

COUNCIL AGENDA
DATE: 08/01/94
ITEM NO. 15

TOWN OF LOS GATOS
COUNCIL AGENDA REPORT

DATE: June 13, 1994
TO: MAYOR AND TOWN COUNCIL
FROM: TOWN MANAGER *DWK*
SUBJECT: ADOPT RESOLUTION APPROVING THE REVISED TOWN PERSONNEL RULES AND REGULATIONS

RECOMMENDATION:

Adopt resolution approving the revised Town Personnel Rules and Regulations.

BACKGROUND:

Town Code Section 2.30.955 provides that the Town Council may amend the Personnel Rules by resolution. The Rules establish specific procedures and regulations governing the personnel system. The present Personnel Rules were last revised in August, 1993 and do not reflect current State and Federal legislation.

DISCUSSION:

Legislation has been enacted during the past year requiring that the Town adopt a policy and procedure for Family/Medical Leave. The document now includes such a policy as well as several other changes listed as follows:

- * Section 2.14, definition for "Gross Misconduct".
- * Section 6.3, Hourly Employees, added at-will language.
- * Section 7.8, Family And Medical Leave Policy.
- * Section 7.9, Pregnancy Disability Leave.
- * Section 10.5.3, reversed hourly and temporary in first paragraph.

PREPARED BY: CARLA TURNER, Personnel Manager *Carla Turner*

CT01;A:\conclrpt.persrls.94

July 20, 1994

Attachments: Resolution approving revised Personnel Rules and Regulations.
Proposed Personnel Rules and Regulations.

Distribution: Police Officers Association, Town Employees Association,
AFSCME, Confidential Unit

Reviewed by: *JH* Attorney ___ Clerk *JB* Finance ___ Treasurer

COUNCIL ACTION/ACTION DIRECTED TO:

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MAYOR AND TOWN COUNCIL

SUBJECT: ADOPT RESOLUTION APPROVING THE REVISED TOWN PERSONNEL RULES AND REGULATIONS

- * Section 12.2, 12.3, 12.4, Disciplinary Actions, changed "appointing authority" to "Department Head".
- * Section 12.4, Termination, changed written notice of termination from 5 days to 10 days.
- * Section 12.6.4, added Termination.
- * Section 13, included Town Manager as a step in the appeals procedure and made the Personnel Board the final step. This corresponds with Town Code.
- * Section 14.1, Personnel Files, added paragraph regarding the maintenance of police files within the Police Department.
- * Section 16.1, Harassment Policy, added "sexual orientation" as a basis for non-harassment.
- * Section 16.8, Policy On Use Of Town Computers, deleted procedures section. This should not be included in the Personnel Rules.

Department Heads, bargaining units and the Personnel Board have reviewed and commented on the document. Revisions based on these comments have been made. The proposed Rules do not conflict with any of the Memorandum of Understanding nor the Town Code.

ENVIRONMENTAL ASSESSMENT:

The Personnel Rules and Regulations are not a project subject to CEQA.

FISCAL IMPACT: None.

RESOLUTION

**RESOLUTION OF THE TOWN OF LOS GATOS
APPROVING AND ADOPTING REVISED TOWN PERSONNEL RULES**

RESOLVED, by the Town Council of the Town of Los Gatos, County of Santa Clara, State of California, does hereby approve and adopt the revised Town Personnel Rules establishing specific procedures and regulations governing the Personnel System (copy of which is attached hereto).

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Los Gatos, California, held on the _____ day of _____, 199__ by the following vote.

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

**MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA**

ATTEST:

**CLERK OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA**

TOWN OF LOS GATOS

PERSONNEL RULES AND REGULATIONS

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TOWN OF LOS GATOS
PERSONNEL RULES AND REGULATIONS

COVERAGE

These rules establish the personnel system for the Town of Los Gatos. These rules shall apply to all employees of the Town except those employee groups who are excluded. Those employees or employee groups excluded are:

- (1) Elective officers and their duly appointed deputies.
- (2) Members of appointive boards, commissions and committees.
- (3) Persons engaged under contract.
- (4) Volunteer personnel who receive no regular compensation from the Town.
- (5) The Town Manager, department heads, management employees and the Town Attorney.
- (6) Confidential, hourly, temporary, and provisional employees.

These employees or employee groups hold their positions at the will of the Town Council or Town Manager and are not obligated by or entitled to benefits provided by these rules.

SECTION I

GENERAL PROVISIONS

1.1 PERSONNEL ORDINANCE

Personnel Rules are adopted pursuant to the Personnel Ordinance, Chapter 2 of the Town Code.

1.2 AMENDMENT OF RULES

Recommendation for amendment and revisions of these Rules may be made by the Town Manager. Prior to consideration, an amendment or revision shall be publicly posted for at least five consecutive days, together with notice of the time, place, and date of hearings by the Town Council. At the time of consideration, any interested person may appear and be heard. Amendments and revisions shall become effective upon adoption by the Town Council following such hearing.

1.3 VIOLATION OF RULES

Violation of the provisions of these rules shall be grounds for rejection of applicants or disciplinary action of incumbent employees.

1.4 CONFLICT WITH MEMORANDA OF UNDERSTANDING

Whenever a conflict occurs between the Personnel Rules and Regulations and the Memoranda of Understanding, the Memoranda of Understanding shall prevail.

SECTION 2

DEFINITION OF TERMS

The following terms, wherever used in these Rules, shall be defined as follows:

- 2.1 "Allocation": The assignment of a single position to its proper classification and title in accordance with its duties and responsibilities.
- 2.2 "Appointing Authority": The officers of the Town who by law have the authority to make the appointment to the position to be filled:
1. Council as to appointment of Manager and Attorney.
 2. Town Attorney as to employees working under his/her direction.
 3. Elected Clerk and Treasurer as to employees and deputies working under the direction of each.
 4. Town Manager as to all other personnel. Any department manager having a vacancy in a position under his/her direction shall recommend his/her choice of the candidate to be hired for a vacant position, and the Town Manager shall have the authority to approve or disapprove such appointment pursuant to the Personnel Ordinance and the Personnel Rules.
- 2.3 "Board": The Personnel Board.
- 2.4 "Chair": The Chairperson of the Personnel Board.
- 2.5 "Classification": All positions sufficiently similar in duties and responsibilities, and working conditions, to permit grouping under a common classification with a common title, and to permit the application with equity of common standards of selection, transfer, promotion, and salary.
- 2.6 "Competitive Service": The positions and employments which are included or which may hereafter be included under the personnel system by ordinance.
- 2.7 "Demotion": The movement of an employee from one position to another which is allocated to a classification having a lower maximum rate of pay.
- 2.8 "Department Head": The person appointed by an appointing power to be in charge of a department.
- 2.9 "Elected Officials": Town Councilmembers, Town Clerk and Town Treasurer.
- 2.10 "Eligible": A person whose name is on an employment list.
- 2.11 "Employee": Any person, other than an elective official, hired to work for the Town at a regular salary in a position the duties of which are subject to direct supervision and control by or in behalf of the Town Manager. Independent contractors and members of Town Boards and Commission, whether or not compensated, shall not be deemed to be employees within the meaning of these Rules. These rules shall be deemed applicable only to positions and persons holding them to which Personnel Ordinance of the Los Gatos Town Code is applicable.
- 2.12 "Eligible List": A list of names of persons who have taken an examination for a classification in the competitive service and passed, and are ranked on the list in the order of the score received.

- 2.13 "Examination":
- 2.13.1. Open-Competitive Examination: An examination for a particular classification which is open to all persons meeting the qualifications.
 - 2.13.2. Promotional Examination: An examination for a particular classification, admission to which is limited to permanent and probationary employees in the competitive service who meet the qualifications.
 - 2.13.3. Unassembled Examination: An examination consisting of an appraisal of training, experience, work history, or any other means for evaluating relative qualifications of applicants without the necessity for their personal appearance at a specified place and time.
 - 2.13.4. Oral Examination: An examination wherein interviews of each accepted applicant are conducted by one or more persons selected by the Personnel Officer. Each applicant is rated as to relative ability to qualify for the classification based on training, experience, personal qualities, oral presentation and other pertinent qualifications.
- 2.14 "Gross Misconduct": Gross or egregious misconduct, such as assault, battery, sexual or racial harassment, fraud, theft, embezzlement, and other conduct so prejudicial to the public welfare and the functioning of the employee's department or Town as to clearly indicate that the continued presence of the employee in the workplace would place persons or property in jeopardy.
- 2.15 "Hourly Employee": An employee who is subject to the overtime requirements of the Fair Labor Standards Act (FLSA) and whose compensation is based on an hourly rate.
- 2.16 "Overtime Work": Work which is required and authorized in excess of the basic work week for the department and classification involved.
- 2.17 "Personnel Ordinance": Chapter 2, Article III, Division 6 of the Town Code.
- 2.18 "Probationary Period": A working test period during which an employee is required to demonstrate his/her fitness for the duties to which he/she is appointed by actual performance of the duties of the position.
- 2.19 "Promotion": The movement of an employee from one position to another which is allocated to a classification with a higher maximum rate of pay.
- 2.20 "Provisional Appointment": An appointment by an appointing power of a person who possesses the minimum qualifications established for a particular classification and who has been appointed to a position in the competitive service in that classification in the absence of available eligibles.
- 2.21 "Regular Employee": An employee who has successfully completed his/her probationary period and has been retained with regular status as hereafter provided in these Rules.
- 2.22 "Reinstatement": The reemployment without examination of a former regular or probationary employee.
- 2.23 "Rejection": The separation of an employee from the service during his/her probationary period.
- 2.24 "Salaried Employee": An employee who is not subject to the overtime requirements of the Fair Labor Standards Act (FLSA) and whose compensation is based on a bi-weekly salary rate.
- 2.25 "Salary Step Advancement": A salary increase of one or more steps within the limits of the pay

range established for a classification.

- 2.26 "Salary Step Reduction": A salary decrease within the limits of the pay range established for a classification.
- 2.27 "Suspension": The temporary separation from the service of an employee without pay for disciplinary purposes.
- 2.28 "Temporary Appointment": An appointment of a person to a position of limited duration.
- 2.29 "Transfer": A change of an employee from one position to another position in the same class or in a comparable class with the same maximum rate of pay.

SECTION 3

PERSONNEL BOARD

3.1 MEETINGS

The Personnel Board shall meet as required in order to carry out its responsibilities, or on call of the Chair or two members of the Board. Three members of the Board shall constitute a quorum for the transaction of business.

Any regular meeting may be adjourned to a time certain and to a place designated by the Chair. All members of the Board shall receive notice of any meeting of the Board.

The Board shall select its Chair and adopt its own rules of order not otherwise provided by Town Code.

3.2 PUBLIC HEARINGS

Hearings conducted by the Personnel Board shall be public and subject to Government Code Sections 54950 *et. seq.* They shall be conducted in private if they pertain to the appointment, employment or discipline of a Town employee or pertain to the hearing of a complaint or charge brought against an officer or employee of the Town, unless such officer or employee requests a public hearing. Such body may also exclude from any such public or private meeting, during the examination of a witness, any or all other witnesses in the matter being investigated by the legislative body. The hearing need not be conducted according to technical rules relating to evidence and witnesses.

In any investigation or hearing conducted by the Board, it shall have the power to examine witnesses under oath and compel their attendance or production of evidence by subpoenas issued in the name of the Town and attested to by the Town Clerk. Each member of the Personnel Board shall have the power to administer oaths to witnesses.

When requested by the Town Manager or the Town Council, the Personnel Board shall hold hearings and make recommendations on any matter of personnel administration within the limits of the request of the Council or Town Manager.

SECTION 4

CLASSIFICATION

4.1 PREPARATION OF PLAN

The Personnel Officer shall be responsible to ascertain and record the duties and responsibilities of all positions in the competitive service and, after consultation with appointing powers and head of departments affected, shall develop a classification of such positions.

The classification plan shall consist of classifications of positions in the competitive service defined by class specifications, including title, a description of essential duties and responsibilities of positions in each class, a statement of the essential and desirable training, experience and other qualifications for positions in each class. The classification plan shall be similar with respect to duties, responsibilities, and character of work that are included within the same classification. The same schedule of compensation shall be made to apply with equity under like working conditions to all positions in the same classification.

4.2 ADOPTION OF PLAN

Before the classification plan or any part thereof shall become effective, it shall first be approved in whole or in part by the Town Council. Public notices giving the date and hour at which Council shall consider it shall be posted in the manner prescribed in these Rules. The Council may, upon the conclusion of said public consideration, make such changes or modifications of the plan as it shall deem warranted.

Upon adoption by resolution of the Council, the provisions of the classification plan shall be observed in the handling of all personnel actions and activities. The job classification plan shall be amended or revised when required in the same manner as originally established.

4.3 ALLOCATION OF POSITIONS

Following the adoption of the classification plan, the Personnel Officer shall allocate every position in the competitive service to one of the classifications established by the plan.

4.4 NEW POSITIONS

When a new position is created, before the same may be filled the Department Head shall notify the Personnel Officer, and except as otherwise provided by Town Code or these Rules, no person shall be appointed or employed to fill such position until the classification plan shall have been amended to provide therefore and an appropriate employment list has been established for such position.

4.5. RECLASSIFICATION

Positions, the duties of which have changed materially so as to necessitate reclassification, shall be allocated by the Personnel Officer to a more appropriate class, whether new or already created. Reclassification shall not be used for the purpose of avoiding restrictions concerning demotions and promotions.

SECTION 5

THE SELECTION AND APPOINTMENT PROCESS

5.1 APPLICATION PROCESS

Whenever an open competitive examination is to be given for a position, the Personnel Officer or designee shall at least 10 calendar days prior to the final filing date, publish an appropriate classified advertisement regarding the position in one or more regional newspapers of general circulation, at least one of which shall have substantial circulation in areas with significant representation of minority groups, and the Personnel Officer or designee shall mail an announcement regarding the position to such colleges, universities, and employment offices as he/she determines are appropriate for the position, including, but not limited to those located in minority areas. Announcements of all open and promotional openings shall also be posted on bulletin boards at the various Town facilities for employees' review. The Personnel Officer or designee may also undertake whatever other recruiting activities he or she feels are necessary or desirable to fill a particular position in a way which meets the Town's goal of obtaining the most qualified employees.

The Announcement shall include: Title and pay for the position; the nature of the work to be performed; the minimum qualifications; the essential functions of the position; a reasonable accommodation statement; whether the position is "at-will" or "regular"; the time and place of examination, if known; the method of applying; the closing date for the application, if one is established; and such other information as seems desirable in the discretion of the Personnel Officer or designee.

5.2 APPLICATION FORMS

Job applications shall be made on forms provided by the Personnel Officer or designee. All applications must be completed in full and signed by the person applying.

5.3 DISQUALIFICATION OF APPLICATIONS

The Personnel Officer or designee shall reject an application, or after examination, shall disqualify or remove the applicant's name from an eligible list, if the applicant:

1. Has made false statements of any material fact, or practiced any deception or fraud on the application, declarations or in securing eligibility appointment;
2. Is found to lack any of the requirements, certifications, or qualifications for the position involved;
3. Is physically or psychologically unfit for the performance of the position duties, and cannot be reasonably accommodated, including, but not limited to, impairment caused by current abuse of alcohol or drugs;
4. Is a relative of an employee, and is subject to the Nepotism Policy in SECTION 16.4.
5. Has been convicted of a crime, either a misdemeanor or felony, that relates to the position duties that the applicant would perform;
6. Used or attempted to use political pressure or bribery to secure an advantage in the examination or appointment;
7. Directly or indirectly obtained information regarding examinations;
8. Failed to submit the employment application correctly or within the prescribed time limits;
9. Has had his/her privilege to operate a motor vehicle in the State of California suspended or revoked, if driving is job related;
10. For any material cause which in the judgment of the Personnel Officer or designee would render the applicant unfit for the position, including a prior resignation from the Town, termination from the Town, or a significant disciplinary action.

5.4 NOTICE OF REJECTION OF APPLICATION

Defective applications may be returned to the applicant with notice to amend and refile, provided that the time limit for receiving applications has not expired. Whenever an application is rejected, notice of such rejection shall be mailed to the applicant by the Personnel Officer or designee.

5.5 APPEAL PROCEDURE

If the application is rejected, the applicant can appeal the rejection to the Personnel Officer or designee within 5 working days of notice. The Personnel Officer or designee shall review the appeal and affirm the rejection or reinstate the applicant. The Personnel Officer or designee's decision is final.

5.6 SELECTION PROCESS

After the time limit for receiving applications for a particular position has expired, the Personnel Officer or designee shall determine the total number of applicants who meet the minimum qualifications for the positions. The chosen applicants shall then be given further examination in order to obtain a score and ranking on the eligible list.

5.7 WAIVER OF RESPONSIBILITY

Candidates required to take part in physical agility or demonstration tests will be required to sign a waiver of responsibility freeing the Town of all liability arising from injury incurred during the examination.

5.8 PROMOTIONAL EXAMINATIONS

When the Personnel Officer or designee finds that it is in the best interests of the Town, vacancies in the competitive service shall be filled by promotion from within the competitive service, after an eligibility list is established. Only employees who meet the requirements for the classification set forth in the promotional examination announcements may be admitted to promotional examinations. If, in the opinion of the Personnel Officer or designee, it is in the best interest of the Town to use an open, competitive examination instead of a closed, promotional examination, then he/she shall call for applications for the vacancy and arrange for an open, competitive examination and for the preparation and certification of an eligible list. If, in his/her judgment, it is in the Town's best interest, the Personnel Officer or designee may arrange an examination which is both open and promotional.

When an employee is promoted, his/her salary shall be that approved by the Town Manager, except that the salary shall be at a step in the range which is at least equal to or higher in salary than the employee's present base salary.

5.9 SCORING AND QUALIFYING GRADE

Failure in one part of the examination, or to meet established standards described in the job announcement will be grounds for declaring such applicant as failing in the entire examination or as disqualified for subsequent parts of an examination. A candidate's final score in a given examination shall be the average of the scores on each competitive part of the examination on which the applicant qualified, weighted as shown in the examination announcement.

5.10 NOTICE OF RESULTS

Each applicant shall be notified by mail of the examination results, including the final earned score and ranking on the eligible list, if applicable.

5.11 INSPECTION OF EXAMINATION PAPERS

Any candidate shall have the right to inspect his/her own examination paper during normal working hours within 7 calendar days after the notices of examination results are mailed. Any error in computation, or incorrectly scored written test answers which are called to the attention of and confirmed by the Personnel Officer or designee shall be corrected, and the final score shall be adjusted accordingly. Such corrections shall not, however, invalidate appointments previously made. Examination papers of applicants are not subject to inspection by the public nor by other applicants.

5.12 APPEAL OF GRADE

Within the time period permitted for inspection by subsection of this section, an applicant may appeal the grade assigned on any part of an examination. The appeal shall be in writing and shall state the specific grounds for reconsideration. All appeals and correspondence relating thereto shall be submitted to the Personnel Officer or designee for consideration. The Personnel Officer or designee may permit the appellant to be heard. Within 5 working days from receipt of appeal, the Personnel Officer or designee shall make a determination of the final grade, which shall be final for all purposes.

5.13 ELIGIBLE LIST

After completion of an open or promotional examination, the Personnel Officer or designee shall prepare an eligible list consisting of the names of candidates who passed the examination, arranged in order of final score, from the highest to the lowest. Notwithstanding any other provision of these rules, if there are less than three (3) names on an eligible list, the Personnel Officer or designee may declare such list void and fill the position (s) by any method permitted by these Personnel Rules, including, but not limited to, undertaking new recruiting and testing procedures. Eligible lists shall become effective upon the certification by the Personnel Officer or designee.

5.14 ELIGIBLE LIST DURATION

Eligible lists shall remain in effect 12 months, unless the Personnel Officer or designee abolishes the list, the list is exhausted or extended by the Personnel Officer or designee. The Personnel Officer or designee may abolish or extend the list at any time prior to the expiration of the list if he/she determines that it is in the best interest of the Town to do so.

5.15 REMOVAL OF NAME

The name of any person appearing on an eligible list shall be removed by the Personnel Officer or designee if the eligible so requests in writing, or fails to respond to a notification of an opening from the Personnel Officer or designee.

5.16 TYPE OF APPOINTMENTS

Vacancies may be filled by reemployment, promotion, transfer, demotion, appointment of hourly employees, or from the appropriate eligible list, if available. No specific list shall have priority over other lists. The Personnel Officer or designee shall decide in what manner the vacancy is to be filled.

5.17 APPOINTMENTS

The Department Head shall make final appointments. When a position is to be filled from a promotional or open eligible list, the Department Head or his/her individual department designee shall choose from the specified list any of the candidates on the eligible list. If no person among

the candidates indicates a willingness to accept the appointment, the Department Head may request a new examination to establish a new eligible list, or may fill the position by any other method authorized by these Personnel Rules.

The person accepting appointment shall report to the Personnel Officer or designee on the date designated by the Personnel Officer or designee; otherwise, the applicant shall be deemed to have declined the appointment.

5.18 PROVISIONAL APPOINTMENTS

In the absence of appropriate eligibility lists, a provisional appointment may be made by the Department Head and, with the approval of the Personnel Officer, of a person meeting the minimum training and experience qualifications for the position. An employment list shall be established within six (6) months for any permanent position filled by provisional appointment. The Town Manager may extend the period for any provisional appointment for not more than thirty (30) days by any one action.

No special credit shall be allowed in meeting any qualifications or in the giving of any test or the establishment of any open, competitive promotional lists, for service rendered under a provisional appointment.

SECTION 6

EMPLOYMENT STATUS

6.1 PROBATIONARY EMPLOYMENT

All original and promotional appointments shall be tentative and subject to a probationary period of one (1) year of actual and continuous service. Paid or unpaid leave exceeding five (5) days (consecutive or not) shall automatically extend the probationary period by that number of days the employee is on leave and if the unpaid leave exceeds the balance probationary period.

The probationary period may be extended by the Department Head, or Personnel Officer or designee for a period of six (6) months of actual and continuous service. If the Department Head or Personnel Officer or designee determines that the probationary period should be extended, the probationary employee shall be given notice in writing prior to the expiration of the original probationary period.

6.1.1 PROBATION OBJECTIVE

The probationary period shall be regarded as a part of the testing process and shall be used for closely observing the employee's work to determine the employees fitness for the position.

6.1.2 REJECTION DURING PROBATION

An employee may be rejected at any time during the probationary period without cause and without the right of appeal.

6.1.3 PROBATION AFTER PROMOTION

On accepting a promotion, an employee serves a new probationary period of six (6) months of actual and continuous service. An employee does not acquire regular status in the promotional position until the successful completion of this probationary period. If the employee fails to satisfactorily complete the probationary period in the promotional position, the employee shall be entitled to return to the position held prior to promotion at the range and step held prior to promotion. The employee is not entitled to notice or a hearing if rejected during probation.

6.2 REGULAR EMPLOYMENT

Regular Full-Time Employment: Employees who successfully complete their probationary period and who regularly work a minimum of 40 hours per week shall become full-time regular employees and shall be entitled to all the benefits provided herein.

Regular Part-Time Employment: Employees who regularly work less than 40 hours a week but 20 hours or more a week, who successfully complete their probationary period shall become part-time regular employees and shall be entitled to regular status equal to the hours worked when compared to 40 hours per week. Benefits provided for part-time employment shall be pro-rated based upon the comparison of hours worked to 40 hours per week.

Performance Reports shall be prepared for every employee during his/her probationary period pursuant to these Rules. The Performance Report for the final three months of probation for any employee shall be prepared in time to be forwarded by the department manager or appointing power to the Personnel Officer or designee to be received at least fifteen (15) days prior to the last day of the probationary period. This Performance "Report shall be accompanied by the Personnel

Action Form on which employee shall either be recommended for rejection prior to the end of the probationary period or recommended for approval as a regular employee commencing at the end of the probationary period.

6.3 HOURLY EMPLOYEES

Employees who work less than 20 hours per week and not more than 1000 hours in a fiscal year. Employees working less than 20 hours per week do not acquire regular status and are not entitled to benefits. Such employees serve at the pleasure of the Department Head and may be removed at any time without cause, notice or any right of appeal.

6.4 TEMPORARY EMPLOYMENT

Without following the rules regarding recruitment and selection, the Town may hire employees on a temporary basis, usually for up to 180 days, or for completion of a specific task or project. The period of temporary appointment may be extended by the Town for up to an additional 180 days. Temporary employees serve at the pleasure of the Department Head and may be removed at any time without cause, notice or any right of appeal. Temporary employees are not eligible for benefits.

SECTION 7

LEAVES OF ABSENCE

7.1 REQUIREMENTS OF ATTENDANCE

Any unauthorized absence may be cause for disciplinary action, up to and including discharge from employment. Authorized absence is defined as: Permission to be absent from duty for a specified purpose, with the right to return before or upon the expiration of the leave period.

Employees shall be in attendance at their work in accordance with the Rules regarding hours of work, leave and related provisions. Department Heads shall be responsible for maintaining employee attendance records which shall be transmitted to Payroll on standardized forms and at times specified by the Finance Manager or designee.

Except in extraordinary circumstances, an employee who is unable to report for work at the beginning of his or her work day or shift as established by the department head, shall notify his/her supervisor at the commencement of such shift. Failure to provide such notification shall result in the unreported period of absence for the first day being considered as leave without pay. An employee who is absent without notification may be subject to separation or disciplinary action up to and including discharge from employment.

7.2 SICK LEAVE

Sick leave is defined as absence because of illness, injury, exposure to contagious disease, care of a sick member of the employee's immediate family, or doctor and dental appointments when it is not feasible to schedule them on the employee's own time.

Immediate family shall mean and include the following persons and no others:

- (1) A husband or wife of the employee.
- (2) A child, step-child or adopted child of the employee.
- (3) A father or father-in-law or a mother or mother-in-law of the employee.

The accrual and use of sick leave shall be governed by the following provisions:

- (1) Employees shall accrue sick leave at the rate of eight (8) hours for each full month of service.
- (2) Sick leave shall not be considered as a privilege which an employee may use at his/her discretion, but shall be allowed only in case of necessity and actual sickness or disability of the employee or within the immediate family.
- (3) In order to be entitled to sick leave, an employee who is unable to report for work shall so notify his/her supervisor commencement of his/her shift. Failure to do so without good reason shall result in that day of absence being treated as leave of absence without pay. In addition, if the employee is absent on sick leave for more than one (1) day, the employee shall keep the supervisor informed as to the date the employee expects to return to work.

7.3 HOLIDAYS

Each employee shall be entitled to the following holidays with pay and no others:

- | | |
|--------------------------|-----------------------------|
| * New Year's Day | January 1 |
| * Martin Luther King Day | Third Monday in January |
| * President's Day | Third Monday in February |
| * Memorial Day | Last Monday in May |
| * Independence Day | July 4 |
| * Labor Day | First Monday in September |
| * Thanksgiving Day | Fourth Thursday in November |

- * Day after Thanksgiving Fourth Friday in November
- * Christmas Day December 25
- * Four (4) hours each on December 24 afternoon and 31 afternoon

* Every day declared a holiday by the President or Governor, if the Mayor also proclaims the day as a holiday.

If any such holiday falls upon a Sunday, the Monday following shall be treated as the holiday. If the holiday falls upon a Saturday, the Friday preceding shall be treated as the holiday.

No employee shall be entitled to compensation for any holiday herein specified unless such an employee shall have been employed by the Town on the day preceding and the day following such holiday. For the purposes of this paragraph, an employee who is absent on authorized vacation with pay or on accrued sick leave shall be deemed to be employed at such time.

7.4 VACATION

The purpose of annual vacation leave is to enable each eligible employee annually to return to his/her work mentally and physically refreshed. All employees shall be entitled to take annual vacation according to the employee's association to which the employee's classification is assigned.

The department head and employee shall schedule the times at which vacation leave is to be taken with due consideration given to the employee's desires and department's operational needs. Use of vacation leave in less than one-day increments shall be discouraged.

Use of vacation leave earned in a given year may be deferred to the following year.

However, at no time may an employee have a total balance of vacation days in excess of that which is stated in the Memorandum of Understanding pertaining to each employee. When the employee reaches the maximum accrual he/she shall cease earning vacation.

Where a paid holiday falls during the period of an employee's vacation leave, that day shall not be charged against the employee's vacation accrual. Where an illness or injury necessitates hospitalization of an employee during his/her vacation leave, the days of hospitalization shall not be charged against the employee's vacation accrual.

7.5 JURY DUTY/COURT APPEARANCES

Every employee who is called or required to serve as a juror shall be entitled to absent himself/herself from his/her duties during the period of such service. Under such circumstances, the employee shall be paid the difference between his/her full salary and any payment received by him/her except travel pay, for such duty.

An employee who is subpoenaed to appear in court in an official capacity shall be allowed to do so without loss of compensation. An employee subpoenaed to appear in court in a matter unrelated to his/her official capacity as an employee shall be permitted time off without pay, or if the employee chooses, to use accrued vacation for this purpose.

7.6 BEREAVEMENT LEAVE

Employees shall be allowed paid time off in the event of a death in the immediate family, as that term is defined in Rule VII, Section 1, of these Regulations. Up to five (5) days of such leave shall be allowed for the death of each member of the immediate family. Immediate family is defined as parent, spouse, child, dependent, sibling, and grandparent by blood or marriage.

Use of this leave shall not be charged against the employee's accrued sick leave or vacation

account.

7.7 MILITARY LEAVE

Military leave shall be granted in accordance with the provisions of State and federal law. An employee requesting leave for this purpose shall provide the department head with a copy of the military orders specifying the days, site and purpose of the activity or mission. While providing the employee the required leave to comply with the orders, the department head may determine when the leave is to be taken and may modify the employee's work schedule to accommodate the request for leave.

7.8 FAMILY AND MEDICAL LEAVE POLICY

1. STATEMENT OF POLICY

In accordance with the Family and Medical Leave Act, effective August 5, 1993 and the Moore-Brown-Roberti Family Rights Act effective October 5, 1993 and this policy, the Town of Los Gatos will grant job protected unpaid family and medical leave to eligible male or female employees for up to 12 work weeks per 12-month period for any one or more of the following reasons:

- A. The birth of a child and in order to care for such child or the placement of a child with the employee for adoption or foster care (leave for this reason must be taken within the 12-month period following the child's birth or placement with the employee); or
- B. In order to care for an immediate family member (spouse, child, or parent) of the employee if such immediate family member has a serious health condition; or
- C. The employee's own serious health condition that makes the employee unable to perform the functions of his/her position.

2. DEFINITIONS

- A. "Child" - means a person either under 18 years of age, or an adult dependent child. An employee's "child" is a biological, adopted, foster, step-child, or legal ward or to whom the employee stands in loco parentis.
- B. "12-Month Period" - means a rolling 12-month period measured backward from the date leave is taken and continuous with each additional leave day taken.
- C. "Serious Health Condition" - means an illness, injury, impairment, or a physical or mental condition that involves:
 - 1. Inpatient care; or
 - 2. Any period of incapacity requiring absence from work for more than three calendar days AND that involves continuing treatment by a health care provider; or
 - 3. Continuing treatment by a health care provider for a chronic or long-term health condition that is incurable or which, if left untreated, would likely result in a period of incapacity of more than three calendar days; or
 - 4. Prenatal care by a health care provider.

D. "Spouse" - does not include unmarried domestic partners. If both spouses work for the Town their total leave in any 12-month period may be limited to an aggregate of 12 weeks if the leave is taken for either the birth or placement for adoption or foster care of a child or to care for a sick parent. This limitation does not apply to leave taken by either spouse to care for the other who is seriously ill and unable to work, to care for a child with a serious health condition, or for his/her own serious health condition.

E. "Continuing Treatment" - means:

1. Two or more visits to a health care provider; or
2. Two or more treatments by a health care practitioner on referral from, or under the direction of, a health care provider; or
3. A single visit to a health care provider that results in a regimen of continuing treatment; or
4. In the case of a serious, long-term or chronic condition or disability that cannot be cured, being under the continuing supervision of, but not necessarily being actively treated by, a health care provider.

3. COVERAGE AND ELIGIBILITY

A. To be eligible for family/medical leave an employee must:

1. Have worked for the Town of Los Gatos for at least 12 months; and
2. Have worked at least 1250 hours for the Town during the 12 month period immediately preceding the commencement of the leave.

4. INTERMITTENT OR REDUCED LEAVE

A. An employee may take leave intermittently (a few days or a few hours at a time) or on a reduced leave schedule to care for an immediate family member with a serious health condition or because of a serious health condition of the employee when "medically necessary."

1. "Medically necessary" means there must be a medical need for the leave and that the leave can best be accomplished through an intermittent or reduced leave schedule.
2. The employee may be required to transfer temporarily to a position with equivalent pay and benefits that better accommodates recurring periods of leave when the leave is planned based on scheduled medical treatment.

B. An employee may take leave intermittently or on a reduced leave schedule for birth or placement for adoption or foster care of a child only with the Town Manager's consent.

C. For part-time employees and those who work variable hours, the family and medical leave entitlement is calculated on a pro rata basis. A weekly average of the hours worked over the 12 weeks prior to the beginning of the leave will be used for calculating the employee's normal workweek.

5. SUBSTITUTION OF PAID VACATION TIME

- A. If an employee requests leave for any reason permitted under this policy, he/she must exhaust all accrued leaves (except sick leave) in connection with the leave. The exhaustion of accrued leave will run concurrently with the leave under this policy.
- B. If an employee requests leave for his/her own serious health condition, in addition to exhausting accrued leave, the employee must also exhaust accrued sick leave.

6. NOTICE REQUIREMENT

- A. Although the Town recognizes that emergencies arise which may require employees to request immediate leave, employees are required to give as much notice as possible of their need for leave. If leave is foreseeable, at least 30 days notice is required. In addition, if an employee knows that he/she will need leave in the future, but does not know the exact date(s) (e.g. for the birth of a child or to take care of a newborn), the employee shall inform his/her supervisor as soon as possible that such leave will be needed.
- B. If the Town determines that an employee's notice is inadequate or the employee knew about the leave in advance of the request, the Town may delay the granting of the leave until it can, in its discretion, adequately cover the position with a substitute.

7. MEDICAL CERTIFICATION

- A. For leaves taken because of the employee's or a covered family member's serious health condition, the employee must submit a completed "Physician or Practitioner Certification" form (see attached) and return the certification to the Personnel Office. Medical certification must be provided by the employee within 15 days after leave is requested, or as soon as is reasonably possible.
- B. The Town may require a second or third opinion (at Town's expense), periodic reports on the employee's status and intent to return to work, and a fitness-for-duty report to return to work.
- C. All documentation related to the employee's or family member's medical condition will be held in confidence and maintained in the employee's medical records file separate from the regular personnel file.

8. EFFECT ON BENEFITS

- A. Leave under this policy is unpaid. While on leave, employees will continue to be covered by the Town's group health insurance to the same extent that coverage is provided while the employee is on the job. However, employees will not continue to be covered under the Town's non-health plans which are not provided pursuant to the Town's group health plans.
- B. Employees may make the appropriate contributions for continued coverage under the preceding plans either through payroll deduction or by direct payment to the Finance Office. The employee will be advised in writing at the beginning of the leave period as to the amount and method. Employee contribution amounts are subject to any change in rates that occurs while the employee is on leave.
- C. If an employee's contribution is more than 30 days late, the Town may terminate

the employee's insurance coverage.

- D. Employees may re-enroll in those insurance plans that they have chosen to discontinue while on unpaid leave on the first of the month following their return.
- E. If the employee fails to return from unpaid family/medical leave for reasons other than (1) the continuation of a serious health condition of the employee or a covered family member or (2) circumstances beyond the employee's control (certification required within 30 days of failure to return for either reason), the Town may seek reimbursement from the employee for the portion of the premiums paid by the Town on behalf of that employee (also known as the employer contribution) during the period of leave.
- F. An employee is not entitled to seniority or benefit accrual during periods of unpaid leave but will not lose anything accrued prior to leave.

9. JOB PROTECTION

- A. If the employee returns to work before or at the end of 12 weeks following a family/medical leave, he/she will be reinstated to his/her former position or an equivalent position with equivalent pay, benefits, status and authority.
- B. The employee's restoration rights are the same as they would have been had the employee not been on leave. Thus, if the employee's position would have been eliminated or the employee would have been terminated but for the leave, the employee would not have the right to be reinstated upon return from leave.
- C. If the employee fails to return at the end of a family/medical leave, the employee will be reinstated to his/her same or similar position only if the position is available, in accordance with applicable laws, Personnel Rules and MOUs. If the employee's same or similar position is not available, the employee may be separated.

10. FAMILY/MEDICAL LEAVE FORMS TO BE SUBMITTED BY THE EMPLOYEE

Employees must fill out the following applicable forms in connection with leave under this policy.

- 1. Request for Family/Medical Leave Form
- 2. Form For Certification of Physician or Practitioner
- 3. Authorization for Payroll Deduction for Benefit Plan Coverage Continuation During a Family/Medical Leave of Absence
- 4. Fitness for Duty to Return From Leave

7.9 PREGNANCY DISABILITY LEAVE

A pregnant employee shall be entitled to a leave of absence without pay for up to four (4) months so long as the employee's attending physician certifies that she is physically unable to work due to pregnancy or a pregnancy-related condition. During said leave of absence without pay, the employee has the option of using accumulated sick leave, compensatory time and/or vacation credits. Insurance premiums will be paid by the Town to the extent that they were paid when the employee was at work only while she is using accrued leave time. She will be responsible to pay

for her own insurance premiums while she is on unpaid leave. Information regarding such payments will be available in the Personnel Department.

Upon expiration of the approved leave, the employee shall be reinstated to her former position or to a comparable one if the former position is abolished during the period of leave and the employee would otherwise not have been laid off. The comparable position is one having similar terms of pay, location, job content and promotional opportunities. Prior to the employee being reinstated, the department head may require a statement from the attending physician that the employee is physically capable of resuming the regular duties of her position.

Failure to return to work after the authorized four month leave period, causes the pregnant employee to have no reinstatement rights.

7.10 LEAVE WITHOUT PAY

Upon the request of the employee and the recommendation of the department head, a leave of absence without pay may be granted by the Town Manager to an employee. An employee shall not be entitled to a leave of absence as a matter of right but only upon good and sufficient reason.

Request for leave of absence without pay shall state specifically the reason for the request, the date when it is desired to begin the leave, and the probable date of return.

A leave of absence without pay may be granted for a period not to exceed one year.

Failure of the employee to return to his or her employment upon the termination of any authorized leave of absence shall constitute a separation from service of that employee subject to due process procedures for separation.

Nothing herein contained shall limit or prevent the granting of a leave of absence without pay for an indefinite period of time to any employee who is injured on the job or has a serious illness, even though the employee does not meet the one year of continuous service required specified above.

Leave of absence without pay shall not be construed as a break in service or employment, and rights accrued at the time the leave is granted shall be retained by the employee; however, vacation credits, sick leave credits, increases in salary, all other paid leaves, holidays and fringe benefits and other similar benefits shall not accrue to a person granted such leave during the period of absence. Nor shall the employer be required to maintain contributions toward group insurance or retirement coverage. During the period of such leaves, all service and leave credits shall be retained at the levels existing as of the effective date of the leave. The employee shall be reinstated to his or her former position or to a comparable one if the former position is abolished during the period of leave and the employee would otherwise not have been laid off.

7.11 ELIGIBILITY FOR BENEFITS

7.11.1 Temporary Employees

Employees holding a temporary appointment shall not be provided any benefits other than those required by state or federal law.

7.11.2 Part-Time Employees

Employees holding a part-time position shall accrue vacation, sick leave and holiday credits in the proportion that their average workweek bears to that of full-time employees. Employees working less than 20 hours per week shall not be provided any benefits other

than those required by state or federal law.

7.12 SUPERVISORY DISCRETION

Supervisors shall have the discretion to place employees on sick leave when in the judgment of the supervisor, the presence of the employee at work would endanger the health and welfare of other employees or where the illness or injury of the employee interferes with the performance of such employee's duties. The Town will make every effort to provide reasonable accommodation to an employee whenever possible.

7.13 EXHAUSTION OF LEAVES

When all available leaves of absence, paid or unpaid, have been exhausted and if the employee is not medically able to reassume the duties of his or her position, the employee shall be placed on a re-employment list for a period of twelve (12) months. During this period, if such position is vacant, the employee shall be offered employment in the position. An employee who has been placed on such a re-employment list who fails to accept such an offer and who has been medically released for return to duty shall be separated and removed from the reemployment list. If the employee is not offered employment during the twelve (12) month period, he/she shall be separated at the end of the period.

SECTION 8

COMPENSATION AND PAYROLL PRACTICES

8.1 PREPARATION OF PLAN

The Personnel Officer or designee shall be responsible for the preparation of a pay plan covering all positions in the competitive service and showing the minimum and maximum rates of pay and rates in between. In arriving at such salary ranges, consideration shall be given to prevailing rates of pay for comparable work; to current costs of living; to the Town's financial condition and policies; and to current prevailing marketplace conditions.

8.2 ADOPTION OF PLAN

The pay plan shall be adopted and may be amended from time to time by action of the Town Council. At the time of consideration, any interested party may appear and be heard. Amendments and revisions of the plan may be suggested by an interested party and shall be submitted to the Town Council through the Town Manager.

Notice of Town Council consideration of the proposed pay plan, amendments, or revisions shall be posted in the manner prescribed by these Rules. No position shall be assigned a salary not in conformance with the salary schedule unless the salary schedule for the class is amended in the same manner as herein provided.

8.3 AUTHORIZATION OF OVERTIME

As a matter of general policy, the Town is opposed to the working of overtime by hourly employees and will provide adequate staff whenever possible to handle normal operations. However, non-exempt employees may be required to work overtime at the discretion of the supervisor. The supervisor shall be empowered to authorize or require overtime in the following types of situations:

- * To take care of operating emergencies;
- * To handle peak workloads or to finish incomplete work when it is not possible or practical to employ additional personnel;
- * To meet temporary conditions where the Town is unable to secure qualified personnel to fill authorized positions; and
- * On other occasions as deemed necessary in the judgment of the responsible supervisor.

8.3.1 Restriction Of Overtime

Non-exempt employees shall not be allowed to accrue overtime to perform work unless such work has been authorized by his/her supervisor.

8.4 OVERTIME ASSIGNMENTS

Insofar as is feasible, allocation of overtime shall be equally distributed among employees of affected classifications.

8.5 OVERTIME PAY

Non-exempt employees will be compensated for overtime worked at the rate of one and one-half (1 1/2) times their regular hourly rate.

Overtime shall be compensated with compensating time off at the hourly rate of time and one-half. The time when compensating time off may be taken shall be at the discretion of the department

head.

8.6 DEFINITION OF EXEMPT EMPLOYEE

The Town has determined that various executive, administrative and professional employees are exempt from the overtime requirements of the Fair Labor Standards Act (FLSA). Employees in the following job classifications are considered exempt:

Town Manager	Town Attorney
Assistant Town Manager	All Department Heads
All Management	Planner

8.7 MISCELLANEOUS PROVISIONS

8.7.1 Out-of-Classification Pay

Employees who by written assignment perform the essential functions of a position with a higher salary classification than in which they are regularly employed shall receive the compensation specified for the position to which assigned; said increased compensation to be at a step within the higher classification that will accord the employee an increase of at least five percent over his/her current regular compensation

8.7.2 Anniversary Date

Each employee shall have a salary anniversary date of the date of his/her appointment, employment, reinstatement, or re-employment.

8.7.3 Salary Step Advancement

8.7.3.1 Initial Step Advancement

New employees or those assigned to new classifications shall be assigned to that step within the range for the classification which the department head, with the approval of the Town Manager, finds to be most appropriate according to the experience, past performance, educational accomplishments and other qualifications of the employee concerned, provided adequate budgetary appropriations.

Advancement from step to step within a range shall occur at intervals of one (1) year in length effective on each anniversary date, except as otherwise provided by the Town Council pursuant to negotiations conducted under the provisions of Resolution No. 1974-41. Each employee shall be entitled to an annual review for purposes of step advancement prior to his/her anniversary date. Such advancement shall be authorized only if the department manager finds that the overall performance of the employee performance appraisal of satisfactory or higher. In the event an employee is denied a step increase on the basis of unsatisfactory performance, the department manager may at any time during the ensuing year approve the increase effective on the date of approval, if his/her performance improves to a satisfactory level, subject to approval of the Town Manager. Such a delayed step advancement shall not deprive the employee of the right to review for subsequent advance on his/her following anniversary date. The failure of an employee to receive a step increase pursuant to this paragraph shall not be deemed "disciplinary action" nor shall it create a right of appeal pursuant to

Chapter 2 of the Town Code.

8.7.4 Work Week

The basic work week for full-time employees shall be forty (40) hours, rendered in units of eight (8) hours per day in a week which runs Sunday through Saturday. The Town may assign a different work week when it is deemed to be beneficial to the Town. The work day will be determined at the Department Head's discretion

8.7.5 Meal Period

A thirty (30) minute non-compensated meal period shall be provided all employees who work eight (8) hours in one day.

8.7.6 Rest Period

A fifteen (15) minute compensated rest period shall be provided all employees for each four (4) hour period of service. The rest period shall be taken at a time designated by the employee's supervisor.

SECTION 9

PERFORMANCE EVALUATIONS

9.1 PERFORMANCE EVALUATIONS

The Personnel Officer or designee shall provide a method of reporting of individual employee performance which relates to quantity and quality of work, ability, reliability, discipline, attendance, and other factors. The Personnel Officer or designee shall prescribe forms for such performance evaluations and shall be responsible for assuring that such evaluations are adequate to provide information to both the employee and the Town for the purposes set forth in this section. An employee must have a satisfactory performance evaluation in order to be eligible for a merit salary increase or promotion. Deficiencies in performance by an employee may result in a decrease in salary, suspension, demotion, or dismissal.

9.2 PERFORMANCE REPORTS

Department Heads shall periodically rate the performance of each employee; provided, however, that the department heads may delegate the responsibility for rating the performance of specified employees in their departments to that employee's supervisor. Interim reports may be completed as necessary when changes in work performance occur. Each employee shall be informed in such reports of his or her strengths and weaknesses. Each performance report shall be discussed with the employee. The employee may sign the report to acknowledge its contents. Such signature shall not necessarily mean he or she fully endorses the contents of said report. The performance reports shall not be subject to any grievance and/or appeal procedure.

SECTION 10

TRANSFER, RESIGNATION, LAYOFF, REINSTATEMENT, REEMPLOYMENT

10.1 VOLUNTARY TRANSFER

A regular employee may initiate a request to transfer to another position in the same or lower classification for which the employee is qualified in the opinion of the Personnel Officer or designee by submitting a "Request to Transfer" to the Personnel Department. The "Request" will be kept on file for one year from the date of receipt. With the approval of the Department Head for whom the employee now works and the Department Head for whom the employee wishes to work, the employee will be transferred to the new position when the first vacancy becomes available.

If more than one qualified employee applies for a transfer to the same position, the selection shall be at the sole discretion of the Appointing Authority.

10.1.1 Probationary Employees

Probationary employees, employees with less than satisfactory current evaluations and employees who have been disciplined within the last six months shall not be eligible to be considered for transfer.

10.2 INVOLUNTARY TRANSFER

No person shall be transferred to a position for which he/she does not possess the minimum qualifications; provided that department managers and/or appointing powers may, on a temporary basis, assign employees to duties other than those prescribed in their classification specification or job description, where the need therefor results from injury or illness, vacation, or other leaves of absence, or where workloads temporarily create the need therefor and the best interest of the Town would be served. Upon notice to the Personnel Officer, an employee may be transferred by the appointing power at any time from one position to another position in a comparable classification. For transfer purposes, a comparable classification is one with the same maximum salary, requiring substantially the same basic qualifications.

If the transfer involves a change of an employee from one department to another, both department managers and the Town Manager must consent thereto unless the "Town Manager orders the transfer pursuant to Section 2.30.955 of the Town Code. Transfer shall not be used to effectuate a promotion, demotion, advancement, or reduction, each of which may be accomplished only as provided in the Town Code, pay plan and these Rules.

Whenever possible, an employee being transferred from one position to another position in the same class or a comparable class at the same salary level, shall receive five (5) working days notice. If the transfer requires the employee to move equipment from one location to another, the employee shall receive seven (7) working days notice.

10.2.1 Right of Appeal

If an employee disputes the involuntary transfer, the employee may, within two (2) days of the Notice of Transfer, file a written appeal with the Personnel Director or designee setting forth the reasons therefore. Any appeal filed must be based upon the alleged violation of the requirements for transfer and/or procedure followed. The Personnel Officer's or designee's decision shall be final.

10.3 RESIGNATION

Resignation occurs when an employee tenders a written notice of their intention to resign. A resignation becomes final when accepted by the appointing authority. Once a resignation has been accepted by the appointing authority, it cannot be withdrawn without the approval of the appointing authority.

10.4 JOB ABANDONMENT

An employee is deemed to have resigned if the employee is absent for three (3) consecutive work days without prior authorization and without notification during that period of the reason for absence. On the third working day of unauthorized absence, the supervisor shall send a telegram or overnight letter to the employee's last known address informing the employee that if the employee fails to report to work within two (2) work days, or receive authorization for such absence, the employee will be deemed to have resigned. Employees separated from employment for job abandonment may be reinstated upon presentation of justification for circumstances that are beyond the control of the employee.

10.5 LAYOFF POLICY AND PROCEDURE

10.5.1 Statement of Intent

Whenever, in the judgement of the Town Council, it becomes necessary to abolish any position or employment, the employee holding such position or employment may be laid off or demoted without disciplinary action and without the right of appeal.

10.5.2 Notification

Employees to be laid off shall be given a minimum of thirty (30) calendar days prior notice.

10.5.3 Order of Layoff

Subject to any layoff provisions contained in individual memoranda of understanding, employees shall be laid off in the inverse order of their seniority in their classification. A lay-off out of the inverse order of seniority may be made if, in the Town's judgment, retention of special job skills are required or in the Town's judgement the less senior employee has a higher level of performance as exhibited by his/her last performance evaluation. Within each class employees shall be laid off in the following order, unless special skills are required or the leave of performance dictates otherwise: temporary, hourly, probationary, regular.

In cases where there are two or more employees in the classification from which the lay-off is to be made who have the same seniority date, such employees shall be laid off on the basis of the last evaluation rating in the class, providing such rating has been on file at least thirty (30) days and no more than twelve (12) months prior to lay-off as follows:

First, all employees having ratings of "improvement needed;" Second, all employees having ratings of "competent;" Third, all employees having ratings of "outstanding."

10.5.4 Re-employment of Rights for Laid-off Employees

Regular employees, who have received a satisfactory or better evaluation for the 12 months prior to lay-off, have completed their probationary period and who have been laid-off shall be automatically placed on a re-employment list for two (2) years for the classification from which they were laid-off.

10.6 REINSTATEMENT

A regular employee who has resigned or has otherwise been separated while in good standing, may be considered for re-instatement, upon recommendation of the Department Head and approval of the Town Manager, to his/her former position, if vacant, or to a vacant position in the same or a comparable classification for a period of two (2) years after resignation or separation. Upon reinstatement, the employee shall be considered as though he/she had received an original appointment, unless other conditions are made a part of the reinstatement by the appointing authority. The employee will serve a new probationary period.

SECTION 11

GRIEVANCE PROCEDURE

Subject to grievance procedure provisions contained in individual memoranda of understanding.

SECTION 12

DISCIPLINARY ACTIONS

12.1 SUSPENSION

Suspension shall be a temporary separation from Town service without pay for disciplinary purposes. The Department Head, with notice to the Personnel Officer, may suspend an employee without pay for disciplinary purposes.

12.2 REDUCTION IN PAY

Reduction in pay shall be a decrease in salary to a lower step within the salary range for disciplinary purposes.

Reduction in pay is a decrease in compensation paid to an employee for a fixed period of time for disciplinary purposes.

The Department Head, with notice to the Personnel Officer, may impose a reduction in pay to an employee for disciplinary purposes.

12.3 DEMOTION

The Department Head, with notice to the Personnel Officer, may demote an employee whose performance of his/her required duties is below standard, or for other disciplinary purposes. Demotion may be made to vacant position, if approved by the Personnel Officer, in lieu of layoff. No employee shall be demoted to a position for which he/she does not possess the minimum qualifications. Written notice of the demotion shall be given by the Department Head to the employee before or within three (3) days after the effective date of the demotion, and a copy filed with the Personnel Officer within the same period.

12.4 TERMINATION

The Department Head, with notice to the Personnel Officer, may terminate an employee whose performance of his/her required duties is below standard, or for other disciplinary purposes. Written notice of the termination shall be given by the Department Head to the employee before ten (10) days of the effective date of the termination, and a copy filed with the Personnel Officer within the same period.

12.5 GROUND FOR DISCIPLINE

The Town's standards of conduct are established for the guidance of all employees. These standards are only a partial list of unacceptable behaviors and conduct and are not the exclusive grounds for discipline.

1. Fraud in securing employment or making a false statement on an application for employment.
2. Incompetency, i.e., inability to comply with the minimum standard of an employee's position for a significant period of time.
3. Inefficiency or inexcusable neglect of duty, i.e., failure to perform duties required of an employee within his/her position.
4. Willful disobedience and insubordination, a willful failure to submit to duly appointed and

acting supervision or to conform to duly established orders or directions of persons in a supervisory position.

5. Dishonesty, involving employment.
6. Being under the influence of alcohol or dangerous drugs or narcotics while on duty.
7. Excessive absenteeism.
8. Inexcusable absence without leave.
9. Abuse of sick leave, i.e., taking sick leave without a doctor's certificate when one is required, or misuse of sick leave.
10. The conviction of either a misdemeanor or a felony involving moral turpitude shall constitute grounds for dismissal of any employee. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The Personnel Officer may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline, or the determination if such conviction is an offense involving moral turpitude. A plea or verdict of guilty, or a conviction showing a plea of nolo contendere made to charge a felony or any offense involving moral turpitude, is deemed to be a conviction within the meaning of this Section. The Personnel Officer may suspend or dismiss said employee when the time for appeal has elapsed or the judgment of the conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code of the State of California allowing such person to withdraw his plea of guilty and enter a plea of not guilty, or setting aside a verdict of guilty, or dismissing the accusation or indictment.
11. Discourteous treatment of the public or other employees.
12. Improper or unauthorized use of agency property.
13. Refusal to subscribe to any oath or affirmation which is required by law in connection with agency employment.
14. Any willful act of conduct undertaken in bad faith, either during or outside of duty hours which is of such a nature that it causes discredit to the agency, the employee's department or division.
15. Inattention to duty, tardiness, indolence, carelessness or negligence in the care and handling of agency property.
16. Violation of the rules and regulations published by the employee's department.
17. Outside employment not specifically authorized by the appointing authority in accordance with Town procedures.
18. Acceptance from any source of a reward, gift, or other form of remuneration in addition to regular compensation to an employee for the performance of his or her official duties in accordance with policy on Gifts, "Gratuities Or Rewards".
19. The refusal of any officer or employee of the agency to testify under oath before any Grand Jury having jurisdiction over any then pending cause of inquiry in which the investigation of government bribery or misconduct in agency office is involved shall constitute of itself sufficient ground for the immediate discharge of such officer or employee.

20. Willful violation of any of the provisions of the ordinances, resolutions or any rules, regulations or policies which may be prescribed by the agency.
21. Improper political activity. Example: Those campaigning for or espousing the election or non-election of any candidate in national, state, county or municipal elections while on duty and/or during working hours or in an agency uniform on or off duty; or the dissemination of political material of any kind while on duty and/or during working hours or in uniform.

12.6 PROCEDURES FOR TAKING DISCIPLINARY ACTION

Disciplinary action shall be taken in compliance with the following procedures:

12.6.1 Notice of Intent

Whenever the Department Head intends to suspend an employee, demote the employee, reduce the employee in pay or dismiss the employee, the Department Head shall give the employee a written notice of discipline which sets forth the following:

- a. The disciplinary action intended;
- b. The specific charges upon which the action is based;
- c. A factual summary of the grounds upon which the charges are based;
- d. A copy of all written materials, reports, or documents upon which the discipline is based;
- e. Notice of the employee's right to respond to the charges either orally or in writing to the appropriate authority;
- f. The date, time and person before whom the employee may respond in no less than three (3) working days;
- g. Notice that failure to respond at the time specified shall constitute a waiver of the right to respond prior to final discipline being imposed.

12.6.2 Response by Employee

The employee shall have the right to respond to the Department Head orally or in writing. The employee shall have a right to be represented at any meeting set by the appropriate authority to hear the employee's response. Such meeting will only be permitted once and continued for no more than 2 days. In cases of suspensions for three (3) days or more, demotions, reductions in pay or dismissal the employee's response will be considered before final action is taken.

12.6.3 Final Notice

After the response or the expiration of the employee's time to respond to the notice of intent, the appropriate authority shall: (1) dismiss the notice of intent and take no disciplinary action against the employee or (2) modify the intended disciplinary action or (3) prepare and serve upon the employee a final notice of disciplinary action. The final notice of disciplinary action shall include the following:

- a. The disciplinary action taken;

- b. The effect of the disciplinary action taken;
- c. Specific charges upon which the action is based;
- d. A factual summary of the grounds upon which the charges are based;
- e. The written materials, reports and documents upon which the disciplinary action is based;
- f. The employee's right to appeal if any.

12.6.4 Termination

The Department Head, with permission from the Personnel Officer, may terminate an employee immediately if it is found that the employee is guilty of gross misconduct.

SECTION 13

APPEALS HEARING PROCEDURE

The appeal procedure described herein shall apply only to cases of disciplinary suspensions, reductions-in pay, demotions and dismissals affecting regular part-time and full-time classified service employees.

1. Following a review of the proposed disciplinary action, the Personnel Officer, shall serve on the employee affected, by registered mail or personal delivery, a statement signed by the Department Head indicating the Department Head's decision. This statement shall clearly inform the employee of the grounds for the decision and the acts or omissions which support the grounds. The statement shall further notify the employee that he or she has the right, within five (5) working days after receipt of this notice, to request a hearing on the charges by filing the request with the Personnel Officer.
2. If, within the five-day (5) appeal period, the employee involved does not file said appeal, unless good cause for the failure is shown, the action of the Department Head shall be considered conclusive and shall take effect as prescribed.
3. If, within the five-day (5) appeal period, the employee involved files such notice of appeal by giving written notice of appeal to the Personnel Officer, the Personnel Officer shall submit the appeal to the Town Manager.
4. A time for an appeal hearing shall be established which shall not be less than twenty (20) working days, nor more than sixty (60) working days, from the date of the filing of the appeal. All interested parties shall be notified in writing of the date, time, and place of the hearing at least ten (10) working days prior to the hearing.
5. All hearings shall be private; provided, however, that the appellant may request a hearing open to the public. Any request for an open hearing shall be submitted five (5) days prior to the hearing date or the hearing will be closed.
6. Five (5) working days prior to the date set for the hearing each party shall serve upon the other party and submit to the Town Manager a list of all witnesses and all exhibits to the Personnel Officer.

The employer's exhibits shall be designated by number. The employee or association exhibits shall be designated by alphabetical letter. Neither party will be permitted to call during the hearing a witness not identified pursuant to this section nor use any exhibit not provided pursuant to this section unless that party can show that they could not reasonably have anticipated the prior need for such witness or exhibit.

7. The hearing will not be conducted in accordance with technical rules relating to evidence and witnesses but hearings shall be conducted in a manner most conducive to determination of the truth. Any relevant evidence may be admitted if it is the type of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rules which might make improper the admission of such evidence over objection in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. The rules dealing with privileges shall be effective to the same extent that they are now or hereafter may be recognized in civil actions, and irrelevant and unduly repetitious evidence may be excluded. Decisions made by the Town Manager shall not be invalidated by any informality in the proceedings.
8. The Town Manager shall rule on the admission or exclusion of evidence.

9. Each party shall have these rights: To be represented by legal counsel or other person of his or her choice; to call and examine witnesses; to introduce evidence; to cross-examine opposing witnesses on any matter relevant to the issues; to impeach any witness regardless of which party first called him or her to testify; and to rebut the evidence against him/her. If the employee does not testify in his or her own behalf, he/she may be called and examined as if under cross-examination.
10. Oral evidence shall be taken only on oath or affirmation.
11. The hearing shall proceed in the following order, unless the Town Manager for special reason, otherwise directs:
 - a. The party imposing discipline shall be permitted to make an opening statement.
 - b. The appealing party shall be permitted to make an opening statement.
 - c. The party imposing disciplinary action shall produce the evidence on his or her part.
 - d. The party appealing from such disciplinary action may then open his or her defense and offer his or her evidence in support thereof.
 - e. The parties may then, in order, respectively offer rebutting evidence only, unless the Town Manager for good reason, permits them to offer evidence upon their original case.
 - f. Arguments shall be permitted in the discretion of the Town Manager. The party with the burden of proof shall have the right to close the hearing by making the last argument.
12. The Town Manager shall determine relevancy, weight, and credibility of testimony and evidence, and shall base its findings on the preponderance of evidence.
13. During the examination of a witness, all other witnesses, except the parties, shall be excluded from the hearing upon motion of either party.
14. No still photographs, moving pictures, or television pictures shall be taken in the hearing chamber during a hearing.
15. The Town Manager, prior to or during a hearing, may grant a continuance for any reason he/she believes to be important to his/her reaching a fair and proper decision.
16. The Town Manager shall render his/her findings and decision as soon after the conclusion of the hearing as possible, and in no event, later than ten (10) working days after conducting the hearing unless otherwise stipulated by the parties. The Town Manager's decision shall set forth the recommendations as to each of the charges and the reasons therefore.
17. The Town Manager may recommend the sustaining or rejecting of any or all of the charges filed against the employee. The Town Manager may recommend sustaining, rejecting, or modifying the disciplinary action invoked against the employee.
18. The decision of the Town Manager is final unless appealed to the Personnel Board. The proposed decision shall be filed with the charged employee and the Department Head, and shall set forth the recommended effective date the employee is to be reinstated, which may be any time on or after the date the disciplinary action went into effect.
19. Either the appealing party or the Department Head may file a written appeal to the proposed decision, findings, and conclusions of the Town Manager within ten (10) working days of the Town

Manager's decision.

20. The party desiring to contest the decision of the Town Manager may request a transcript for review by the Personnel Board within ten (10) working days of the Town Manager's decision. If the appealing party requests a transcript, that party shall pay the cost of the transcript.
21. Within ten (10) working days of the filing of the appeal, the Personnel Board shall review the decision of the Town Manager, the appeal filed and the record. The Personnel Board may ratify, modify or reverse the Town Manager's decision; the Personnel Board shall first obtain a transcript of the hearing. The decision of the Personnel Board shall be final.

SECTION 14

RECORDS AND REPORTS

14.1 PERSONNEL FILES

The Personnel Office shall maintain a personnel file for each employee in the service of the Town. Information contained in these files shall include class title, the department to which assigned, salary, changes in employment status, disciplinary actions and such other information as may be considered pertinent.

The personnel files will be monitored by the Personnel Department which shall have sole access to the keys. Department Heads and Supervisors may review an employee's file on a need to know basis only with approval of the Personnel Officer.

Separate files for sworn police personnel will be maintained in the Police Department. Those kept in the Personnel Office shall contain only Personnel Action Forms, information pertaining to recruitment and employee personal status information. Benefit, medical and timesheet records will be maintained separately in the Personnel Office.

An employee, or the employee's representative with written consent of the employee, shall be entitled to review his or her personnel file. If an employee wishes to view the personnel file, he or she will schedule an appointment with the Personnel Department staff a minimum of 24 hours in advance of viewing time. If an employee wishes to have a photocopy of any of the documents in the personnel file, he or she will pay the fee charged by the Town at that time for photocopies.

14.2 PERSONNEL ACTION FORMS

Notice of any new employment, transfer, promotion, demotion, suspension, reinstatement, resignation, retirement, salary change, reclassification, discharge, leave of absence or layoff shall be given to the Personnel Officer or designee on standard forms prescribed and provided by the Personnel Officer or designee. The Personnel Office or designee shall distribute approved copies of the Personnel Action Form to the appropriate departments for processing. A copy will be placed in the employee's Personnel file.

SECTION 15

MANAGEMENT RIGHTS

15.1 MANAGEMENT RIGHTS PROVISION

The Town retains all of its powers and authority to manage municipal services and the work force performing those services including but not limited to the following rights to:

Determine and modify the organization of Town government and its constituent work units.

Determine the nature, standards, levels and mode of delivery of services to be offered to the public.

Determine the methods, means, and numbers and kinds of personnel by which services are to be provided.

Determine whether goods or services shall be made or provided by the Town, or shall be purchased, or contracted for.

Direct employees, including scheduling and assigning work, work hours, and overtime.

Establish employee performance standards and to require compliance therewith.

Discharge, suspend, demote, reduce in pay, reprimand, withhold salary increases and benefits, or otherwise discipline employees subject to the requirements of applicable law.

Relieve employees from duty for any legitimate reason.

Implement rules, regulations, and directives consistent with law.

Take all necessary actions to protect the public and carry out its mission in emergencies.

SECTION 16

MISCELLANEOUS POLICIES

16.1 HARASSMENT POLICY AND COMPLAINT PROCEDURE

PURPOSE:

The purpose of this policy is to establish a strong commitment to prohibit harassment in employment, to define discrimination harassment and to set forth a procedure for investigating and resolving internal complaints of harassment.

LEGAL BASIS:

Section 703 of Title VII of the 1964 Civil Rights Act and Section 16-4.11 of the EEOC Guidelines on Sexual Harassment, an implementation of Section 703 of Title VII.

Fair Employment and Housing Act, Government Code Section 12940(i). Detailed regulations interpreting these sections of the statute are found in Sections 7287.6 and 7291 (f) (1) of the California Administrative Code, Title 2, Division 4.

POLICY:

Harassment of an applicant or employee by a supervisor, management employee, or co-worker on the basis of race, religion, color, national origin, ancestry, mental or physical disability, medical condition, marital status, sex, sexual orientation or age will not be tolerated. This Policy applies to all terms and conditions of employment including, but not limited to, hiring, placement, promotion, disciplinary action, layoff, recall, transfer, leave of absence, compensation and training.

Disciplinary action up to and including termination will be instituted for behavior described in the definition of harassment set forth below.

Any retaliation against a person for filing a harassment charge or making complaint is prohibited. Employees found to be retaliating against another employee shall be subject to disciplinary action up to and including termination.

DEFINITION:

Harassment includes, but is not limited to:

1. Verbal Harassment - For example, epithets, derogatory comments or slurs on the basis of race, religious creed, color, national origin, ancestry, handicap, mental or physical disability, medical condition, marital status, sex or age. This might include inappropriate sex oriented comments on appearance, including dress or physical features or race oriented stories.
2. Physical Harassment - For example, assault, impeding or blocking movement, with the physical interference with normal work or movement when directed at an individual on the basis of race, religious, color, national origin, ancestry, handicap, disability, medical condition, marital status, age or sex. This could be conduct in the form of pinching, grabbing, patting, propositioning, leering, or making explicit or implied job threats or promises in return for submission to physical acts.
3. Visual Forms of Harassment - For example, derogatory posters, notices, bulletins, cartoons, or drawings on the basis of race, religious creed, color, national origin, ancestry, handicap, disability, medical conditions, marital status, sex or age.

4. Sexual Favors - Unwelcome sexual advances, request for sexual favors, and other verbal or physical conduct of a sexual nature which is conditioned upon an employment benefit, unreasonable interference with an individuals work performance or creates an offensive work environment.

COMPLAINT PROCEDURE:

- (A) Filing: An employee or job applicant who believes he or she has been harassed may make a complaint orally or in writing with any of the following:

- (1) Immediate supervisor.
- (2) Any supervisor or manager within or outside of the department.
- (3) Department Head.
- (4) Personnel Officer/Affirmative Action Officer).

Any supervisor or department head who received a harassment complaint should notify the Personnel Officer/Affirmative Action Officer) immediately.

- (B) Upon notification of a harassment complaint, the Personnel Officer/Affirmative Action Officer) shall:

- (1) Authorize the investigation of the complaint and supervise and/or investigate the complaint. The investigation will include interviews with: 1) the complainant; 2) the accused harasser; and 3) any other persons the Personnel Officer (or Affirmative Action Officer) has reason to believe has relevant knowledge concerning the complaint. This may include victims of similar conduct;
- (2) Review factual information gathered through the investigation to determine whether the alleged conduct constitutes harassment; giving consideration to all factual information, the totality of the circumstances, including the nature of the verbal, physical, visual or sexual conduct and the context in which the alleged incidents occurred;
- (3) Report the results of the investigation and the determination as to whether harassment occurred to appropriate persons including to the complainant, the alleged harasser, the supervisor, and the department head. If discipline is imposed, the discipline will not be communicated to the complainant;
- (4) If harassment occurred, take and/or recommend to the appointing authority prompt and effective remedial action against the harasser. The action will be commensurate with the severity of the offense;
- (5) Take reasonable steps to protect the victim and other potential victims from further harassment;
- (6) Take reasonable steps to protect the victim from any retaliation as a result of communicating the complaint.

DISSEMINATION OF POLICY:

All employees, supervisors and managers shall be sent copies of this Policy.

16.2 OUTSIDE EMPLOYMENT

A Town employee shall not engage in any employment, enterprise, or outside activity which is in conflict with his/her duties, functions, responsibilities, or the department by which he is employed, nor shall he engage in any compensatory outside activity which will directly, or indirectly, contribute to the lessening of his effectiveness as a Town employee.

Authorization

- a. Any employee wishing to engage in an occupation or outside activity for compensation shall inform the department head of such desire, providing information as to the time required and the nature of such activity, and such other information as may be required; and the department head shall determine whether or not such activity is compatible with the employee's Town employment.
- b. If the department head determines such activity is compatible, he may authorize the activity in writing using the "Outside Employment Form" and shall send a copy to the Personnel Officer or designee and the Town Manager.
- c. Said authorization shall be valid only for the work and period prescribed therein.

Determination of Inconsistent Activities

In making a determination as to the consistency or inconsistency of outside activities, the department head shall consider, among other pertinent factors whether the activity:

- a. Involves the use for private gain or advantage of Town time, facilities, equipment, and supplies, or the badge, uniform, prestige, or influence of one's Town office or employment;
- b. Involves receipt or acceptance by employee of any money or other consideration from anyone other than the Town for the performance of an act which employee, if not performing such act, would be required or expected to render in the regular course of his Town employment or as a part of his duties as a Town employee;
- c. Involves the performance of an act in other than his capacity as a Town employee which act may later be subject directly or indirectly to the control, inspection, review, audit, or enforcement by such employee or the department by which he is employed;
- d. Involves conditions or factors which would probably directly or indirectly lessen the efficiency of the employee in his/her regular Town employment or conditions in which there is a substantial danger of injury or illness to the employee.

Revocation

Permits may be issued for such length of time as noted in the permit, and all permits are subject to revocation by the department head or the Town Manager.

Use of Town Equipment Prohibited

- a. No Town-owned equipment, autos, trucks, instruments, tools, supplies, machines, or any other item which is the property of the Town shall be used by an employee while said employee is engaged in any outside employment or activity for compensation, or otherwise, except upon prior written approval of the Town Manager.
- b. No employee shall allow any unauthorized person to rent, borrow, or use any of the items

mentioned in (a) above, except upon prior written approval of the Town Manager.

Violations and Penalties

- a. Any violation of the provisions herein contained respecting outside employment or activity and use of Town property shall constitute sufficient grounds for disciplinary action, up to and including dismissal.

16.3 EMPLOYEE DRESS CODE

Employees of the Town are required to dress appropriately for the jobs they are performing. Therefore, the dress regulations contained in this section shall be followed.

1. All clothing must be neat, clean and in good repair.
2. Prescribed uniforms and safety equipment must be worn where applicable.
3. Footwear must be appropriate for the work environment and functions being performed.
4. Hair must be neat, clean and well groomed.
5. Beards, mustaches and sideburns must be maintained in a neat and well-groomed fashion.
6. Jewelry is acceptable except in areas wherein it constitutes a health or safety hazard.
7. Good personal hygiene is required.

16.4 NEPOTISM POLICY

1. No person shall be appointed or promoted to a position in any department in which such person's relative already holds a position when such employment would result in any of the following:
 - a. A supervisor-subordinate relationship;
 - b. The employees having job duties which require performance of shared duties on the same or related work assignment;
 - c. Both employees having the same immediate supervisor.
2. For purposes of this section, "relative" means spouse, child, step-child, parent, grandparent, grandchild, brother, sister, half-brother, half-sister, aunt uncle, niece, nephew, parent-in-law, brother-in-law, sister-in-law or any other individual related by blood or marriage.
3. If a Town employee marries another person employed by the Town within the same department, both employees shall be allowed to retain their respective positions provided that a supervisory relationship does not exist at the time of marriage between these two positions. During the period of employment, no supervisory position shall exist between the two employees. For the purpose of this section, a supervisory relationship shall be defined as one in which one person exercises the right to control, direct, reward or punish another person by virtue of the duties and responsibilities assigned to his or her position.
4. The Town also retains the right to refuse to place both spouses in the same department, division, or facility where such has the potential for creating adverse impact on supervision, safety, security or morale or involves potential conflicts of interest.

5. Where the above circumstances exist and mandate that two spouses shall not work in a prohibited relationship, the Personnel Department will attempt to transfer one spouse to a similar classified position in another Town department. Although the wishes of the involved parties as to which spouse is to be transferred will be given consideration by the Town, the controlling factor in determining which spouse is to be transferred shall be the positive operation and efficiency of the Town. If any such transfer results in a reduction in salary or compensation, the same shall not be considered disciplinary in nature and shall not be the subject of any form of administrative appeal.
6. If continuing employment of two spouses cannot be accommodated consistent with the Town's interest in promotion of safety, security, morale and efficiency, then the Town retains sole discretion to separate one spouse from Town employ. Absent resignation by one affected spouse, the less senior of the involved spouses will be subject to separation and the same shall not constitute discipline and shall not be subject to any administrative appeal.

16.5 DISABILITY DISCRIMINATION POLICY AND COMPLAINT PROCEDURE

PURPOSE:

The purpose of this policy is:

to prohibit and eliminate any discrimination in employment against a qualified individual with a disability;

to define what constitutes "disability";

to define who is a "qualified individual with a disability";

to define discrimination on the basis of disability; and

to establish a procedure for investigating and resolving internal disability discrimination complaints.

POLICY:

Discrimination on the basis of disability against an applicant or an employee who is a qualified individual with a disability, by a supervisor, management employee, or co-worker is not condoned and will not be tolerated. This policy applies to the job application process and to all terms and conditions of employment including, but not limited to, hiring, placement, promotion, disciplinary action, layoff, recall, transfer, leave of absence, compensation and training.

All complaints of discrimination on the basis of disability will be promptly and objectively investigated.

Disciplinary action up to and including termination will be instituted for behavior described in the definition of discrimination on the basis of disability set forth below.

Any retaliation against a person for filing a discrimination charge or making a discrimination complaint is prohibited.

DEFINITIONS:

A. Disability

"Disability" is: (1) a physical or mental impairment that substantially limits one or more major

life activity; or (2) having a record of such an impairment; or (3) being regarded as having such an impairment.

1. Physical or Mental Impairments

Physical or Mental Impairments include, but are not limited to: vision, speech and hearing impairments; emotional disturbance and mental illness; seizure disorders; mental retardation; orthopedic and neuromotor disabilities; learning disabilities; diabetes; heart disease; nervous conditions; cancer; asthma; Hepatitis B; HIV infection; and drug addiction if the addict has successfully completed or is participating in a rehabilitation program and no longer uses illegal drugs.

The following conditions are not physical or mental impairments: transvestism; illegal drug use; homosexuality and bisexuality; compulsive gambling; kleptomania; pyromania; pedophilia; exhibitionism; and voyeurism; pregnancy; height; weight; eye color; hair color; left-handedness; poverty; lack of education; a prison record; and poor judgment or quick temper if not symptoms of a mental or physiological disorder.

2. Substantial Limitation of Major Life Activities

An individual is disabled if he or she has a physical or mental impairment that renders him or her unable to perform a major life activity in comparison to other people.

In determining whether physical or mental impairment substantially limits the condition, manner or duration under which an individual can perform a particular major life activity in comparison to other people, the following factors shall be considered:

- a. the nature and severity of the impairment;
- b. the duration or expected duration of the impairment; and
- c. the permanent or long-term impact (or expected impact) of or resulting from the impairment.

In determining whether a physical or mental impairment substantially limits an individual with respect to the major life activity of "working," the following factors should be considered:

- a. the geographical area to which the individual has reasonable access;
- b. the job from which the individual has been disqualified because of an impairment and the number and types of jobs within that geographical area using similar training, knowledge, skills or abilities from which the individual is also disqualified because of the impairment; and/or
- c. the number and types of other jobs within that geographical area not using similar training, knowledge, skills or abilities (to the job from which disqualified) from which the individual is also disqualified because of the impairment (broad range of jobs in various classes).

3. Having a Record of Impairment

An individual is disabled if he or she have a history of having an impairment that substantially limits the performance of a major life activity; or has been diagnosed, correctly or incorrectly, as having such an impairment.

4. Regarded as Having a Disability

An individual is disabled if he or she is treated or perceived as having an impairment that substantially limits major life activities, although no such impairment exists.

B. QUALIFIED INDIVIDUAL WITH A DISABILITY

A "qualified individual with a disability" is a person who (1) satisfies the job related requirements for the position, and (2) can perform the "essential functions" of the position despite their disability, or who (3) with "reasonable accommodation" can perform the essential functions of the position.

1. Satisfies Job-Related Requirements

The first step is to determine whether the disabled individual satisfies the job-related requirements of the position. Satisfying the job-related requirements of the position means that the disabled individual possesses the appropriate educational background, employment experience, skills, and license required for the position.

2. Essential Factors

The second step is to determine whether the individual can perform the essential functions of the position despite their disability. Essential functions are the fundamental duties of a position. Marginal or peripheral functions of a position are not essential functions.

A function may be essential because:

- a. the reason the position exists is to perform that function;
- b. of the limited number of employees available among whom the performance of that job function can be distributed; and
- c. it is highly specialized and requires specific expertise or skill to perform.

The following factors shall be considered in determining whether a function is essential: the Town's judgement as to which functions are essential; written job descriptions; the amount of time spent on the job performing the function; the consequences of not requiring the performance of the function; the terms of a collective bargaining agreement or MOU; and the work experience of past and present incumbents in the position.

3. Accommodation

If the individual cannot perform the essential functions despite their disability, the third step is to determine whether reasonable accommodation would enable the individual to perform the essential functions of the position.

Accommodation is any change in the work environment or in the way things are customarily done that enables a disabled individual to enjoy equal employment opportunities. Accommodation means modifications or adjustments:

a. to a job application process to enable an individual with a disability to be considered for the position;

b. To the work environment in which a position is performed so that a disabled person can perform the essential functions of the position; and

c. that enable disabled individuals to enjoy equal benefits and privileges of employment as other similarly situated employees without disabilities enjoy.

Accommodation includes making existing facilities and equipment used by employees readily accessible to and usable by individuals with disabilities.

Accommodation applies to:

a. all employment decisions and to the job application process;

b. all services and programs provided in connection with employment;

c. non-work facilities provided by the Town to all employees; and

d. known disabilities only.

Accommodation is not required if:

a. it eliminates essential functions of a position from the disabled individual's job; or

b. adjustments or modifications requested are primarily for the benefit of the disabled individual.

4. Undue Hardship

The Town will not provide an accommodation that imposes an "undue hardship" on the operation of the Town's business. Undue hardship means significant difficulty or expense incurred in the provision of accommodation. Undue hardship includes but is not limited to financial difficulty. Undue hardship refers to any accommodation that would be unduly costly; extensive, substantial or disruptive, or that would fundamentally alter the nature or operation of the business.

Whether a particular accommodation will impose an undue hardship is determined on a case-by-case basis. The following factors will be considered in determining whether an accommodation would create an undue hardship; the nature and cost of the accommodation; the financial resources of the Town; the number of employees; and the type of operations of the Town, including the composition and functions of its workforce.

5. Determining the Appropriate Accommodation

If a qualified individual with a disability requests the provision of a reasonable accommodation, the Town shall engage in an informal, interactive process with the disabled person which identifies the precise limitations resulting from the disability and the potential accommodations that could overcome those limitations.

The accommodation process shall generally involve five steps. First, the Town shall analyze the particular job at issue and determine its purpose and essential functions. Second, the Town shall consult with the disabled individual to ascertain the precise job-related limitations imposed by the individual's disability. Third, the

Town shall consult with the disabled individual to identify potential accommodations. Fourth, the agency shall assess the effectiveness of each potential accommodation with regard to enabling the individual to perform the essential functions of the position. Finally, the Town shall consider the preference of the individual to be accommodated and select and implement the accommodation that is most appropriate for both the employee and the Town.

C. DISCRIMINATION ON THE BASIS OF DISABILITY

Discrimination on the basis of disability means:

- a. to limit, segregate, or classify a job applicant or employee in a way that may adversely affect opportunities or status because of the applicant's or employee's disability;
- b. to participate in a contract which could subject an applicant or employee with a disability to discrimination;
- c. to use any standards, criteria or method of administration which could have the effect of discriminating on the basis of disability;
- d. to deny equal jobs or benefits because of a disability;
- e. to fail to make reasonable accommodations to known physical or mental limitations of an otherwise qualified individual unless it can be shown that the accommodation would impose an undue hardship;
- f. to use selection criteria which exclude disabled persons unless the criteria is job-related and consistent with business necessity; and
- g. to fail to use employment tests in a manner that ensures that the test results accurately reflect the applicant's or employee's skills or aptitude for a particular job.

COMPLAINT:

1. A job applicant or employee who believes he or she has been discriminated against on the basis of disability may make a written complaint as soon as possible after the incident to : (a) complainant's immediate supervisor; (b) complainant's department head; or (c) the compliance officer designated by The Town to coordinate the Town's efforts to comply with federal and state laws concerning employment discrimination on the basis of disability.

In order to facilitate the investigation, the complainant is encouraged to submit the complaint within 30 days of the alleged incident(s). Where reasonable circumstances prevent the filing of the complaint within this time period, complaints received after this time period may be accepted.

2. The complaint shall include:
 - a. a description of the offending behavior(s) or violations;
 - b. date (s), time(s) and location(s) of incident(s);
 - c. name(s) of alleged offender(s);
 - d. name(s) of witnesses, if any; and

e. remedy desired.

3. Complainant's immediate supervisor or department head shall refer all complaints received to the compliance officer.
4. Upon receipt of a complaint, the compliance officer shall investigate all charges. The investigation shall include interviews with: (a) the complainant; (b) the person(s) allegedly engaged in discrimination; and (c) any other person the compliance officer believes to have relevant knowledge concerning the complaint.
5. Upon completion of the investigation, the compliance officer shall review factual information gathered through the investigation to determine whether the alleged conduct constitutes discrimination, giving consideration to all factual information, the totality of the circumstances, including the nature of the alleged discriminatory conduct and the context in which the alleged incidents occurred.
6. The compliance officer shall then prepare a written report setting forth the results of the investigation and the determination as to whether discrimination occurred. The results of the investigation shall be conveyed to appropriate persons including to the complainant, the person(s) allegedly engaged in discrimination, the supervisor, and the department head.
7. If it is determined that discrimination occurred, swift and appropriate disciplinary action will be commensurate with the severity and/or frequency of the offense.
8. Reasonable steps shall be taken to protect the victim and other potential victims from further discrimination.
9. Reasonable steps shall be taken to protect the victim from retaliation as a result of communicating the complaint.

16.6 POLICY ON THE PROHIBITION OF THE USE OF DRUGS AND ALCOHOL

PURPOSE:

The Town of Los Gatos recognizes that its employees are its most important resource. It is the intention of this policy to eliminate the use and effects of alcohol and drugs in the workplace. While Los Gatos has no intention of intruding into the private lives of its employees, involvement with drugs and alcohol on or off the job can take its toll on job performance and employee safety. Our concern is that employees are in a condition to perform their duties safely and efficiently, in the interests of their fellow workers and the public as well as themselves.

The objectives of this policy are: 1) to eliminate any use of alcohol, illegal drugs, prescription drugs or any other substance which could impair an employee's ability to safely and effectively perform the functions of their job, 2) to encourage employees who think they may have an alcohol or drug usage problem to voluntarily seek confidential assistance from the Employee Assistance Program, 3) to emphasize training and rehabilitation. However, even with the emphasis on rehabilitation, it must be understood that for those who continue to demonstrate problems in job performance or those who are involved with or under the influence of drugs or alcohol on the job, disciplinary action will be taken.

The purpose of this policy is to help the Town meet its goals in recognition of its public service responsibilities.

SCOPE:

This policy applies to all employees of the Town (paid and volunteer) when working for, or officially representing, the Town of Los Gatos. In addition, the Police Department has specific departmental regulations which also apply.

This policy applies to alcohol and to all substances, drugs, or medications, legal or illegal, which could impair an employee's ability to effectively and safely perform the function of the job.

POLICY:

It is the Town's policy that employees shall not use or be under the influence of alcohol or drugs, or possess alcohol or illegal drugs at any work site or Town property, while on duty, breaks or meal periods.

Employees shall not sell or provide drugs or alcohol to any person, while on duty.

Managers or Supervisors are responsible for enforcement of this policy by remaining alert to instances of job performance that would provide reasonable suspicion that an employee is under the influence, or impaired by drugs or alcohol while on the job, or on standby for call to duty.

The Town recognizes that alcohol and drug use can be successfully treated, enabling the employee to return to a satisfactory job performance level.

Employees are urged to seek voluntary confidential assistance through the Employee Assistance Program or any other program if they believe they may have an alcohol or drug use problem.

PROCEDURES:

The following procedures will serve as the guideline for implementation of this policy:

While use of medically prescribed medication and drugs is not technically a violation of this policy, failure by the employee to notify his/her supervisor, before beginning work, when taking medications or drugs which could foreseeably interfere with the safe and effective performance of duties or operation of Town equipment can result in disciplinary action.

Employees reasonably believed to be under the influence of alcohol or drugs shall be prevented from engaging in further work.

Employee Responsibility

1. It is the employee's responsibility to demonstrate satisfactory job performance.
2. Employees shall report to work with his/her ability to perform job duties not impaired due to on or off duty alcohol or drug use.
3. Employees are responsible for the personal implementation of this policy to facilitate safe and effective job performance.
4. Employees shall not possess or use alcohol or impairing drugs (illegal drugs and prescription drugs without a prescription) during working hours or while subject to duty. This includes breaks and meal periods.
5. Employees shall not directly or through a third party sell or provide drugs or alcohol to any person, including any employee, while on duty or standby for duty.
6. Employees shall notify his/her supervisor, before beginning work, when taking any medication

or drugs, prescription or non-prescription, which would interfere with the safe and effective performance of duties or operation of equipment.

Management Responsibilities and Guidelines

1. Managers and Supervisors are responsible to monitor job performance.
2. Managers and Supervisors are responsible for and play a key role in the implementation of this policy to facilitate safe and effective job performance.
3. It shall be the responsibility of Supervisors at every level to encourage employees to use the Employee Assistance Program when deteriorating or unsatisfactory job performance does not respond to usual supervisory actions, or when a specific on-the-job incident is cause for concern. A Supervisor should not attempt to diagnose an employee's problems but to monitor job performance.
4. If reasonable grounds exist for a Supervisor or Manager to believe that an employee is under the influence of alcohol or drugs so that the employee's ability to perform the functions of the job is impaired, the Manager or Supervisor should document in writing all facts/observations of behavior constituting reasonable suspicion that led them to believe an employee was intoxicated or under the influence of drugs.

"Reasonable suspicion" is a belief based on objective facts sufficient to lead a reasonably prudent Supervisor to suspect that an employee is under the influence of drugs or alcohol so that the employee's ability to perform the functions of the job is impaired.

For example, any of the following, alone or in combination may constitute reasonable suspicion:

- a. Inability to perform job;
 - b. Possession of alcohol or drugs;
 - c. Extreme, erratic, or unusual behavior, inability to carry on a rational conversation;
 - d. Unsteady walking and movement, unsteadiness on feet;
 - e. Alcohol odor on breath, incoherence;
 - f. Slurred speech;
 - g. Red eyes, dilated pupil;
 - h. Information obtained from a reliable person with personal knowledge.
5. If a Supervisor observes an employee who seems to be under the influence of alcohol or drugs, he/she should, if practical, seek the opinion of at least one additional Supervisor.
 6. Managers and Supervisors shall notify their Department Head or designee when they have reasonable suspicion to believe that an employee may have illegal drugs in his or her possession. If the Department Head or designee concurs that there is reasonable suspicion of illegal drug possession, the Department Head shall notify the Police Department for investigation.

Disciplinary Action

This policy provides guidelines for the detection and deterrence of alcohol and drug abuse. It also outlines the responsibilities of managers, supervisors and employees. To that end the Town will act to eliminate any use of alcohol or drugs which increases the potential for accidents, absenteeism, substandard performance, poor employee morale or damage to Town reputation or equipment. All persons covered by this policy should be aware that violations of these procedures may be grounds for disciplinary action up to and including termination.

16.7 POLICY ON GIFTS, GRATUITIES OR REWARDS

PURPOSE:

To set forth policies regarding the acceptance of gifts, gratuities or rewards.

SCOPE:

This policy applies to all regular, part-time, temporary, contractual, or volunteer employees of the Town of Los Gatos.

POLICY:

No employee shall accept money or other consideration or favor from anyone other than the Town for any reason. Acceptance of gifts, gratuities or favors of any kind might reasonably be interpreted as an attempt to influence an employee's actions with respect to Town business.

More specifically, no employee or any family member shall accept any gift at any time, whether in the form of a service, loan, thing, or promise from any person, firm or corporation, which to their knowledge is interested directly or indirectly in any manner whatsoever in business dealings with the Town; nor shall any employee accept a gift, favor or thing of value that may tend to influence them in the discharge of their duties, or grant in the discharge of their duties any improper favor, service, or thing of value.

In situations where an employee receives a gift which is extremely embarrassing to return, or is given anonymously, the Town Manager's Office will return the gift to the party who sent it, or for anonymous gifts, the gift would be turned in to the Town Manager's Office for distribution to a local charity.

PROCEDURES:

- A. If a gift is offered to an employee, the employee is required to not accept the gift.
- B. Should a gift be received, the employee is required to notify their Supervisor immediately. The Supervisor is to return the gift to the donor.

If the gift is given anonymously or return of the gift is not accepted, then the employee is to notify their Supervisor immediately. The Supervisor is to notify the Department Head. The gift is to be delivered to the Manager's Office.

The Town Manager's Office will notify donor and return the gift, or, if the gift was given anonymously, it will be donated to an appropriate non-profit agency in the community.

- C. All persons covered by this policy should be aware that violations of this policy may be grounds for disciplinary action up to and including termination.

Responsibilities

Employee

- Refuse gifts as defined above.
- Notify Supervisor/Department Head of any gift received.

Supervisor/Department Head

- If not the Department Head the Supervisor must notify the Department Head of receipt of any gifts;

deliver, or arrange to have delivered, any gifts given anonymously or gifts which the donor refuses to accept to the Town Manager.

Town Manager

- Return gift to original sender or donate gift to appropriate local agency.

16.8 POLICY ON USE OF TOWN COMPUTERS, SOFTWARE AND RELATED EQUIPMENT

PURPOSE:

To set forth policies for the effective development and management of information systems within the Town. These policies have been put in place to ensure that to the degree possible standardization of hardware, software, training, and information is uniform for all Town departments. This policy will help to protect the Town's investment in hardware, software, and data, as-well-as maximizing effective use of information system resources.

SCOPE:

This policy applies to all employees of the Town of Los Gatos, or other persons, including volunteers who use or have access to the Town's information systems.

POLICY

1. All software and related materials purchased by the Town and/or installed on Town equipment are licensed to the Town only, and shall not be copied in any format. This includes, but is not limited to, copying software for personal use, for sale, or transferring software between Town equipment.
2. No software shall be purchased, loaded, or used on any Town equipment without the express written permission of the Office of the Town Manager. This includes, but is not limited to, demonstration software packages, software from any other agency, software from public domain distributors, software "loaned" to Town employees, and/or software purchased for personal use.
3. Hardware purchased by the Town shall not be modified, exchanged, or moved, in any way without prior written approval of the Office of the Town Manager. Modifications include, but are not limited to, the addition or removal of any component attached to or installed inside any Town-owned hardware (such as the installation of locks, circuit boards, disk drives, etc.) An example of hardware exchanges include swapping of components between systems such as monitors, keyboards, or mice. Moving of equipment includes the physical relocation of any hardware or the reconnection of any hardware to a different data line.
4. Hardware purchased by the Town and installed in a particular department is not the "department's hardware" or a "person's hardware," and is subject (at any time) to relocation by the Town Manager's Office based on need. All purchases of computer hardware, accessories, or related equipment are to be approved by the Office of the Town Manager (normally through the budget process).
5. All computer (software and hardware) training shall be approved by the Office of the Town Manager.
6. Violations of this policy may be grounds for any or all of the following actions: a) erasure of software and data, b) removal of computer equipment from the department, c) disciplinary action up to and including termination.

16.9 NON-SMOKING POLICY

Smoking is prohibited in accordance with Article VI, Section 18.60.010 of the Town Code

RESOLUTION 1994-112

**RESOLUTION OF THE TOWN OF LOS GATOS
APPROVING AND ADOPTING REVISED TOWN PERSONNEL RULES**

RESOLVED, by the Town Council of the Town of Los Gatos, County of Santa Clara, State of California, does hereby approve and adopt the revised Town Personnel Rules establishing specific procedures and regulations governing the Personnel System (copy of which is attached hereto).

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Los Gatos, California, held on the 8th day of August, 1994 by the following vote.

COUNCIL MEMBERS:

AYES: Joanne Benjamin, Steven Blanton, Linda Lubeck, Patrick O'Laughlin
Mayor Randy Attaway

NAYS: None

ABSENT: None

ABSTAIN: None

SIGNED: /s/ Randy Attaway
MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

ATTEST:

/s/ Marian V. Cosgrove
CLERK OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

PERSONNEL RULES AND REGULATIONS/RESOLUTION 1994-112 (15.10)

Motion by Mrs. Benjamin, seconded by Mrs. Lubeck, that Council adopt Resolution 1994-112 entitled, RESOLUTION OF THE TOWN OF LOS GATOS APPROVING AND ADOPTING REVISED TOWN PERSONNEL RULES. Carried unanimously.

9328 PROJECT/LOS GATOS CREEK TRAIL/RESOLUTION 1994-113 (16.35)

Motion by Mrs. Benjamin, seconded by Mrs. Lubeck, that Council adopt Resolution 1994-113 entitled, RESOLUTION OF THE TOWN OF LOS GATOS AUTHORIZING THE EXECUTION OF AN AGREEMENT WITH B&B CONCRETE FOR PROJECT 9328 LOS GATOS CREEK TRAIL, which decreases the Novitiate account 4450-85330 from \$98,370 to \$80,370 and increases Rob-Sart account 4450-85330 from \$414,964 to \$432,964. Carried unanimously.

TRACT 8612/FINAL MAP/RESOLUTION 1994-114 (17.30)

Motion by Mrs. Benjamin, seconded by Mrs. Lubeck, that Council adopt Resolution 1994-114 entitled, RESOLUTION OF THE TOWN OF LOS GATOS APPROVING FINAL MAP OF TRACT 8612 AND AUTHORIZING THE MAYOR TO SIGN THE CONTRACT FOR THE IMPROVEMENTS OF TRACT 8612. Carried unanimously.

CONFIDENTIAL EMPLOYEES/CLASSIFICATION/RESOLUTION 1994-115 (18.10)

Motion by Mrs. Benjamin, seconded by Mrs. Lubeck, that Council adopt Resolution 1994-115 entitled, RESOLUTION OF THE TOWN OF LOS GATOS AMENDING CONFIDENTIAL EMPLOYEE CLASSIFICATIONS, COMPENSATION AND WORK RULES FOR FISCAL YEAR 1994-1995. Carried unanimously.

NEIGHBORHOOD CENTER LEASE/TENANT AGREEMENT/RESOLUTION 1994-116 (19.44)

Motion by Mrs. Benjamin, seconded by Mrs. Lubeck, that Council adopt Resolution 1994-116 entitled, RESOLUTION OF THE TOWN OF LOS GATOS AUTHORIZING THE TOWN MANAGER TO EXECUTE LEASE AGREEMENTS WITH TENANTS FOR FY 1994-95. Carried unanimously.

HOUSEHOLD HAZARDOUS WASTE COLLECTION PROGRAM/RESOLUTION 1994-117 (20.07)

Motion by Mrs. Benjamin, seconded by Mrs. Lubeck, that Council adopt Resolution 1994-117 entitled, RESOLUTION OF THE TOWN OF LOS GATOS AUTHORIZING THE TOWN MANAGER TO EXECUTE AN AGREEMENT WITH THE COUNTY OF SANTA CLARA FOR PARTICIPATION IN A HOUSEHOLD HAZARDOUS WASTE COLLECTION PROGRAM FY 1994-95. Carried unanimously.

9321 PROJECT/ENERGY CONSERVATION MODIFICATIONS/RESOLUTION 1994-118 (21.35)

Motion by Mrs. Benjamin, seconded by Mrs. Lubeck, that Council adopt Resolution 1994-118 entitled, RESOLUTION OF THE TOWN OF LOS GATOS AUTHORIZING THE TOWN MANAGER TO EXECUTE AN AGREEMENT WITH NEWCOMB ANDERSON ASSOCIATES FOR PROJECT 9321 - ENERGY CONSERVATION MODIFICATIONS. Carried unanimously.

TOP OF THE HILL 15299/SINGLE FAMILY CONSTRUCTION/RESOLUTION 1994-119 (22.09)

Motion by Mrs. Benjamin, seconded by Mrs. Lubeck, that Council adopt Resolution 1994-119 entitled, RESOLUTION OF THE TOWN OF LOS GATOS REPORTING DENIAL OF APPEAL OF PLANNING COMMISSION DECISION TO DENY A REQUEST FOR APPROVAL OF PLANS TO CONSTRUCT A SINGLE FAMILY RESIDENCE ON PROPERTY IN THE RC (PREZONE) ZONE, ARCHITECTURAL & SITE APPLICATION S-88-65A, which incorporates the Council's findings and decision at its meeting of July 18, 1994. Carried by a vote of 3 ayes. Mrs. Benjamin and Mayor Attaway abstained.