truthful, information in all statements and testimony; refraining from fraud, falsification, deceit, theft or departing from the truth;
- E. Promote cooperation and collaboration by following the chain of supervision, policies and procedures in attempting to resolve any workplace issues or problems;
- F. Reporting to management any suspicious, threatening, or potentially violent, unsafe, illegal immoral or unethical behavior or conduct by coworkers, customers, contractors, or suppliers;
- G. Shall report to work as scheduled, ready for work and not unfit, hung-over, fatigued or impaired due to the use of alcohol or other controlled substances.
- H. Comply with all Town, State and Federal safety rules, policies, procedures, and regulations; wear the proper safety attire and equipment and notify supervisor(s) immediately when replacements are needed or equipment is missing.
- I. No unauthorized or personal use of Town vehicles or equipment. Never allow unauthorized passengers in Town vehicles/equipment or while operating a Town vehicle. Authorized passengers shall be determined by the Town Manager.
- J. Never falsifying or altering any Town records or reports, such as time and attendance sheets, employment applications, personnel records, travel and expense reports, other organizational records.
- K. Refraining from behavior or conduct that is offensive or undesirable, or which is contrary to the Town, your department or the public's best interest.

- L. Refrain from engaging in malicious and disorderly conduct, force, threats of use of force, theft, misappropriation, destruction of public or private equipment, tools, vehicles or property, abuse or waste of public and/or private property, engaging in actions that create the appearance of impropriety, use of obscene language and other inappropriate conduct while engaged in the performance of their job, while representing the Town, while wearing a Town uniform or driving a Town vehicle or where such conduct reflects adversely on the image of the Town. Town uniforms and clothing with Town logos should only be used while officially on-duty or on-call.
- M. Never refusing to follow management’s lawful instructions and direction concerning a job-related matter or being insubordinate; refrain from creating or contributing to an unproductive work environment through encouraging bad morale, undermining supervisors or the chain of command.
- N. Employees shall hold any confidential information or communication derived through their Town employment in the strictest confidence and shall not share, reveal or use such, unless it is subject to public disclosure, necessary to conduct Town business, or to prevent death or serious bodily harm/injury. Disclosure should be through approved Town channels and policies, such as IPRA or the Town Public Information Office.
- O. Reporting the loss of a driver’s license or other required license or certification within two (2) work days; report criminal charges and/or conviction of criminal charges or motor vehicle accidents impacting driver safety status with the Town in writing to the HR Department within two (2) work days.
- P. Never steal, destroy, deface, damage, or misuse Town property, equipment, vehicles or another employee’s property.
- Q. Never using profanity, offensive or obscene language; never fighting, gambling, sleeping on the job, encouraging a fight, participate in playing pranks or engaging in horseplay or other behavior or conduct unbecoming a Town employee.
- R. Never engaging in harassment, discrimination, or retaliation.

**CHAPTER 3.130
CLASSIFIED EMPLOYEE DISCIPLINE**

3.130.010: DISCIPLINE POLICY:

It is the policy of Town of Taos that disciplinary action should be taken only when all reasonable efforts to improve performance have been unsuccessful or when the actions or omissions of an employee require formal discipline. Supervisors are expected to use all the tools and skills at their disposal to correct performance problems before formal

discipline is required. These tools and skills include, but are not limited to: coaching, counseling, training, use of evaluations and corrective action plans.

3.130.020: DISCIPLINE PROCESS:

A. **Written Notice.** The initiation of discipline begins with the Supervisor, Department Director or Human Resources Director notifying an employee in writing that they are investigating a situation that may result in disciplinary action. The notice will include the scheduling of a Discipline Consideration Meeting with the Employee or the deferral of the Discipline Consideration Meeting until completion of a formal investigation. The Discipline Consideration Meeting will normally be scheduled to occur within ten (10) working days of the alleged commission, omission or discovery of an act or omission which may lead to discipline or within ten (10) working days of the completion of a formal investigation.

B. **Discipline Consideration Meeting.** The Discipline Consideration Meeting will be informal in nature. While no formal record will be developed, all participants are expected to make and keep their own written notes of the proceedings. Attendees at the Discipline Consideration Meeting may include the Supervisor, Department Director, and/or Human Resources Director and a witness, and the Employee and a representative. The Supervisor, Department Director, or Human Resources Director will discuss why an investigation is being done or why discipline is being considered. The Employee will explain their side of the issue and may also suggest his/her own discipline which may or may not be accepted.

C. **Supervisor Action.** Within five (5) working days of the Discipline Consideration Meeting, the Supervisor, Department Director, Elected Official or Human Resources Director shall make a discipline decision and:

1. In the case of a Verbal Reprimand. Complete a Town of Taos Corrective/Disciplinary Action Report indicating a Verbal Reprimand and attach all supporting documentation. The employee will have the opportunity to sign the report acknowledging receipt. If the employee refuses to sign, a witness will sign acknowledging that the employee did receive a copy of the report. The employee will be given a copy of the report; including all supporting documentation. The original of the report and all supporting documentation will be placed in the informal file maintained by the employee's supervisor.
2. In the case of a Written Reprimand. Complete a Town of Taos Corrective/Disciplinary Action Report indicating a Written Reprimand and attach all supporting documentation. The employee will have the opportunity to sign the report acknowledging receipt. If the employee refuses to sign, a witness will sign acknowledging that the employee did receive a copy of the report. The employee will receive a copy of the report; including all supporting documentation. The original of the report and all supporting documentation will be forwarded to the Human Resources Department for inclusion in the employee's official personnel file. A copy of the report and all supporting documentation will be placed in the employee's informal file maintained by their supervisor.

Request for Removal. An employee may request that a Written Reprimand be removed from their official personnel file after an eighteen (18) consecutive month period of discipline free performance. The request must be made in writing to the Town Manager and endorsed by the employee's Department Director.

3. In the case of recommended Suspension, Demotion or Termination. Complete a Town of Taos Corrective/Disciplinary Action Report indicating a recommended Suspension, Demotion or Termination and attach all supporting documentation. The employee will have the opportunity to sign the report acknowledging receipt. If the employee refuses to sign, a witness will sign acknowledging that the employee did receive a copy of the report. The entire report and supporting documentation will be forwarded to the Human Resources Director for review and submission to the Town Manager for action. The Town Manager will schedule a Disciplinary Hearing to consider the recommended discipline.
- D. Scheduling the Disciplinary Hearing. Within five (5) working days of receipt of a Town of Taos Corrective/Disciplinary Action Report and all supporting documentation from the Human Resources Director recommending Suspension, Demotion or Termination, the Town Manager will schedule a Disciplinary Hearing. The Town will normally be represented at the Disciplinary Hearing by the Town Manager and the Department Director. The Town Attorney may also attend. The Employee may have representation at his own expense at the Disciplinary Hearing. At the Disciplinary Hearing, the employee will have the opportunity to respond to the proposed disciplinary action. If the employee elects not to be present at the Disciplinary Hearing, the disciplinary action recommended will still be evaluated at that time by the Town Manager.
- I. Town Manager Decision. The Town Manager will make a decision within five (5) working days of the Disciplinary Hearing. The Town Manager's written decision will be attached to the Town of Taos Corrective/ Disciplinary Action Report and it and all supporting documentation will be returned to the Human Resources Director for action. The Human Resources Director will implement the Town Manager's decision. The original copy of the report and all documentation will be placed in the employee's official personnel file. A copy of the report and all documentation will be given to the employee. A copy of the report and all documentation will be returned to the Supervisor to be placed in the employee's informal file. The Employee will also be given written notice of their right to appeal the Town Manager's decision to an independent Hearing Officer.
- J. Appeal to an Independent Hearing Officer.
 1. Notice of Appeal. Within five (5) working days of receipt of the Town Manager's decision, the employee may appeal to an independent Hearing Officer. The appeal must be in writing to the Town Manager.

2. Appointment of Hearing Officer. Within five (5) working days of a Notice of Appeal, the Town Manager will provide the employee the name of the proposed Hearing Officer. Within five (5) working days of receipt of the written notification of the proposed Hearing Officer, the employee must notify the Town Manager in writing of any objection to the proposed Hearing Officer, giving valid and justifiable reasons for such objection. If the Town Manager agrees with the objection, the Town Manager and employee, or his representative, shall meet to designate a mutually acceptable Hearing Officer. If the Town Manager does not agree with the objection, the Hearing Officer shall be as proposed. The Town Manager's failure to meet and designate a mutually acceptable Hearing Officer shall be taken as a denial of the objection.

3. Scheduling of the Hearing. The appointed independent Hearing Officer will schedule a hearing within thirty (30) calendar days of his or her appointment. The Hearing Officer will determine the date and time of the disciplinary hearing and will decide on any requests for continuance. Such hearings will be conducted at a time and place which is mutually convenient to all parties concerned. Requests for continuances of hearings shall be made at least three (3) working days prior to the scheduled hearing, absent extenuating circumstances. Requests for continuances of hearings shall be made in writing directly to the Hearing Officer with copies of all parties involved. The parties must agree in writing to any postponement of the hearing beyond thirty (30) calendar days.

4. Hearing Rules of Procedure.

- a. Open Meetings Act. All hearings shall be open to the public unless the parties mutually agree in writing to the contrary.
- b. Who Must Be Present at the Hearing. The following persons are required to be present at the hearing unless otherwise excused by the Hearing Officer or by agreement of the parties: The Hearing Officer, the employee and representative (if any), and the Town's designated representative(s).
- c. Hearing Officer Actions.

The Hearing Officer shall:

- i. Make rulings on procedural and substantive issues of the hearing.
 - ii. Determine the admissibility of evidence and testimony, all of which must have a direct bearing on the issue before the Hearing Officer.
 - iii. Administer the oath to all witnesses prior to the witness testifying.
 - iv. Follow the evidentiary standard for administrative agencies.
 - v. Issue a written ruling, including findings of fact which form the basis of the Hearing Officer's conclusions of law.
- d. Stipulation of Facts and Issues. The parties shall stipulate to the facts and issues to the greatest extent possible prior to the hearing.

- e. **Sharing of Information Prior to the Hearing.** Prior to the hearing, the parties or representatives of the parties shall prepare copies of all exhibits and evidence which are expected to be presented. The parties shall stipulate to exhibits to the extent possible and bring to the hearing adequate copies for the Hearing Officer as well as the opposing party.
- f. **Evidence and Witnesses.** At least seven (7) calendar days prior to the hearing, all parties must submit to the Hearing Officer: a statement identifying the issues to be heard, a witness list and a complete list of documents to be admitted as evidence. Copies of all documents must be given to the opposing party at least seven (7) calendar days prior to the hearing. Witnesses in discipline appeal hearings are not admitted into the hearing room until called upon to testify.
- g. **Notice.** Notice of the hearing will be sent by certified mail to the employee and postmarked at least ten (10) working days prior to the scheduled hearing. Copies of the hearing notice shall be sent concurrently to all relevant parties.
- h. **Official Record of Hearing.** Either a tape recorded or stenographic record of all disciplinary appeal hearings will be made.
- i. **Conduct of Hearings.**

Opening Statements. The employer, who carries the burden of proof by a preponderance of the evidence, shall present an opening statement of the issues involved in the case, followed by the employee. Opening statements are limited to pertinent issues of fact and law and shall not exceed ten (10) minutes without permission of the Hearing Officer.

Town of Taos Presentation. Witnesses for the Town will be called and questioned on their involvement in, or knowledge of, the case. Following each witness' testimony, the employee will have the opportunity to cross-examine the witness. The Hearing Officer will then have the opportunity to question the witness on matters related to the witness' testimony. The Hearing Officer shall restrict his questions to those necessary to clarify the testimony previously given. Follow-up or redirect questioning will be allowed at the discretion of the Hearing Officer.

Employee Presentation. The employee will then present his or her case to the Hearing Officer. Witnesses for the employee may be called and questioned on their involvement in, or knowledge of, the case. Following each witness' testimony the Town will have the opportunity to cross-examine the witness. The Hearing Officer will then have the opportunity to question the witness on matters related only to the witness' testimony. The Hearing Officer shall restrict his or her questions to those necessary to clarify the testimony previously given. Follow-up or redirect questioning will be allowed at the discretion of the Hearing Officer.

Rebuttal. Following presentation of the employee's position, the Town may offer rebuttal testimony. Such testimony shall be brief and shall address only the issues brought forth in the employee's presentation.

Closing Statements. The employee's closing statement shall be presented, followed by that of the Town. These statements shall not exceed ten (10) minutes without the permission of the Hearing Officer, and at a minimum shall contain a request for the desired outcome. The employee shall have the opportunity to make a final statement, not to exceed five (5) minutes, which shall be limited to issues brought forth in the Town's closing statement.

- j. Communication of the Independent Hearing Officer Decision. The Hearing Officer's written decision will be issued within ten (10) working days of the hearing and sent to the employee and the Town Manager. The Hearing Officer may uphold, modify or reverse the decision of the Town Manager, and may reinstate the employee and award back pay and benefits. The record of the proceeding will be retained by the Town Manager's office or the certified court reporter for a period of not less than one (1) year from the hearing date, along with all of the physical evidence admitted by the Hearing Officer. The verbal record shall be transcribed only in the case of appeal to the district court by one of the respective parties. The party requesting the transcription shall make arrangements to pay for the transcription.
- k. Appeal of Hearing Officer Decision. Either party may appeal the Independent Hearing Officer's decision in the Eighth Judicial District Court within thirty (30) days of the Hearing Officer's decision.

CHAPTER 3.140 DISPUTE RESOLUTION

3.140.010: POLICY:

Classified employees require a formal process for resolving disputes. However, classified employees should attempt to resolve any dispute before filing a formal request for dispute resolution. All parties should make a written record of attempts to informally resolve a dispute. If a satisfactory informal resolution cannot be reached, the employee may file a formal request for Dispute Resolution.

3.140.020: FORMAL DISPUTE PROCEDURES:

A. Department Director Level. A formal request for Dispute Resolution must be presented in writing to the employee's Department Director. The formal request for Dispute Resolution shall set forth:

- 1. The employee's name, job title, and worksite;
- 2. The name, address, and telephone number;

3. A description of the problem or problems;
4. The relief or resolution requested;
5. The signature of the employee.

The Department Director shall respond in writing within five (5) working days of receipt of the Dispute and may within this same period, request a meeting to discuss the Dispute and seek a resolution. If the Dispute is not satisfactorily resolved at this level, it may be filed with the Town Manager within five (5) working days after receipt of the written response or of the time for response by the Department Director.

B. Town Manager Level. If the Dispute has not been satisfactorily resolved by the Department Director, the employee may submit the Dispute to the Town Manager. The Town Manager shall respond in writing within ten (10) working days of receipt of the Dispute and may within this time period, request a meeting to discuss the Dispute and seek a resolution. The Town Manager’s decision will be final and binding.

3.140.030: CONDITIONS OF ACTIONS WHICH MAY NOT BE DISPUTED:

The following matters are not subject to Dispute Resolution:

- A. Disputes as to whether or not a Town practice or policy is good.
- B. Matters in which a method of review is mandated by law.
- C. Matters where the Town is without authority to act or does not have the ability to provide a remedy.
- D. Temporary and/or Other Government Funded employees released prior to or at the end of their anticipated employment period.
- E. An action taken against any unclassified employee.
- F. Actions taken as a result of proven charges of discrimination based on race, color, national origin, religion, age, sex, ancestry, physical or mental handicap, serious medical condition, sexual orientation, spousal affiliation, or gender identity.
- G. Preferences for employment, promotions, transfers, temporary assignments, removal from temporary assignments and lay-offs.
- H. Termination of a probationary employee prior to the end of their probation.
- I. Letters of complaint from the public which a supervisor determines to be justified and appropriate to be placed in the employee’s official personnel file.
- J. Any actions taken under Section 7.13 Drug and Alcohol Abuse of this Personnel Policy.
- K. Any specific discipline handed down under Section 9 - EMPLOYEE DISCIPLINE of this Personnel Policy. Several levels of appeal are provided within the classified employee discipline process.
- L. Performance evaluations.

**SECTION 3.150
GRIEVANCE PROCEDURE**

3.150.010: PURPOSE:

The purpose of this grievance procedure is to secure, at the lowest possible administrative level, equitable resolutions to disputes which may arise and are subject to review under this procedure. There shall be no other grievance or appeal procedure on any matter for the members of the bargaining unit other than that contained in this article.

3.150.020: DEFINITIONS:

A. A “grievance” is defined as a dispute that alleges a violation of this collective bargaining agreement or state and federal laws providing rights or benefits to bargaining unit employees. Grievances shall be signed by the grievant, in writing, and state specifically the action being grieved, including at a minimum the date of occurrence, the names of persons involved in the occurrence, a detailed narrative of the occurrence, the specific section(s) of the Collective Bargaining Agreement (CBA) and/or Town of Taos Personnel Policy that have been violated and the reason(s) why, and the requested remedy sought by the grievant.

B. A “grievant” may be any bargaining unit employee, group of bargaining unit employees, or the Union. A probationary employee whose position is within the bargaining unit may not be a grievant. Neither the Union nor any group of employees may grieve an action that involves a probationary employee.

C. “Days” shall mean Monday through Friday, not including holidays observed by the Town of Taos Council. In counting days, the day of the act does not count. The day following the day of the act is the first day. If any notice by management is served by mail to the grievant’s last known address, three days will be added to the applicable deadline. Generally, the mailing of notices will only occur where the Employee has been terminated under a disciplinary action.

D. “Town Manager” shall mean the Town Manager or someone designated by the Town Manager to act on his behalf.

E. “Settlement” means the agreed upon resolution of the grievance, set out in writing and signed and dated by the parties.

3.150.030: PROCEDURE:

A. Grievance proceedings will be informal at all steps of this procedure.

B. A Grievance must be initiated using an Official Grievance Form (see Appendix D). The following information must be included on the Official Grievance Form;

1. The Employee’s name, job title and worksite;
2. The name, address and telephone number of the Union Representative, if any;
3. The Articles(s) of the Collective Bargaining Agreement alleged to have been violated and/or the section of the Town of Taos Personnel Policy alleged to have been violated, and why;

4. A specific description of the alleged act(s) or omission(s) in violation of the Agreement and the approximate date and time of occurrence;
 5. The adjustment required or remedy sought;
 6. Identify the Grievance Step;
 7. The Grievant and/or Union Representative shall sign and date the form;
- C. The number of days indicated at each level of this procedure will be considered a maximum and every effort shall be made to expedite the process.
 - D. If the grievant fails to comply with the grievance time limits as set forth under any of the procedural steps, the grievance shall be considered null and void and shall not be processed any further.
 - E. The time limits set forth herein may be extended only by written mutual agreement and only before any time limit has passed. Human Resources will advise the grievant in writing of the failure to meet a deadline, which will be hand delivered to the grievant or mailed by first class mail to the grievant's last known mailing address.
 - F. A grievance shall not be considered timely unless the grievant serves the grievance on their immediate supervisor and the Human Resources Department no later than ten (10) days after the action which precipitated or forms the basis of the grievance. If the grievance is against the immediate supervisor, the grievant shall serve the grievance on the next level supervisor and the Human Resources Department within the ten (10) days. Failure to serve the grievance as required within the ten (10) days will time bar the grievance and it shall not be processed any further.
 - G. Employees have the right, at all times during the grievance procedure, to be accompanied by a Union staff representative or Union officer who is also an employee of the Town.

3.150.040: STEPS IN THE GRIEVANCE PROCESS:

Employees will attempt to resolve with their immediate supervisor and/or Department Director any employment related issues covered by this agreement before filing a formal Grievance under the procedures established in this Article. If the parties are unable to reach a satisfactory resolution, Step 1 of the formal Grievance process may be initiated. Informal resolution of the Grievances prior to Step 1 shall not be binding upon the parties as past practice.

Step 1. The grievant shall serve a written grievance with the grievant's immediate supervisor and/or Department Director and the Human Resources Department unless the grievance is against the immediate supervisor in which case the employee shall serve the written grievance at the next supervisory level and the Human Resources Department. If, within ten (10) days, the supervisor does not adopt the remedy proposed by the grievant, or an alternative remedy to which both agree in a face-to-face meeting, the grievance shall be deemed denied.

Step 2. If the grievance is not resolved within ten (10) days at the Step 1, the grievant may serve a copy of the written grievance with the Department Director. This written grievance must be served within ten (10) days from the date of the immediate supervisor's response or the date that a response was due, whichever is earlier, or the grievance is forever barred.

Step 3. If the grievance is not resolved within ten (10) days at Step 2, the grievant may serve a copy of the written grievance with the Town Manager. This written grievance must be served within ten (10) days from the date of the Department Director's response or the date that a response was due, whichever is earlier, or the grievance is forever barred.

- a. Timing of Meeting. Management will hold a meeting on the grievance within ten (10) days of receiving the written grievance at this step.
- b. Evidence/Testimony. Management and the grievant will be permitted to submit documents and call witnesses at the meeting. Although the formal rules of evidence do not apply, the Town Manager may limit the calling of witnesses whose testimony the Town Manager deems irrelevant or repetitive.
- c. Witnesses. Witnesses who are employees of the Town will generally appear during work hours and will not lose pay for their attendance. Witnesses who are employees of the Town and who are required to appear outside their normal work hours will be paid at their appropriate rate of pay under the Fair Labor Standards Act (FLSA).
- d. Representation. The grievant may be accompanied by a Union representative or by an attorney. If represented by an attorney, such representation shall be solely at the Employee's expense. The presentation of evidence by the grievant, including the examination and cross-examination of witnesses, shall be done directly by the grievant and not by any other person including but not limited to the grievant's named representative. Generally, management's case will be presented by the Director of the Employee's department.
- e. The Town Manager will issue his decision within ten (10) days of the meeting unless otherwise agreed in writing between the Town Manager and the grievant.

Arbitration. If the Town Manager fails to render a decision within ten (10) days of the meeting, or if the grievant is dissatisfied with the Town Manager's decision, the Union may request in writing to the Human Resources Director that the grievance be submitted to arbitration. The Union's written request for arbitration shall be submitted to the Human Resources Director within ten (10) days of the Town Manager's decision or within twenty (20) days of the meeting, whichever is earlier. Failure to meet these deadlines renders the grievance null and void, ending the grievance. No grievant, other than the Union, may request arbitration under this process. If the Union does not request arbitration, the decision by the Town Manager is final.

Arbitration Process. If the Union makes a timely and appropriate request for arbitration, the following procedures will apply.

- a. The arbitrator will be selected from a list of seven arbitrators requested by the Human Resources Department from the Federal Mediation and Conciliation Service. The parties will meet at the Human Resources Department within ten (10) days of receiving the list. The parties will alternate in the striking of names on the list until there is one name remaining who shall be the arbitrator. Union and management will flip a coin to determine who strikes the first name.
- b. The arbitration will occur within six (6) months of the selection of the arbitrator.
- c. The arbitrator's decision will be in writing and will include the decision, the rationale, and the granted relief. The arbitrator shall not have the authority to expand the rights that employees or the Union have under the terms of this collective bargaining agreement.
- d. The arbitrator's decision shall be final and binding on the parties subject to appeal only within the provisions of the New Mexico Uniform Arbitration Act (NMUAA).
- e. The arbitrator's fees and costs and any fees or costs related to obtaining the list of arbitrators or selecting the arbitrator shall be shared equally by the parties. All other expenses shall be assumed by the party incurring the costs, including the cost of witnesses.

3.15.050: MISCELLANEOUS PROVISIONS:

- A. No reprisal or retaliation shall be taken by anyone against any Employee who participates in the grievance process.
- B. A Bargaining Unit Employee, acting individually, may present a grievance without permission of the Union. In such a situation, the Union may attend any meetings under this procedure and may present its position.
- C. Management will take reasonable steps to ensure the attendance of witnesses who are employees and whose attendance is requested timely in writing by the grievant or the grievant's representative.
- D. Management, the grievant, and the Union will produce within three (3) working days of a written request any relevant documents requested by any party to the grievance proceeding. If the written request is served less than three (3) days before any scheduled meeting, the party from whom the document is requested will make reasonable effort to produce the requested documents before the meeting. If any of the parties are unable to comply with the time limits for production of documents, they will advise all parties and produce the documents as soon as practicable.
- E. Grievances shall be maintained in a separate grievance file and shall not be included in the personnel file of any individual grievant.

- F. If an Employee retains outside representation in the grievance or arbitration process, the Employee shall immediately notify the Union and the Human Resources Department. If the Employee retains outside representation, he or she does so exclusively at his or her own cost.
- G. An individual Employee may not invoke arbitration under these articles.
- H. The time restrictions within which to address each of the steps in the grievance process may be extended by mutual written agreement of the parties to the grievance.

**CHAPTER 3.160
WHISTLEBLOWER PROTECTION**

3.160.010: 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).

ORDAINED, ADOPTED, AND APPROVED this 13th of February, 2018, at the Regular Meeting of the Town Council by the following vote:

Mayor Pro Tem Nathaniel Evans	<u>yes</u>
Councilmember George (Fritz) Hahn	<u>yes</u>
Councilmember Darien Fernandez	<u>yes</u>
Councilmember Judith (Judi) Y. Cantu	<u>no</u>

TOWN OF TAOS


 Daniel R. Barrone, Mayor

ATTEST:


 Renee Eucero, Town Clerk

APPROVED AS TO FORM


 Stephen Ross, Town Attorney

