Town of Wrightsville Beach

PERSONNEL POLICY

July 1,2004

Amended August 8, 2006
Amended March 26, 2009
Amended April 23, 2009
Amended October 29, 2009
Amended February 11, 2010
Amended May 27, 2010
Amended January 12, 2012

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BE IT RESOLVED by the Board of Aldermen of the Town of Wrightsville Beach that the following policies apply to the appointment, classification, benefits, salary, promotion, demotion, dismissal, and conditions of employment of the employees of the Town of Wrightsville Beach.

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CHAPTER 1.0 GENERAL PROVISIONS

Section 1.1 Purpose of the Policy

It is the purpose of this policy and the rules and regulations set forth to establish a fair and uniform system of personnel administration for all employees of the Town of Wrightsville Beach, hereafter referred to simply as the Town, under the supervision of the Town Manager. This policy is established under authority of Policy 160A, Article 7, of the General Statutes of North Carolina. This policy shall cover all regular and probationary employees except as specifically exempted. The Town Manager, Town Attorney, members of the Board of Aldermen, and members of advisory boards and commissions will be exempted except in sections where specifically included. The Town explicitly reserves the right to modify any of the provisions of this policy.

Section 1.2 At Will Employment

The Town of Wrightsville Beach is an "at will" employer. The employment relationship between the Town and the employee is terminable at the will of either at any time and with or without cause and with or without notice. No employee, officer, agent or representative of the Town has any authority to enter into any agreement or representation, verbally or in writing, which alters, amends, or contradicts this provision or other provisions of this policy. Any exception to this policy of "at will" employment must be expressly authorized in writing, approved by the Board of Aldermen and executed by the officers designated by the Board of Aldermen. None of the benefits or policies set forth in this policy are intended because of their publication to confer any rights or privileges upon employees or to entitle them to be or remain employed by the Town. The contents of this document are presented as a matter of information only. Although the Town believes wholeheartedly in the plans, policies and procedures herein, they are not conditions of employment. This policy is not a binding contract, but merely a set of guidelines for the implementation of personnel policies. The Town explicitly reserves the right to modify any of the provisions of this policy at any time and without any notice. Notwithstanding any of the provisions within this policy, employment may be terminated at any time, either by the employee or by the Town, with or without cause and with or without advance notice.

Section 1.3 Merit Principle

All appointments and promotions shall be made solely on the basis of merit. All positions requiring the performance of the same duties and fulfillment of the same responsibilities shall be assigned to the same class and the same salary range. No applicant for employment or employee shall be deprived of employment opportunities or otherwise adversely affected as an employee because of such individual's race, color, religion, sex, national origin, political affiliation, non-disqualifying disability, or age.

Section 1.4 Responsibilities of the Board of Aldermen

The Board of Aldermen shall be responsible for establishing and approving Personnel Policies, the position classification and pay plan, and may change the policies and benefits as necessary. Changes to Personnel Policies should be made in an advertised open session after the opportunity for public comment. The Board of Aldermen shall also make and confirm appointments when so specified by the general statutes.

Section 1.5 Responsibilities of the Town Manager

The Town Manager shall be responsible to the Board of Aldermen for the administration and technical direction of the personnel program. The Town Manager is empowered to appoint, suspend, and remove Town employees, except those whose appointment is otherwise provided

for by law. The Town Manager shall make appointments, dismissals and suspensions in accordance with the Town charter and procedures addressed in this Policy. The Town Manager shall supervise or participate in:

a. recommending rules and revisions to the personnel system to the Board of Aldermen for consideration;
b. recommending changes as necessary to maintain an up to date and accurate position classification plan;
c. preparing and recommending necessary revisions to the pay plan;
d. determining which employees shall be subject to the overtime provisions of the Fair Labor Standards Act (FLSA);
e. establishing and maintaining a roster of all persons and authorized positions in the municipal service (as approved by the Board of Aldermen), setting forth each position and employee, class title of position, salary, any changes in class title and status, and such data as may be desirable or useful;
f. developing and administering such recruiting programs as may be necessary to obtain an adequate supply of competent applicants to meet the needs of the Town;
g. developing and coordinating training and educational programs for Town employees;
h. periodically assessing the operation and effect of the ~~personnel~~ provisions of this Policy; and
i. performing such other duties as may be assigned by the Board of Aldermen not inconsistent with this Policy.

Section 1.6 Application of Policies, Plans, Rules, and Regulations
The Personnel Policy and all rules and regulations adopted pursuant thereto shall be binding on all Town employees. The Town Manager, Town Attorney, members of the Board of Aldermen and advisory boards and commissions are exempted except in sections where specifically included. An employee violating any of the provisions of this Policy shall be subject to appropriate disciplinary action, as well as prosecution under any civil or criminal laws that have been violated.

Section 1.7 Departmental Rules and Regulations
Because of the particular personnel and operational requirements of the various Town departments, each department is authorized to establish supplemental written rules and regulations applicable only to the personnel of that department. All such rules and regulations shall be subject to the approval of the Town Manager, and shall not in any way conflict with the provisions of this Policy, but shall be considered as a supplement to this Policy.

Section 1.8 Definitions

1.8.1 For the purposes of this Policy, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Accident. An occurrence involving the operation of a vehicle or equipment that results in a fatality or bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or one or more motor vehicles incurring disabling damage as a result of the accident, requiring the vehicle(s) to be transported away from the scene by a tow truck or other vehicle.

Alcohol Test. A test for the presence of alcohol in the body as determined through the use of an appropriate screening device.

Basic Work Week. The normally expected work week for different categories of employees. Generally speaking, Regular Full-Time employees will be forty (40) hours, Fire Fighters will be forty-eight (48) hours, and Law Enforcement Officers will be forty-two (42) hours.

Category A Employee. A full-time salaried employee who normally works five (5) or more consecutive days each week, and thirty-five (35) or more hours weekly throughout the entire fiscal year.

Category B Employee. A full-time wage-hour employee who normally works five (5) or more consecutive days each week, for the Town's entire fiscal year and who is paid an hourly wage. An annual average of thirty-five (35) regularly scheduled work hours per week are considered the minimum required to qualify for this category. This may vary for law enforcement officers and fire fighters

Category C Employee. A permanent part-time employee who works at least twenty (20), but less than thirty-five (35) regularly scheduled hours per week (not including lunch periods) throughout the entire fiscal year. These positions are paid an hourly wage.

Category D Employee. A seasonal employee who works in a job requiring the same full-time or part-time daily and weekly schedules as in Categories B and C, but only performs work during a particular season of the year (e.g., recreational staff). These positions are paid an hourly wage.

Category E Employee. A temporary employee who does not fall in Category A, B, C, or D, and whose employment may either be temporary, full-time or part-time. These positions are paid an hourly wage.

Category F Employee. A "volunteer/on-call" public safety employee (typically fire fighters and reserve police officers) who is paid only during periods that he/she is performing services for the community.

Category G Employee. These are "other" employees who work for the Town in a permanent capacity, but do not fit the classification of full-time or part-time personnel. Typically they perform duties that require less than 20-hours per week and work schedules may vary based on department requirements.

Commercial Motor Vehicle. A motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle

a. has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds; or
b. has a gross vehicle weight rating of 26,001 or more pounds; or
c. is designed to transport 16 or more passengers, including the driver; or
d. is of any size and is used in the transportation of materials found to be hazardous for the purpose of the Hazardous Materials Transportation Act and that requires the motor vehicle to be placarded under the Hazardous Materials Regulations.

Conviction. A finding of guilt (including a plea of nolo contendere) or imposition of sentence, by any judicial body charged with the responsibility to determine violations of federal or state criminal drug statutes.

DOT. Department of Transportation

Drug. A controlled substance as listed in Schedules I through V of Section 202 of the Controlled Substances Act (21 USC 812) or Chapter 90, Section 87(5) of the North Carolina General Statutes or a metabolite thereof.

Drug Test and Drug Screening. A test, including providing the necessary sample of body fluid by the employee to be tested, for the presence of any of the following drugs or drug metabolites in the urine or blood of an employee:

a. amphetamines
b. barbiturates
c. benzodiazepines
d. cannabinoids
e. cocaine
f. methaqualone
g. opiates
h. phencyclidine
i. propoxyphene

Exempt Positions. Employment positions which are, by law, automatically exempt from the Minimum Wage and Overtime Laws.

Fiscal Year . A twelve (12) month period beginning July 1 and ending the following June 30 that is commonly associated with the Town's budgeting cycle.

Full-time employee. An employee who is in a position for which an average work week equals at least 35 hours, and continuous employment of at least 12 months, are required by the Town. See Category A and B.

HIPAA. Stands for the American Health Insurance Portability and Accountability Act of 1996. The act sets rules for the release of confidential information pertaining to patient status, past and present medical conditions, medical records, and medical billing.

Non-Exempt Positions. Employment positions that are covered by state and federal Minimum Wage and Overtime Laws.

On Call. Being subject to a call to report immediately to work for the Town.

On Duty. When an employee is at the workplace, performing job related duties, on call, or during any other period of time for which he or she is entitled to receive pay from Town.

Other Substance. Any substance that has the potential to impair appreciably the mental or physical function of a person who does not have an unusual or extraordinary reaction to such substance.

Part-Time Employee. An employee who is in a position for which an average work week of at least (20) hours and less than (35) hours and continuous employment of at least (12) months are required by the Town. See Category C employee.

Permanent Position. A position authorized for the budget year for a full twelve (12) months and budgeted for twenty (20) or more hours per week.

Positive, With Respect to the Results of a Drug Test. A laboratory finding of the presence of a drug or a drug metabolite in the urine or blood of an employee at the levels identified by the Substance Abuse and Mental Health Services Administration (SAMHSA), or for drugs not subject to SAMHSA guidelines, at the levels identified by the Town; all positive tests will be confirmed using a different technology than was used for the first test, such as the gas chromatography/mass spectrometry (GC/MS) process.

Positive, With Respect to the Results of an Alcohol Test. A test that indicates a breath alcohol concentration of 0.02 or greater.

Pre-Placement Testing. Testing conducted on a current employee prior to being promoted, transferred, or demoted into a safety-sensitive position.

Probationary Employee. An employee appointed to a full or part-time position who has not yet successfully completed the designated probationary period.

Random Testing. Testing conducted on an employee chosen by a method that provides an equal probability that any employee from a group of employees will be selected.

Reasonable Suspicion. Exists when a supervisor can substantiate specific observations concerning appearance, behavior, speech, body odor or other physical indicators of probable drug or alcohol use. By way of example and not limitation, any one or a combination of the following may constitute reasonable suspicion:

a. Slurred speech
b. the odor of marijuana or alcohol about the person
c. inability to walk a straight line
d. an accident resulting in damage to property or personal injury
e. physical altercation
f. verbal altercation
g. behavior that is so unusual that it warrants summoning a supervisor or anyone else in authority (i.e., confusion, disorientation, lack of coordination, marked personality changes, irrational behavior)
h. possession of drugs
i. verifiable information obtained from other employees based on their observations
j. arrests, citations, and deferred prosecutions associated with drugs or alcohol

Refuse to Submit. An employee (1) fails to provide adequate breath for testing without a valid medical explanation after he or she has received notice of the requirement for breath testing, (2) fails to provide adequate urine for controlled substances testing without a valid medical explanation after he or she has received notice of the requirement for urine testing, (3) refuses to sign the breath alcohol confirmation test certification, or (4) engages in conduct that clearly obstructs the testing process. An employee who unnecessarily leaves the scene of an accident before a required test is administered or fails to remain readily available for testing may be deemed to have refused to submit to testing.

Regular Employee. An employee appointed to a full or part-time position who has successfully completed the designated probationary period. See Category A, B, C employee.

Safety-Sensitive Position. A position will be designated safety sensitive only where the Town has a compelling need, on the basis of safety concerns, to ascertain on-the-job impairment on the part of employees who hold the position. Such a compelling need may arise where the duties of a position create, or are accompanied by, such a great risk of injury to other persons or to property of such magnitude that even a momentary lapse of attention, judgment, or dexterity could have disastrous consequences. Examples of these positions include:

a. Positions (full or part time) requiring the use of weapons (or potential use of weapons) or the operation of vehicles, machinery, or equipment as a primary task (does not include routine office equipment).
b. Positions requiring the handling of hazardous materials, the mishandling of which may place the employee, fellow employees, or the general public at risk of serious injury, or the nature of which would create a security risk in the workplace.
c. Other positions as determined on a case-by-case basis by the Town Manager.

Determination as to which positions are designated as safety sensitive will be based on DOT guidelines and/or the recommendation of the Department Head and approval by the Town Manager.

Substance Abuse Professional. A licensed physician (medical doctor or doctor of osteopathy), or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of and clinical experience in the diagnosis and treatment of both drug-and alcohol-related disorders.

Supervisor. In general, means any employee who has the authority to direct the job activities of one or more other employees. With respect to a particular employee, the term means such employee's immediate supervisor and all persons having indirect supervisory authority over such employee.

Temporary Employee. An employee appointed to a position for which either the average work week required by the Town over the course of a year is less than twenty (20) hours, or continuous employment required by the Town is less than twelve (12) months. See Category E Employee.

Trainee. An employee status when an applicant is hired (or employee promoted) who does not meet all of the requirements for the position. During the duration of a trainee appointment, the employee is on probationary status.

Unannounced Follow-Up Testing. Testing conducted on an employee on a periodic, unannounced basis, following his or her return to work from an approved drug or alcohol rehabilitation program.

Workplace. The location or facility where an employee may be expected to perform any task related to the requirements of his or her job. This includes break rooms and restrooms, outdoor worksites, Town or personal vehicles (while personal vehicle is being used for Town business), computer work stations, conference rooms, hallways, private offices, partitioned work areas, customer service areas, and parking lots.

1.8.2 All Town positions are subject to budget review and approval each year by the Board of Aldermen and all employees' work and conduct must meet Town standards. Therefore, reference to "permanent " positions or employment should not be construed as a contract or right to perpetual funding or employment.

CHAPTER 2.0 POSITION CLASSIFICATION PLAN

Section 2.1 Purpose

The Position Classification Plan provides a complete inventory of all authorized permanent positions in Town service, as well as an accurate description and specification for each class of employment. The Plan standardizes job titles, which are indicative of a definite range of duties and responsibilities.

Section 2.2 Composition of the Position Classification Plan

The Position Classification Plan shall consist of the following elements:

a. A grouping of positions in classes that are approximately equal in difficulty and responsibility which call for the same general qualifications, and can be equitably compensated within the same range of pay under similar working conditions.
b. Class titles descriptive of the work of the class.
c. Written specifications for each class of positions.
d. An allocation list showing the class title of each position in the classified service and the number of approved positions in each class.

Section 2.3 Use of the Position Classification Plan

The Position Classification Plan is to be used for the following:

a. Recruiting and examining applicants for employment.
b. Determining lines of promotion and developing employee training programs.
c. Determining the salary to be paid for various types of work.
d. Determining personnel service items in departmental budgets.
e. Providing uniform job terminology.

Section 2.4 Administration of the Position Classification Plan

The Town Manager shall allocate each position covered by the Position Classification Plan to its

appropriate class, and shall be responsible for the administration of the plan. The Town Manager shall periodically review portions of the plan and allocate or re-allocate positions to the proper classes. The Manager shall report all reclassification actions to the Board of Aldermen for review and approval.

Section 2.5 Adoption of the Position Classification Plan
The Position Classification Plan shall be adopted by the Board of Aldermen and shall be on file with the Town Clerk. Copies will be available to all Town employees for review upon request. New positions shall be established upon recommendation of the Town Manager and approval of the Board of Aldermen after which the Town Manager shall either allocate the new position into the appropriate existing class, or revise the position classification plan to establish a new class to which the new position may be allocated.

Section 2.6 Request for Reclassification
Any employee who considers the position in which he/she is classified to be improper shall submit a request in writing for reclassification to such employee's immediate supervisor, who shall immediately transmit the request through the department head to the Town Manager. Upon receipt of such request, the Town Manager shall study the request, determine the merit of the reclassification, and make a decision to revise the classification and Pay Plan where appropriate.

Section 2.7 Employment Categories
All Town employees are covered by this Policy and fall within one of several different employment classifications. These employment classifications determine the benefits, holidays, vacations, etc., to which each employee is entitled. However, all Town employees are entitled to those benefits mandated by law such as Federal Insurance Contributions Act (FICA) and Unemployment and Workers' Compensation insurance. This policy applies to the following categories of municipal employment:

2.7.1 Category A - Full-Time Salaried Employees. These are employees who work in jobs requiring five (5) or more consecutive days each week, and thirty-five (35) or more hours weekly throughout the entire fiscal year. (Exception: In some cases individual contractual arrangements may take precedence.) As a condition of employment, Category A employees are placed on conditional probation for the first six (6) months of their employment with the Town. This category employee is entitled to paid holidays, accrual of paid vacation and medical leave, as well as leaves of absence as outlined in the appropriate section of this policy. Employees in this category are also entitled to coverage under the Town's medical and life insurance programs as well as participation in the Town's employee retirement programs. All Category A employees are classified as holding exempt positions. The following Town positions are Category A :

Town Manager
Finance Officer
Director of Planning and Parks
Fire Chief
Police Chief
Public Works Director

2.7.2 Category B - Full-Time Hourly Employees. These are employees who work in jobs requiring five (5) or more consecutive days each week, for the Town's entire fiscal year and who are paid an hourly wage*. An annual average of thirty-five (35) regularly scheduled work hours

per week are considered the minimum required to qualify for this category. All Category B positions are classified as non-exempt. As a condition of employment, these employees are placed on conditional probation for the first six (6) months** of their employment with the Town. Employees in this category are entitled to paid holidays, accrual of paid vacation, medical leave, and leaves of absence as outlined in the appropriate sections of this policy. They are also entitled to coverage under the Town's medical and life insurance programs, as well as participation in the Town's employee retirement programs. The following positions are classified Category B:

Clerical / Administrative Staff
Police Personnel
Career Firefighting Staff
Planning and Parks Staff
Public Works Personnel

* *May vary for Police and Fire Personnel*
** *A one year probationary period is required for some law enforcement positions.*

2.7.3 Category C - Permanent Part-Time Employees. These are employees who work in jobs averaging at least twenty (20), but less than thirty-five (35) regularly scheduled hours per week (not including lunch periods) for the Town's entire fiscal year. These positions are paid an hourly wage. As a condition of employment, Category C employees are placed on conditional probation for the first six (6) months of their employment with the Town. This category employee is entitled to paid holidays, accrual of paid vacation time, medical leave and leaves of absence as outlined in the appropriate section of this policy. Employees in this category may be entitled to participate in the State retirement program. In special cases additional benefits may be granted to this category with approval of the Board of Aldermen.

2.7.4 Category D - Seasonal Employees. These are employees who work in jobs requiring the same full-time or part-time daily and weekly schedules as in Categories B and C , but only work during a particular season of the year (e.g., recreational staff). They will receive no employee benefits beyond those mandated by law, such as FICA, Unemployment Insurance, and Workman's Compensation Insurance.

2.7.5 Category E - Temporary Employees. These are employees who do not fall in Categories A, B, C, or D, and whose employment may either be temporary, full-time or part-time. These employees are paid an hourly wage. They receive no employee benefits beyond those mandated by law, such as FICA, Unemployment Insurance, and Workman's Compensation Insurance. Employees in this category must submit an application to be considered for employment on each occasion that the job is advertised.

2.7.6 Category F - "Volunteer/On-Call" Public Safety Personnel: These are typically fire fighters and reserve police officers who are paid only during periods that they are performing services for the community. The rate of compensation/stipend will be determined by the Town Manager and approved by the Board of Aldermen as part of the annual budget review process. When responding to a public safety related call or attending official training sessions these persons are expected to adhere to the standards of conduct established in the Personnel Policy. This category of personnel receives no employee benefits beyond those mandated by law, such as FICA, Unemployment Insurance, and Workman's Compensation Insurance.

2.7.7 Category G - Other. These are employees who work for the Town in a permanent

capacity but do not fit the classification of full-time or part-time personnel. Typically they perform duties that require less than 20-hours per week and their work schedules may vary based on department requirements. Generally, this category of employee receives no employee benefits beyond those mandated by law, e.g. FICA and Workman's Compensation Insurance.

CHAPTER 3.0 THE PAY PLAN

Section 3.1 Definition

The Pay Plan includes the basic salary schedule and the "Assignment of Classes to Grades and Ranges" adopted by the Board of Aldermen. The salary schedule consists of steps for hiring as well as minimum, midpoint, and maximum rates of pay for all classes of positions.

Section 3.2 Administration and Maintenance

3.2.1 The Town Manager shall be responsible for the administration and maintenance of the Plan. All employees covered by the Plan shall be paid at a rate within the salary range established for the respective position classification, except for employees in trainee status or employees whose existing salaries are above the established maximum rate following transition to a new Pay Plan.

3.2.2 The Plan is intended to provide equitable compensation for all positions, reflecting differences in the duties and responsibilities, the comparable rates of pay for positions in private and public employment in the area, changes in the cost of living, the financial conditions of the Town, and other factors. To this end, each budget year the Town Manager shall make comparative studies of all factors affecting the level of salary ranges including the consumer price index, anticipated changes in surrounding employer plans, and other relevant factors, and will recommend to the Board of Aldermen such changes in salary ranges as appear to be pertinent. Periodically, the Town Manager shall recommend that individual salary ranges be studied and adjusted as necessary to maintain market competitiveness. Such adjustments will be made by increasing or decreasing the assigned salary grade for the class and adjusting the rate of pay for employees in the class when the action is approved by the Board of Aldermen.

3.2.3. The Town pays full-time employees weekly and part-time employees biweekly. The payroll work-week begins on Tuesday and ends at midnight Monday. Paychecks will generally be available no later than the following Thursday, unless other conditions warrant, with the final decision to be made by the Town Manager. Accounting of payroll deductions, retirement contributions, and accrual of vacation and sick leave will be done through the payroll system, with each employee receiving a weekly statement of earnings.

3.2.4. It is the responsibility of each Department Head to complete weekly time sheets for their assigned employees. The completed time sheets, reflecting individual work hours, vacation, and sick leave from the previous week, will be provided to the Finance Officer no later than 9AM on Tuesday (Monday if a holiday falls on Tuesday).

Section 3.3 Starting Salaries

All persons employed in positions approved in the Position Classification Plan shall be employed at the hiring rate salary for the classification in which they are employed. However, exceptionally well qualified applicants may be employed above the hiring rate of the established salary range upon approval of the Town Manager. Starting salaries/wages, other than the hiring salary/wage, will be determined by the Town Manager, or in special cases, by the Board of

Aldermen, and will be based on factors such as qualifications, experience and training. Recommendations made by individual department heads are important factors in establishing the starting salary or wage.

Section 3.4 Trainee Designation and Provisions

3.4.1 Applicants being considered for employment or Town employees who do not meet all of the requirements for the position for which they are being considered may be hired, promoted, demoted, or transferred by the Town Manager to a "trainee" status. In such cases, a plan for training, including a time schedule, must be prepared by the Department Head. "Trainee" salaries may be no more than two grades below the hiring rate salary established for the position for which the person is being trained. A new employee designated as "trainee" shall be regarded as a probationary employee.

3.4.2 If the training is not successfully completed to the satisfaction of the Town Manager, the trainee shall be transferred, demoted, or dismissed. If the training is successfully completed, the employee shall be paid at least at the hiring rate established for the position for which the employee was trained.

Section 3.5 Probationary Pay Increases
Upon successful completion of the probationary-period, or six (6) months of satisfactory performance* (whichever is applicable),the newly hired, promoted or reclassified employee shall receive a salary/wage increase of five percent (5%)of the hiring rate within the Classification Pay Plan which should place the employee at the “minimum rate” for the appropriate classification. Employees serving a twelve (12) month probationary period may be considered for this increase after six months of employment. Employees hired, promoted, or reclassified above the minimum rate of the pay table are not eligible for a probationary increase.

** At the end of a probationary period if the employee receives an evaluation with a score that indicates additional training is required or “needs improvement”, the 5% increase will not be granted until the employee has successfully demonstrated the capability to satisfactorily perform the job.*

Section 3.6 Merit Pay
Upward movement within the established salary range for an employee is not automatic, but rather based upon specific performance-related criteria. Merit Pay increases are based on overall individual performance as documented in the employee’s annual performance evaluation. All recommendations for Merit Pay increases must be endorsed by the Department Head and are subject to approval by the Town Manager.

Section 3.7 Merit Pay Bonus

3.7.1 The Town Manager is authorized to award a Merit Pay Bonus based on performance. Generally, Merit Pay Bonuses are considered for use when the normal Merit Increase is not applicable or when an employee performs additional services for the Town that significantly exceed normal expectations. Merit Pay Bonuses may be awarded in addition to Merit Increases.

3.7.2 Employees who are at the maximum of the salary range for their position classification are eligible to be considered for a Merit Pay Bonus at their regular performance evaluation time. Merit Pay Bonuses shall be awarded based upon the performance of the employee as described in the performance evaluation and in the same amounts as employees who are within

the salary range

3.7.3 Merit Pay Bonuses shall be awarded in lump sum payments and do not become part of base pay.

Section 3.8 Salary Effect of Promotions, Demotions, Transfers, and Reclassifications

3.8.1 Promotion. When an employee is promoted, the employee's salary shall normally be advanced to the hiring rate of the new position or to a salary that provides an increase of five percent (5%). However, the new salary rate may not exceed the maximum rate of the new salary range. The purpose of the promotion pay increase is to recognize and compensate the employee for assuming increased responsibility.

3.8.2 Demotion. When an employee is demoted to a position for which qualified, the salary shall be set at the rate in the lower pay range which provides a salary commensurate with the employee's qualifications to perform the job and internally equitable with other employees performance in that job when the demotion is not the result of discipline. If the current salary is within the new range, the employee's salary may be retained at the previous rate if appropriate. If the demotion is the result of discipline, the salary shall be decreased at least five percent (5%), and may be no greater than the maximum of the new range.

3.8.3 Transfer. The salary of an employee reassigned to a position in the same class or to a position in a different class within the same salary range shall not be changed by the reassignment.

3.8.4 Reclassification. An employee whose position is reclassified to a class having a higher salary range shall receive a pay increase of five percent (5%) or an increase to the hiring rate of the new pay range, whichever is higher. If the employee has completed probation, the employee's salary shall be advanced to at least the probation completion (minimum) amount in the new range. If the position is reclassified to a lower pay range, the employee's salary shall remain the same. If the employee's salary is above the maximum established for the new range, the salary of that employee shall be maintained at the current level until the range is increased above the employee's salary.

Section 3.9 Salary Effect of Salary Range Revisions

When a class of positions is assigned to a higher salary range, employees in that class shall receive a pay increase of at least five percent (5%), or to the hiring rate of the new range, whichever is higher. If the employee has passed probation, the employee's salary shall be advanced at least to the probation completion amount (minimum rate) in the new range. When a class of positions is assigned to a lower salary range, the salaries of employees in that class will remain unchanged. If this assignment to a lower salary range results in an employee being paid at a rate above the maximum step established for the new class, the salary of that employee shall be maintained at that level until such time as the employee's salary range is increased above the employee's current salary.

Section 3.10 Transition to a New Pay Plan

The following principles shall govern the transition to a new Pay Plan:

a. No employee shall receive a salary reduction as a result of the transition to a new Pay Plan.
b. All employees being paid at a rate lower than the hiring rate established for their

respective classes shall have their salaries raised to the new minimum for their classes.

c. All employees being paid at a rate below the maximum rate established for their respective classes shall be paid at a rate in the designated salary range.

d. All employees being paid at a rate above the maximum rate established for their respective classes shall be maintained at that salary level until such time as the employees' salary range is increased above the employees' current salary.

Section 3.11 Effective Date of Salary Changes

Salary changes approved after the first working day of a pay period shall become effective at the beginning of the next pay period following the employee's anniversary hire date, or at such specific date as may be provided by procedures approved by the Town Manager.

Section 3.12 Overtime Pay Provisions

3.12.1 Non-Exempt employees of the Town can be requested and may be required to work in excess of their regularly scheduled hours as necessitated by the needs of the Town and determined by the Department Head.

3.12.2 To the extent that local government jurisdictions are so required, the Town will comply with the Fair Labor Standards Act (FLSA). The Town Manager shall determine which jobs are "non-exempt" and are therefore subject to the FLSA in areas such as hours of work and work periods, rates of overtime compensation, and other provisions.

3.12.3 Non-exempt employees will be paid at a straight time rate for hours up to the FLSA established limit for their position (usually 40 hours in a 7 day period; 171 hours for police personnel and 212 hours for fire personnel in a 28 day cycle). Hours worked beyond the FLSA established limit will be compensated in either time or pay at the appropriate overtime rate. In determining eligibility for overtime in a work period, only hours actually worked and holiday hours shall be considered; in no event will vacation or sick leave be included in the computation of hours worked for FLSA purposes.

3.12.4 Whenever practicable, departments will schedule time off on an hour-for-hour basis within the applicable work period for non-exempt employees, instead of paying overtime. When time off within the work period cannot be granted, overtime worked will be paid in accordance with the FLSA.

3.12.5 In emergency situations, where employees are required to work long and continuous hours, the Town Manager may approve compensation at a rate equivalent to 1.5 times the hours worked and/or grant time off with pay for rest and recuperation to ensure safe working conditions. Under such conditions the hourly rate will be 1.5 times the authorized hourly wage for both regular and overtime hours. *(Amended 1-12-2012, Resolution 2012-1752)*

3.12.6 Employees in positions determined to be "exempt" from the FLSA (as Executive, Administrative, or Professional staff) will not receive pay for hours worked in excess of their normal work periods. These employees may be granted compensatory time by their supervisor in accordance with guidance provided by the Town Manager. Such compensatory time is not guaranteed and ends without compensation upon separation from the organization.

Section 3.13 Compensatory Time

With the approval of the supervisor, non-exempt employees who work overtime will have their choice of Compensatory Time Off or Overtime Pay; both will be at a rate of one and one-half times regular pay. However, all Compensatory Time Off must be taken within thirty (30) working days of the date the overtime is worked. Salaried/exempted employees may receive Compensatory Time Off on an hour-for-hour basis where the convenience of the department allows and in accordance with procedures established by the Town Manager. Compensatory Time Off requires approval by the Town Manager when creating a balance that exceeds 100 hours.

Section 3.14 Call-back and Stand-by Pay

3.14.1 The Town provides a continuous twenty-four hour a day, seven day a week service to its customers. Therefore, it is necessary for certain employees to respond to any reasonable request for duty at any hour of the day or night. One of the conditions of employment with the Town is the acceptance of a share of the responsibility for continuous service, in accordance with the nature of each job position. If an employee fails to respond to reasonable calls for emergency service, either special or routine, the employee shall be subject to disciplinary actions up to and including dismissal by the Town Manager.

3.14.2 Call-back. Non-exempt employees will be guaranteed a minimum payment of two (2) hour's wages for being called back to work outside of normal working hours. "Call-back" provisions do not apply to previously scheduled overtime work or attendance at scheduled meetings or events outside normal work hours.

3.14.3 Stand-by. Non-exempt employees required to be on "stand-by" duty will be paid for five hours of work for each week (approximately 128 hours, excluding work time) of stand-by time they serve. Stand-by compensation for less than one full week shall be determined by the ratio of .04 hours of pay per one hour of stand-by time. Hours actually worked while on stand-by are calculated beginning when the employee reports to the work site and are added to the regular total of hours worked for the week. Stand-by time is defined as that time when an employee must carry a communication device and must respond immediately to calls for service.

Section 3.15 Payroll Deduction
Deductions shall be made from each employee's salary, as required by law. Additional deductions may be made upon the request of the employee on determination by the Town Manager.

Section 3.16 Hourly Rate of Pay
The hourly rate of pay for full-time employees will be determined by dividing the established annual rate by the number of hours the employee is regularly scheduled to work in the year. Employees working in a part-time or temporary capacity with the same duties as full-time employees will work at an hourly rate in the same salary range as the full-time employees.

Section 3.17 Longevity Pay

3.17.1 Full-time and permanent part-time employees of the Town are compensated for years of continuous service by payment of a longevity supplement based on the employee's total years of service effective on July 1st. Longevity Pay commences at the 5-year point*.

Years of Service	Longevity Amount
5 –10	300
10-15	500
15-20	600
20-25	700
25-30	800
30 plus	900

**The January 29, 2009 amendment to this policy eliminated Longevity Pay for employees with less than five years of service. Employees hired on or before the effective date of this amendment are authorized Longevity Pay in accordance previous guidelines.*

3.17.2 Longevity pay will normally be issued on the last regular pay period in November or on a date in November designated by the Town Manager.

Section 3.18 Cost-of-Living Adjustments (COLA)

3.18.1 Process. The decision to implement a Cost of Living Adjustment (COLA) is subject to approval by the Board of Aldermen and shall be determined during development of the annual municipal budget. The Town Manager shall make a recommendation to the Board of Aldermen regarding whether or not to appropriate funds in the annual budget to provide for an employee COLA. COLA rates shall be determined based on a number of economic factors including the national Consumer Price Index (CPI). Once a COLA rate has been determined it will become effective with the first full pay cycle of the fiscal year or on a date designated by the Town Manager.

3.18.2 Qualifications. COLA applies to only category A through D employees. Determination on other categories or unique situations will be made by the Town Manager.

Section 3.19 Annual Salary/Wage Increase Cap
Generally, any combination of salary/wage increase (COLA, merit, promotion) will not exceed 11% annually. However, under certain circumstances, this restriction may be waived by the Town Manager.

CHAPTER 4.0 RECRUITMENT AND EMPLOYMENT

Section 4.1 Equal Employment Opportunity Policy
It is the policy of the Town to foster, maintain and promote equal employment opportunity. The Town shall select employees on the basis of the applicant's qualifications for the job without regard to age, sex, race, color, religion, national origin, disability, pregnancy, political affiliation, or marital status. Applicants with physical disabilities shall be given equal consideration with other applicants for positions in which their disabilities do not represent an unreasonable barrier to satisfactory performance of duties with or without reasonable accommodation.

Section 4.2 Implementation of Equal Employment Opportunity Policy
All personnel responsible for recruitment and employment will continue to review regularly the implementation of this personnel policy and relevant practices to assure that equal employment opportunity based on reasonable, job-related requirements is being actively observed to the end that no employee or applicant for employment shall suffer discrimination because of age, sex, race, color, religion, disability, national origin, pregnancy, political affiliation, or marital status.

Notices with regard to equal employment matters shall be posted in conspicuous places on Town premises in places where notices are customarily posted.

Section 4.3 Recruitment, Selection and Appointment

4.3.1 Recruitment Sources. When position vacancies occur, Department Heads shall publicize these opportunities for employment, including applicable salary information and employment qualifications. Information on job openings and hiring practices will be provided to recruitment sources, including organizations and news media available to minority applicants. In addition, notice of vacancies shall be posted at designated conspicuous sites within departments. Individuals shall be recruited from a geographic area as wide as necessary to ensure that well-qualified applicants are obtained for Town service. The North Carolina Employment Security Commission shall normally be used as a recruitment source.

4.3.2 Job Advertisements. Jobs will be advertised in at least one area newspaper~~s~~, and on the Town's web site. Additionally, job vacancies may be advertised in appropriate professional publications, and other relevant publications and information mechanisms in order to establish a diverse and qualified applicant pool. Job vacancies and advertisements shall also be posted on department bulletin boards to insure current employees are aware of the job openings. Employment advertisements shall contain assurances of equal employment opportunity and shall comply with Federal and State statutes.

4.3.3 Application for Employment. All persons expressing interest in employment with the Town shall be given the opportunity to file an application for employment for positions which are vacant during the established recruitment period.

4.3.4 Application Reserve File. Applications shall be kept in an inactive reserve file for a period of two years, in accordance with Equal Employment Opportunity Commission and record retention guidelines.

4.3.5 Selection. Department Heads shall make such investigations and conduct such examinations as necessary to accurately assess the knowledge, skills, and experience qualifications required for the position, including criminal history when needed.

4.3.6 Appointment. Before any commitment is made to an applicant, either internal or external, the Department Head shall make recommendations to the Town Manager with a recommendation for the position to be filled, the salary to be paid, and the reasons for selecting the candidate over other applicants. The Town Manager shall approve appointments and the starting salary for all applicants.

Section 4.4 Probationary Period

4.4.1 An employee appointed or promoted to a permanent position shall serve a probationary period. Generally, employees shall serve a six (6) month probationary period, except sworn police shall serve a twelve (12) month probationary period. During the probationary period, supervisors shall monitor an employee's performance and communicate with the employee concerning performance progress. Employees serving a twelve (12) month probation shall have a probationary review at the end of six (6) months as well as before the end of twelve (12) months.

4.4.2 Before the end of the probationary period, the supervisor shall conduct a performance evaluation conference with the employee to discuss accomplishments, strengths, and needed improvements. A summary of this discussion should be documented in the employee's personnel file. The supervisor shall recommend, in writing, whether the probationary period should be completed, extended, or the employee transferred, demoted, or dismissed. Probationary periods may be extended for a maximum of six (6) additional months.

4.4.3 Disciplinary action, including demotion and dismissal, may be taken at any time during the probationary period of a new hire without following the steps outlined in this policy. A promoted employee who does not successfully complete the probationary period may be transferred or demoted to a position in which the employee shows promise of success. If no such position is available, the employee shall be dismissed. Promoted and demoted employees who are on probation retain all other rights and benefits such as the right to use grievance procedures.

Section 4.5 Promotion

4.5.1 Promotion is the movement of an employee from one position to a vacant position in a class assigned to a higher salary range. It is the Town's policy to create career opportunities for its employees whenever possible. Therefore, when a current employee applying for a vacant position is best suited of all applicants, that applicant shall be appointed to that position. The Town will balance three goals in the employment process:

a. benefits to employees and the organization regarding promotion from within;
b. providing equal employment opportunity and a diversified workforce to the community; and
c. obtaining the best possible employee who will provide the most productivity in that position.

4.5.2 Except in rare situations where previous Town experience is essential or exceptional qualifications of an internal candidate so indicate, the Town will consider both external and internal candidates for selection rather than automatically promote from within. Candidates for promotion shall be chosen on the basis of their qualifications and their work records. Internal candidates shall apply for promotions using the same application process as external candidates.

Section 4.6 Demotion

Demotion is the movement of an employee from one position to a position in a class assigned to a lower salary range. Demotion may be voluntary or involuntary. An employee whose work or conduct in the current position is unsatisfactory may be demoted, provided that the employee shows promise of becoming a satisfactory employee in the lower position. Such disciplinary demotion shall follow the disciplinary procedures outlined in this policy. An employee who wishes to accept a position with less complex duties and reduced responsibilities may request a voluntary demotion. A voluntary demotion is not a disciplinary action and is made without using the above referenced disciplinary procedures.

Section 4.7 Transfer

Transfer is the movement of an employee from one position to a position in a class in the same salary range. If a vacancy occurs and an employee in another department is eligible for a transfer, the employee shall apply for the transfer using the usual application process. The Department Head wishing to transfer an employee to a different department or classification shall make a recommendation to the Town Manager with the consent of the receiving

Department Head. Any employee transferred without requesting the action may appeal the action in accordance with the grievance procedure outlined in this policy. An employee who has successfully completed a probationary period may be transferred into the same classification without serving another probationary period.

CHAPTER 5.0 CONDITIONS OF EMPLOYMENT

Section 5.1 Work Schedule

Department Heads shall establish work schedules, with Town Manager approval, which meet the operational needs of the department in the most cost effective manner possible.

Section 5.2 Political Activity

5.2.1 Each employee has a civic responsibility to support good government by every available means and in every appropriate manner. Each employee may join or affiliate with civic organizations of a partisan or political nature, may attend political meetings, may advocate and support the principles or policies of civic or political organizations in accordance with the Constitution and laws of the State of North Carolina and in accordance with the Constitution and laws of the United States. However, no employee shall:

a. Engage in any political or partisan activity while on duty.
b. Use official authority or influence for the purpose of interfering with or affecting the result of a nomination or an election for office.
c. Be required as a duty of employment or as a condition for employment, promotion or tenure of office to contribute funds for political or partisan purposes.
d. Coerce or compel contributions from another employee of the Town for political or partisan purposes.
e. Use any supplies or equipment of the Town for political or partisan purposes.
f. Be a candidate for nomination or election to office under the Town Charter.

5.2.2 Any violation of this section shall subject the employee to disciplinary action including dismissal.

Section 5.3 Outside Employment

The work of the Town shall have precedence over other occupational interests of employees. All outside employment for salaries, wages, or commissions and all self-employment must be reported in advance to the employee's supervisor, who in turn will report it to the Department Head. Conflicting or unreported outside employment are grounds for disciplinary action up to and including dismissal. Documentation of the approval of outside employment will be placed in the employee’s personnel file. Examples of conflicts of interest in outside employment include but are not limited to the following:

a. Employment with organizations or in capacities that are regulated by the employee or employee’s department.
b. Employment with organizations or in capacities that negatively impact the employee’s perceived integrity, neutrality, or reputation related to performance of the employee’s Town duties.

Section 5.4 Dual Employment

A full or part-time employee of the Town may simultaneously hold another position with the

Town if the position is in a different department and clearly different program area from that of the full or part-time position. However, the work of the full or part-time position shall take precedence over any temporary position, and such work will count toward the calculation of overtime for pay or time off.

Section 5.5 Employment of Relatives

5.5.1 The Town prohibits the hiring and employment of immediate family in permanent positions within the same work unit. "Immediate Family" is defined in Section 7.13.4. The Town also prohibits the employment of any person into a permanent position who is an immediate family member of individuals holding the following positions: Mayor, Mayor Pro Tem, Board of Aldermen Member, Town Manager, Town Clerk, or Town Attorney. Otherwise, the Town will consider employing family members or related persons in the service of the Town, provided that such employment does not:

a. Result in a relative supervising a relative~~s~~.
b. Result in a relative auditing the work of a relative.
c. Create a conflict of interest with either relative and the Town.
d. Create the potential or perception of favoritism.

5.5.2 This provision shall not apply retroactively to anyone employed when the provision is adopted by the Town.

Section 5.6 Harassment Prohibited

5.6.1 The Town prohibits harassment in any form that is based on sex, race, color, religion, national origin, age, and/or disability. Harassment is defined as conduct that culminates in tangible employment action or is sufficiently severe or pervasive to create a hostile work environment. Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when 1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; 2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or 3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment. Sexual harassment includes repeated offensive sexual remarks, continual or repeated comments about an individual’s body and offensive sexual language.

5.6.2 Any employee who believes that he or she may have a complaint of harassment may follow the Grievance Procedure described in this Policy or may file the complaint directly with the Department Head who will immediately notify the Town Manager. The employee may file the complaint directly with the Town Manager if it involves a Department Head. The Town Manager will insure that an investigation is conducted into any allegation of harassment and advise the employee and appropriate management officials of the outcome of the investigation. In the event the complaint is being filed against the Town Manager it will be directed to the Mayor and Board of Aldermen.

5.6.3 Employees who are found to be engaged in harassment are subject to disciplinary action up to and including dismissal. Employees making complaints of harassment are protected against retaliation from alleged harassers or other employees.

Section 5.7 Solicitation and Acceptance of Gifts and Favors
No official or employee of the Town shall solicit or accept any gift, favor, or item of value (valued more than $50) that may tend to influence such official or employee in the discharge of their respective duties, or grant in the discharge of duty an improper favor, service, or item of value.

Section 5.8 Performance Evaluation
Supervisors and/or Department Heads shall complete a Performance Evaluation for each employee at least once a year. These performance evaluations shall be documented in writing and placed in the employee's personnel file.

Section 5.9 Safety

5.9.1 Safety is the responsibility of both the Town and employees. It is the policy of the Town to establish a safe work environment for employees. The Town shall appoint a Safety Officer and establish a safety program including policies and procedures regarding safety practices and precautions and training in safety methods. Department Heads and supervisors are responsible for insuring the safe work procedures of all employees and providing necessary safety training programs.

5.9.2 Employees shall follow the safety policies and procedures and attend safety training programs as a condition of employment. Employees who violate such policies and procedures shall be subject to disciplinary action up to and including dismissal.

Section 5.10 Compliance with Child Labor Laws
The Town of Wrightsville Beach shall comply with all State and Federal laws that apply to the employment of minors.

Section 5.11 Substance Abuse Policy and Drug Testing Program
The Town will establish policies and procedures related to employee substance abuse in order to insure the safety and well-being of citizens and employees, and to comply with any state, federal, or other laws and regulations.

5.11.1 Purpose, Scope and Administration of Policy

5.11.1.1 The purpose of this Policy is to maintain a drug and alcohol-free workplace and to provide procedures for conducting screenings of employees for the use of illegal drugs and the improper use of prescription drugs.

5.11.1.2 Employees with substance-abuse problems are encouraged to voluntarily seek help. However, employees who fail drug or alcohol tests may be disciplined up to and including dismissal.

5.11.1.3 Participation in a counseling, treatment, or rehabilitation program for drug and/or alcohol use or abuse will not be grounds for dismissal provided the employee voluntarily enters such a program prior to being identified as a drug user/abuser or alcohol abuser by means such as tests, and before the employee becomes suspected under circumstances satisfactory to the Town of being a drug user/abuser or alcohol abuser.

5.11.1.4 The Town shall designate a Program Administrator to oversee the implementation and maintenance of the drug and alcohol testing program. Administrator’s responsibilities

shall include general program management, coordination and scheduling of employee testing, communication with the testing agency, and retention of appropriate records.

5.11.2 Compliance with Law

5.11.2.1 Information regarding the testing and referral of employees and applicants under this Policy will be treated as confidential in accordance with the requirements of North Carolina law governing the privacy of employee personnel records.

5.11.2.2 Searches and seizures are to be conducted in a legal manner. Town reserves the right to conduct searches or inspections of property assigned to an employee whenever a Department Head or his/her designee determines that the search is reasonable under all the circumstances.

5.11.3 Drug and Alcohol Use.

5.11.3.1 The unlawful manufacture, distribution, dispensation, possession, purchase, or use of drugs by employees is prohibited and constitutes grounds for immediate termination for drug use.

5.11.3.2 An employee shall inform his/her supervisor, prior to beginning work, that he/she has used or intends to use any prescription drugs, over-the-counter drugs, or other substance that might impair his/her ability to satisfactorily perform duties. Employees are responsible for a thorough understanding of the effects and potential side effects of medications or other chemical substances taken. Failure to notify the supervisor under these circumstances may result in disciplinary action up to and including dismissal, depending on the severity of the resulting incident.

5.11.3.3 If an employee is charged or convicted for violation of a criminal drug statute while on duty, the employee must notify his or her Department Head of the action within five (5) calendar days. Failure to comply with this requirement will result in dismissal.

5.11.3.4 The use of alcohol by employees while at the workplace is prohibited and constitutes grounds for immediate dismissal.

5.11.3.5 No safety-sensitive employee shall use alcohol within four (4) hours before going on duty or operating, or having physical control of, a commercial motor vehicle.

5.11.4 Drug and Alcohol Testing For All Employees

5.11.4.1 All regular Town employees (Category A, B and C) and certain temporary employees will participate in the Drug and Alcohol Testing Program. All testing will be conducted in a manner that will protect the rights of employees and applicants subject to testing. Therefore, the Town will take all necessary steps to safeguard the dignity and self-esteem of those being tested, and will ensure adherence to all procedures pertaining to the implementation of this Policy. The Town will adhere strictly to all standards of confidentiality and assure all employees that testing records and results will be released only to those authorized to receive such information.

5.11.4.2 The Program Administrator will review the findings of a drug test with the employee before a final determination is made that the employee did not pass the drug test.

The purpose of this review is to ensure that the findings of a positive test are not based on factors other than the use of the drug for which the positive result is found.

5.11.4.3 Employees with a confirmed positive test may, at their option and expense, have a second confirmation test conducted on the same specimen. An employee will not be allowed to submit another specimen for testing.

5.11.5 Types of Drug and Alcohol Tests to be Administered

5.11.5.1 Pre-Employment Testing. Before a newly hired employee initially reports to work for the Town, he/she must undergo testing for drugs. Pre-Employment drug testing will be required for all newly hired personnel serving in regular full-time or regular part time positions. New employees serving in temporary positions shall be required to submit to a drug test if the Town determines that the nature of the job and the length of the assignment justify testing. The cost associated with pre-employment drug testing will be paid by the Town.

5.11.5.2 Post Accident Testing. Post-accident testing must be conducted on the driver involved in an accident involving a Town vehicle. A determination whether to test employees who were not in the vehicle but who may have contributed to the accident will be made based on the best information available at the time of the decision. The Federal Highway Administration mandates that tests must be conducted in the event of a fatality or if the driver receives a citation under state or local law for a moving traffic violation arising from the accident. Federal Transit Administration mandates testing in the event of a fatality or in the event that a driver receives a citation and an individual suffers a bodily injury and immediately receives medical treatment away from the accident scene or if one of the vehicles in the accident is disabled to the extent that it must be towed. No safety-sensitive employee involved in an accident that requires an alcohol test shall consume any alcohol within eight (8) hours following the accident or until a post-accident alcohol test is performed, whichever comes first.

5.11.5.3 Random Testing. All safety-sensitive employees and certain temporary employees who hold positions designated as Safety Sensitive* will be subject to testing on an unannounced basis throughout the year. Computer-based, random numbers generated and matched with the employee's identification number will determine who is tested.

**A list of Safety Sensitive positions will be maintained by the Town Manager*

5.11.5.4 Reasonable Suspicion. When there is reasonable suspicion that an employee on duty has alcohol or drugs in his/her system, the employee will be tested. If the employee tests positive and management concludes that alcohol or drug consumption occurred on the job, the employee may be dismissed. If the employee tests positive and it is concluded that alcohol or drug consumption did not occur on the job, the employee may be subject to disciplinary action as outlined in this Policy.

5.11.5.4.1 No employee shall be allowed to remain on duty until an alcohol test is administered and the employee's alcohol concentration measures less than 0.02, or twenty-four hours have elapsed following the determination of reasonable suspicion.

5.11.5.4.2 A written record shall be made of the observations leading to a reasonable-suspicion drug or alcohol test and signed by the supervisor or departmental designee who

made the observation within twenty-four hours of the observed behavior or before the results of the controlled-substances test are released, whichever is earlier.

5.11.5.5 Return-to-Duty Testing. An employee who tests positive for alcohol must submit to a return-to-duty breath alcohol test before resuming his/her duties. The return-to-duty alcohol test must indicate an alcohol concentration of less than 0.02. A return-to-duty breath alcohol test result of 0.02 or greater will be treated as a repeat occurrence. Employees returning to the workforce following completion of a drug and/or alcohol rehabilitation program will be tested on an unannounced and periodic basis for drugs and/or alcohol during the sixty (60) months following their return to work.

5.11.6 Positive Alcohol Test Results

5.11.6.1 An employee who is tested (exclusive of the return-to-duty test) and found to have an alcohol concentration of 0.04 or greater and is not dismissed shall receive an immediate five (5) day suspension without pay, one hundred eighty (180) day performance probation and a mandatory referral to a substance abuse professional. The employee shall be evaluated by the substance abuse professional and follow any rehabilitation program prescribed. The employee shall be subject to all other return-to-work provisions as outlined in this Policy. Refusal to comply with the rehabilitation program prescribed by the substance abuse professional will result in dismissal. A second such occurrence of a positive alcohol test within two (2) years of the first occurrence will result in dismissal.

5.11.6.2 An employee who is tested (exclusive of the return-to-duty test) and found to have an alcohol concentration of 0.02 or greater but less than 0.04 and is not dismissed in accordance with subparagraph 5.11.3.3 above shall not perform or continue to perform his or her job functions until the start of the employee's next regularly scheduled duty period, but not less than twenty-four hours following administration of the test. The employee shall be removed from duty without pay for this twenty-four hour period and shall receive a notation in his or her performance appraisal about the requirement of reporting to work without the presence of alcohol in his or her system. A second such occurrence of a positive alcohol test within two (2) years of the first occurrence will result in an immediate five (5) day suspension without pay and a one hundred eighty (180) day performance probation. A third such occurrence of a positive alcohol test within two (2) years of the first occurrence will result in dismissal.

5.11.7 Refusal To Test

An employee who refuses to submit to, or fails to follow through with, a drug or alcohol test when testing is required by this Policy will be dismissed.

5.11.8 Medical Inability to Perform Test

If an employee alleges that, because of medical reasons, he or she is unable to provide a sufficient amount of breath to permit a valid breath test, the breath alcohol technician shall instruct the employee a second time to attempt to provide an adequate amount of breath. If the employee continues to allege an inability to provide a sufficient amount of breath for the test, the Department Head shall be notified that the employee has refused to be tested. The employee will be directed to obtain, as soon as practicable after the attempted provision of breath, an evaluation from a licensed physician, acceptable to Town, addressing the employee's medical ability to provide the adequate amount of breath. If there is not a medical reason acceptable to management for the employee's inability to provide the breath, the employee will be considered

to have refused to submit to the alcohol test and will be disciplined according to the guidelines established by this Policy.

5.11.9 Re-employment Following A Failed Test.
An employee who does not pass the drug or alcohol test and is dismissed will not be considered for re-employment for a two (2) year period following the date of the test and then will be considered only if: (1) he/she provides documentary proof of successful completion of a drug and/or alcohol abuse treatment or rehabilitation program and (2) he/she passes a pre-employment drug and/or alcohol test.

5.11. 10 Supervisory Responsibilities

5.11.10.1 Consistently apply this Policy to all employees under his/her supervision. A supervisor who fails to apply this Policy when he or she believes, or reasonably should believe, that an employee under his/her supervision has committed a violation will be disciplined.

5.11.10.2 Initiate the process for having an employee drug or alcohol tested if there is reasonable suspicion that an employee under his/her supervision, when such employee is on duty, has an illegal drug or alcohol in his/her system or is using any legal drug in a manner other than it was intended.

5.11.10.3 Insure that the employees he/she supervises are aware of the requirements and consequences of this Policy.

5.11.10.4 Follow the procedure established by the Department Head for assuring that an employee who is to be tested for alcohol or other drugs is transported to the designated test site, and that those employees for whom there is reasonable suspicion of substance abuse or who have had a breath alcohol test result of 0.02 or greater are transported home - either by personal family/friends or by arranged transportation.

5.11.11 Employee Responsibilities

5.11.11.1 Abide by this policy as a condition of employment.

5.11.11.2 Comply with all applicable laws regulating the manufacture, distribution, dispensation, use or possession of illegal drugs, alcohol, or prescription drugs.

5.11.11.3 Assure that his/her ability to perform his/her job duties is not negatively affected due to use of a drug or alcohol when scheduled to report to work or when on "on call" status. Should any employee be requested to report to work earlier than his/her normal or previously assigned time, it is the employee's responsibility to advise his/her supervisor of an inability to perform his/her job duties or that he/she has consumed alcohol within the last four (4) hours prior to reporting for duty. If the employee had received prior notice that he/ she might be called back into work, the employee shall be considered absent without authorization if he/she is unable to report to duty. An employee may be subject to other disciplinary action due to inability to report for duty.

5.11.11.4 Submit immediately to a drug or alcohol test when requested by his/her supervisor.

5.11.11.5 Notify his/her Department Head, if convicted of a violation of a criminal drug statute and such violation occurred while the employee was on duty, within five days after such conviction, as required by the Drug-Free Workplace Act.

Section 5.12 Regulation of Smoking

5.12.1 Definitions

Smoking – Shall mean the inhaling, exhaling, burning or carrying of lighted pipe, cigar, cigarette or other combustible tobacco product.

5.12.2 Smoking Prohibited in Municipal Buildings

Smoking shall not be permitted in any building or facility or portion of a building or facility now or hereafter owned, leased, operated, occupied, managed or controlled by the Town of Wrightsville Beach, provided however smoking may be permitted in outside areas designated by the Town Manager or his/her designee as smoking areas.

5.12.3 Smoking Regulated in Municipal Vehicles

Smoking shall not be permitted in any vehicle now or hereafter owned or leased by the Town.

5.12.4 Penalty

Violation of this policy shall be subject to disciplinary action as outlined in Chapter 9 of the Wrightsville Beach Personnel Policy.

5.12.5 Conflict of Laws

If any portion of this policy or the enforcement thereof is found to be preempted by state or federal law, such preemption shall not operate to invalidate the rest of the policy and the same shall remain in force and effect. All policies or parts of policies in conflict with this policy are hereby repealed.

5.12.6 Effective Date

This policy shall be effective on and after October 29, 2009.

CHAPTER 6.0 EMPLOYEE BENEFITS

Section 6.1 Eligibility

All full-time and permanent part-time employees of the Town are eligible for employee benefits as provided for in this Policy. Benefits are subject to change at the Town's discretion. Temporary employees are eligible only for workers' compensation and FICA. The Town will comply with all federal and state laws regarding benefits.

Section 6.2 Group Health and Hospitalization Insurance

6.2.1 The Town provides group health and hospitalization insurance programs for full-time employees and their families. Under this arrangement insurance premiums for the employee are paid by the Town; however, the employee is responsible for paying a percentage of the premiums for insured spouse or family member.

6.2.2 Retiree Health Insurance. Employees who leave under the provisions of the North Carolina Local Government Employees Retirement System with a minimum of twenty years of service to the Town shall receive full health insurance coverage on the Town's group policy.

The retiree has the option of paying for dependent coverage by contributing the difference in premium cost between individual coverage and coverage to include dependents.

Note: This benefit does not apply to employees hired after June 30, 2010

Section 6.3 Group Life Insurance
The Town may elect to provide group life insurance for each employee subject to the stipulations of the insurance contract. Employees may elect to purchase additional coverage and/or to insure other family members under this plan at their expense subject to the stipulations of the insurance contract.

Note: This benefit does not apply to employees hired after June 30, 2010

6.3.1 Retiree Life Insurance. The Town provides reduced life insurance benefits for retirees with a minimum of twenty (20) years of service with the Town. Retirees who are less than seventy (70) years of age have a benefit of $5,000 and retirees age seventy (70) or older have a benefit of $2,000. Benefits are paid to the designated beneficiary upon death of the retiree. This benefit is self-funded by the Town.

Section 6.4 Other Optional Group Insurance Plans
The Town may make other group insurance plans available to employees upon authorization of the Town Manager or Board of Aldermen.

Section 6.5 Retirement
As a condition of employment, each eligible employee who is expected to work for the Town more than 1,000 hours annually shall join the North Carolina Local Government Employees' Retirement System. New hires who are current members of the NC Local or State Government Employees' Retirement Systems shall be covered under the retirement system by the Town on their first day of employment.

Section 6.6 Supplemental Retirement Benefits
The Town may provide supplemental retirement benefits for its Category A, B and C employees. Each law enforcement officer shall receive 401-K benefits as prescribed by North Carolina State Law. Each general employee may receive supplemental benefits as approved by the Board of Aldermen.

Section 6.7 Social Security
The Town, to the extent of its lawful authority and power, has extended Social Security benefits for its eligible employees and eligible groups and classes of such employees.

Section 6.8 Workers' Compensation

6.8.1 All employees of the Town (full-time, part-time, and temporary) are covered by the North Carolina Workers' Compensation Act and are required to report all injuries arising out of and in the course of employment to their immediate supervisors at the time of the injury in order that appropriate action may be taken at once.

6.8.2 Employees may use both sick leave and/or vacation time during the waiting period before Workers' Compensation benefits begin, and afterward to supplement the remaining one-third of salary, except that employees may not exceed the regular salary amount using this provision. This provision also applies to reactions to small pox vaccinations administered to Town

employees under Section 304 of the Homeland Security Act. Such reactions shall be treated the same as any other Workers' Compensation claim as regards leave and salary continuation.

6.8.3 Responsibility for claiming compensation under the Workers' Compensation Act is on the injured employee, and such claims must be filed by the employee with the North Carolina Industrial Commission within two (2) years from date of injury. The Department Head will assist the employee in filing the claim.

Section 6.9 Unemployment Compensation

In accordance with Public Law 94-566 and subsequent amendments, local governments are covered by unemployment insurance. Town employees who are terminated due to a reduction in force or released from Town service may apply for benefits through the local Employment Security Commission office, where a determination of eligibility will be made.

Section 6.10 Tuition Assistance Program

Full-time employees who have completed initial probation may apply for tuition reimbursement for courses taken on their own time, which will improve their skills for their current job or prepare them for promotional opportunities within the Town service. Tuition, registration, fees, laboratory fees, and student fees are eligible expenses. Employees may be reimbursed eligible expenses up to the equivalent of the cost of two (2) courses per semester at a state college or university. Verification of satisfactory completion of the courses will be required prior to reimbursement. Requests for tuition assistance shall be submitted to the Department Head prior to course registration and are subject to the review and approval of the Town Manager, based on availability of funds. Depending on the level of assistance, employees may be required to sign an employment commitment document with the Town that will guarantee a minimum of three (3) years service following receipt of financial assistance. Failure to observe this commitment may result in forfeiture of all or part of accrued vacation and holiday leave time.

CHAPTER 7.0 HOLIDAYS AND LEAVES OF ABSENCE

Section 7.1 Policy

The policy of the Town is to provide vacation, sick, and holiday leave to all full-time and permanent part-time employees (Categories A, B, and C).

Section 7.2 Holidays

7.2.1 The following days, and other such days as the Board of Aldermen may designate, are holidays with full pay for employees and officers of the Town with compensation equivalent to eight (8) hours pay at regular rates:

a. New Year's Day
b. Labor Day
c. Martin Luther King Birthday
d. Veteran's Day
e. Good Friday
f. Thanksgiving (Thursday & Friday)
g. Memorial Day
h. Christmas (2 or 3 days - see below)
i. Independence Day

7.2.2. When any recognized holiday falls on Saturday or Sunday, the following Monday will generally be the designated holiday. The Board of Aldermen will annually approve a holiday schedule; however, the following guidance is provided specifically for Christmas:

When Christmas Day falls on:	The Town Observes:
Sunday	Monday and Tuesday
Monday	Monday and Tuesday
Tuesday	Monday, Tuesday and Wednesday
Wednesday	Tuesday, Wednesday and Thursday
Thursday	Wednesday, Thursday and Friday
Friday	Thursday and Friday
Saturday	Friday and Monday

7.2.3. An employee must have worked the scheduled day or shift before and the day after the holiday(s), or have been given approved vacation, sick, or other leave to be eligible to receive pay for the holiday(s).

Section 7.3 Holidays: Effect on Other Types of Leave
Regular holidays that occur during a vacation, sick or other leave period of any employee shall not be considered as vacation, sick, or other leave.

Section 7.4 Holidays: Compensation When Work is Required

7.4.1 Non-Exempt employees required to perform work on regularly scheduled holidays shall be granted compensatory time off or be paid at their regular hourly rate for hours actually worked in addition to any holiday pay to which they are entitled.

7.4.2 Exempt employees shall be granted Compensatory Time Off for hours actually worked during holidays.

7.4.3 Compensatory Time Off shall be granted whenever feasible. If a holiday falls on a regularly scheduled day off, the employee shall receive the hours for holiday leave. Non-Exempt employees who work on Christmas*, New Years Day*, Thanksgiving*, and July Fourth* shall receive pay at two (2) times the employee's hourly rate up to a maximum of twelve (12) hours. Compensatory Time Off equivalent to two (2) hours for every hour worked for actual holidays shall be provided as an employee option if department workloads and schedules permit.

** actual not observed*

7.4.4 Compensation for all other holidays granted by the Town shall be at the standard rate, however, the leave time for those holidays may be used in calculating the number of hours worked during the effective pay period. If all holiday leave cannot be scheduled by a Department Head to be taken by all employees before the end of the fiscal year, a maximum of sixteen (16) hours of holiday leave per employee may be carried into the next fiscal year.

7.4.5 Holiday leave earned by permanent employees having a work week with fewer or greater hours than the basic work week shall be determined in accordance with the formula set forth in Section 7.17. Personnel who are on their regular day off when a holiday occurs are still entitled to a day off.

Section 7.5 Vacation Leave

7.5.1 Vacation leave is intended to be used for rest and relaxation, and may also be used for medical appointments.

7.5.2 Vacation leave may also be used by employees who wish to observe religious holidays other than those granted by the Town. Employees who wish to use leave for religious observances must request leave from their respective Department Heads. The Department Head will attempt to arrange the work schedule so that an employee may be granted vacation leave for the religious observance. Vacation leave for religious observance may be denied only when granting the leave would create an undue hardship for the Town.

Section 7.6 Vacation Leave: Use by Probationary Employees
Employees serving a probationary period following initial employment may accumulate vacation leave, but shall not be permitted to take vacation leave during the probationary period unless approved by both the Department Head and Town Manager. Employees shall be allowed to take accumulated vacation leave after six months of service (including those on 12-month probation or extended probation status).

Section 7.7 Vacation Leave: Accrual Rate
Each full and permanent part-time employee of the Town shall earn vacation leave at the following schedule, prorated by the average number of hours in the workweek.

Years of Service	Days Accrued Per Year*
0 – 2	13
2 – 5	15
5 – 10	18
10 – 15	21
15 –20	24
20 -25	27
25 plus	30

** A day for regular employees equates to eight (8) hours. A day for police and fire fighters may vary.*

Section 7.8 Vacation Leave: Maximum Accumulation

7.8.1 Vacation leave may be accumulated without any applicable maximum until the last payroll in the fiscal year. However, if the employee departs from service, payment for accumulated vacation leave shall not exceed 240 hours.

7.8.2 Effective the last payroll in the fiscal year, any employee with more than 240 hours of accumulated vacation leave shall have the excess accumulation removed so that only 240 hours are carried forward to July 1 of the next fiscal year. Employees are not eligible to receive pay for vacation time not taken (except those departing from employment).

7.8.3 Employees who take a minimum of one (1) week (5 days for a regular work week employee) of vacation during the fiscal year may have any excess vacation leave (over 240 hours) converted to sick leave. Employees who do not take a minimum of one (1) week of vacation will lose the excess vacation (over 240 hours).

7.8.4 If an employee has excess leave accumulation during the latter part of the fiscal year and is unable to take such leave because of staffing demands, the employee shall receive no special consideration either in having vacation leave scheduled or in receiving any exception to the maximum accumulation.

Section 7.9 Vacation Leave: Manner of Taking
Employees shall be granted the use of earned vacation leave upon request in advance at those times designated by the Department Head which will least obstruct normal operations of the Town. Department Heads are responsible for insuring that approved vacation leave does not hinder the effectiveness of service delivery. Vacation may be taken in ½ hour increments.

Section 7.10 Vacation Leave: Payment Upon Separation
Employees will normally be paid for accumulated vacation leave upon separation not to exceed 240 hours, provided notice is given to the supervisor at least two weeks in advance of the effective date of resignation. Any employee failing to give the notice required by this section shall forfeit payment for accumulated leave. The notice requirement may be waived by the Town Manager when deemed to be in the best interest of the Town. Employees who are involuntarily separated shall receive payment for accumulated vacation hours subject to the 240-hour maximum.

Section 7.11 Contribution of Vacation Time
Contingent on approval by the Town Manager, employees may contribute vacation hours to benefit an employee who has exhausted available vacation and paid sick time and has an emergency situation in which supplemental paid time off is necessary to address medical or family issues.

Section 7.12 Vacation Leave: Payment Upon Death
The estate of an employee who dies while employed by the Town shall be entitled to payment of all the accumulated vacation leave credited to the employee's account not to exceed the maximums established in Section 7.8 of this Policy.

Section 7.13 Sick Leave

7.13.1 Sick leave may be granted to a probationary or regular employee absent from work for any of the following reasons: sickness, bodily injury, required physical or dental examinations or treatment, or exposure to a contagious disease, when continuing work might jeopardize the health of others.

7.13.2 Sick leave may be used when an employee must care for a member of his or her immediate family who is ill. Sick leave may also be used for death in the employee's immediate family, but may not exceed three (3) days for any single occurrence. Additional leave time required for such occurrence may be charged to vacation or other approved leave when approved by the Department Head and/or Town Manager.

7.13.3 Sick leave may also be used to supplement Workers' Compensation Disability Leave both during the waiting period before Workers' Compensation benefits begin, and afterward to supplement the remaining one-third of salary, except that employee may not exceed the regular salary amount using this provision.

7.13.4 "Immediate family" shall be defined as spouse, child, parent or step-parent, brother, sister, grandparent, grandchild, son-in-law or daughter-in-law of the employee or spouse of the

employee, guardian, or any other relative residing with the employee.

7.13.5 Notification of the desire to take sick leave should be submitted to the employee's supervisor prior to the leave or according to departmental procedures.

Section 7.14 Sick Leave: Accrual Rate and Accumulation

7.14.1 Sick leave shall accrue at a rate of one (1) day***** per month of service or twelve (12) days per year. Sick leave for full-time and permanent part-time employees working other than the basic work schedule shall be pro-rated as described in this Section. Sick leave will be cumulative for an indefinite period of time and may be converted upon retirement for service credit consistent with the provisions of the North Carolina Local Government Employees' Retirement System.

** A day for regular employees equates to eight (8) hours. A day for police and fire fighters may vary.*

7.14.2 All sick leave accumulated by an employee shall end and terminate without compensation when the employee resigns or is separated from the Town, except as stated for employees retiring or terminated due to reduction in force.

Section 7.15 Transfer of Sick Leave from Previous Employer
The Town will not accept the transfer of sick leave for employees from other employers.

Section 7.16 Sick Leave: Medical Certification

7.16.1 The employee's supervisor or Department Head may require a physician's certification pertaining to the employee's capacity to resume duties. The employee may be required to submit to such medical examination or inquiry as the Department Head deems necessary. The Department Head shall be responsible for the application of this provision to the end that:

a. Employees shall not be on duty when they might endanger their health or the health of others.
b. There will be no abuse of leave privileges.

7.16.2 Claiming sick leave under false pretense to obtain a day off with pay shall subject the employee to disciplinary action up to and including dismissal.

Section 7.17 Leave Pro-Rated
Holiday, vacation, and sick leave earned by full-time and permanent part-time employees with fewer or more hours than the basic workweek shall be determined by the following formula:

a. The number of hours worked by such employees shall be divided by the number of hours in the basic work year (2080 = regular employee, 2184= police, 2496 = fire).
b. The proportion obtained in step *"a"* shall be multiplied by the number of hours of leave earned annually by employees working the basic workweek.
c. The number of hours in step "b" divided by twelve (12) shall be the number of hours leave earned monthly by the employees concerned.

Section 7.18 Family and Medical Leave (FMLA)

7.18.1 General. The Town will grant up to twelve (12) weeks of family and medical leave or up to 26 weeks of military caregiver leave per twelve (12) months to eligible employees in accordance with the Family and Medical Leave Act of 1993 (FMLA) and the National Defense Authorization Act of 2008 (NDAA) and the National Defense Authorization Act for Fiscal Year 2010 (NDAA). The Town uses a 12 month rolling forward option to determine when the employee is eligible for FMLA. The leave may be paid (through concurrent use of the Town's Vacation and Sick Leave policies), unpaid, or a combination of paid and unpaid. Earned compensatory time may also be used during FMLA leave. FMLA leave is unpaid only when the employee has exhausted all appropriate types of paid leave. Additional time away from the job beyond the twelve (12) week period may be approved in accordance with the Town's Leave Without Pay policy. The request for the use of FMLA must be made in writing by the employee to the immediate supervisor and approved by the Town Manager. An employee who takes leave under this policy and returns to work at the expiration of the leave is entitled to return to the same job or a job with equivalent status, compensation, benefits, and other employment terms. The position will be the same or one which entails substantially equivalent skills, effort, responsibility, and status.

7.18.2 Qualifications. To qualify for FMLA coverage, the employee must have worked for the Town for a minimum of twelve (12) months or 52 weeks; which do not have to be consecutive. However, the employee must have worked at least 1,250 hours during the twelve (12) month period immediately before the date when the FMLA time begins.

7.18.3 Use. FMLA can be used for the following reasons:

a. The birth of a child and need to care for that child. An employee taking leave for the birth of a child may use paid sick leave for the period of actual absence, based on medical certification. The employee shall then use any available vacation concurrently with FMLA.
b. The placement of a child for adoption or foster care.
c. To attend to an employee's serious health condition or to care for a spouse, child, or parent with a serious health condition. A serious health condition is generally defined as a condition which requires inpatient care at a hospital, hospice, or residential medical care facility, or a condition which requires continuing care by a licensed health care provider. FMLA includes time off for illness of a serious and long-term nature resulting in recurring or lengthy absences. Generally, a condition which results in a period of incapacity for more than three days, and requires continuing treatment from a health care provider would be considered a serious health condition.
d. For family members of military personnel to manage their affairs in the event of a qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is a military service member (regular armed forces, reserve or national guard) on covered active duty in a foreign country or under a call to federal active duty in a foreign country. Qualifying events are:

    1. deployment of service member with seven or fewer days of notice;
    2. military ceremonies and events such as family-assistance or informational programs related to the family member's active duty or call to active duty;
    3. urgent, immediate childcare or arranging for alternative childcare for the children of service members;

4. attending school or daycare meetings relating to the child of service member;
5. making financial or legal arrangements related to a family member's active duty status or call to active duty;
6. attending counseling provided by someone other than a health care provider for oneself, the covered military member, or the child of the covered military member, the need for which arises from the active duty or call to active duty status of the covered military member;
7. taking up to five (5) days of leave to spend time with a covered military member who is on short-term temporary, rest and recuperation leave during deployment;
8. post-deployment activities for a period of ninety (90)days after the termination of the service member's active duty status; or
9. any other event that the employee and the employer agree is a qualifying exigency.

e. Military Caregiver Leave. An employee whose spouse, child, parent or next of kin is a current service member who is undergoing medical treatment, therapy, recuperation or outpatient treatment or has temporary disability retirement for injury or illness sustained in the line of duty, or for preexisting illnesses and injuries that were aggravated by active duty service, is eligible for 26 weeks of leave in a single twelve (12) month period. During a single twelve (12) month period, the employee is eligible for a TOTAL of 26 weeks of ALL types of FMLA leave.

Note. If a husband and wife both work for the Town and each wishes to take leave for the birth of a child, adoption or placement of a child in foster care, or to care for a parent (not a parent in-law) with a serious health condition, the husband and wife together may only take a total of twelve (12) weeks leave under FMLA.

7.18.4 Certification. In order to qualify for FMLA, the Town may require medical certification as well as updates at reasonable intervals for continued certification. This statement from the employee's or the family member's physician should include the date when the condition began and its expected duration. In situations pertaining to the employee's own health condition, it should state whether the employee is able to perform the essential functions of his/her position. For a seriously ill family member, the certification must include a statement that the patient requires assistance and the employee's presence would be beneficial or desirable. This certification should be furnished at least thirty (30) days prior to the needed leave unless the employee's need for leave is not foreseeable. The certification should be furnished as soon as possible (no longer than fifteen [15] days from the date of the Town's request). The certification and request must be filed with the Town Manager or designated representative for personnel related matters. The employee is expected to return to work at the end of the time period stated in the medical certification, unless he/she has requested, in writing, additional time under this policy or the Town's Leave Without Pay policy.

7.18.5 Benefits.

7.18.5.1 Medical, Dental and Life Insurance. When an employee is on leave under FMLA, the Town will continue the employee's health, dental, and life insurance benefits at the same level and under the same conditions as if the employee had continued to work. If an employee chooses not to return to regular full-time work for reasons other than a continued serious health condition, the Town will require the reimbursement of the amount paid for the

employee's health and dental insurance premiums during the FMLA leave period. Other insurance and payroll deductions are the responsibility of the employee and the employee must make those payments for continued coverage of that benefit.

7.18.5.2 Accrual of Sick and Vacation Leave. An employee shall retain all unused Vacation and Sick Leave while on FMLA. An employee ceases to earn Vacation and Sick Leave on the date unpaid FMLA leave begins.

7.18.6 Return to Work. Prior to returning to work following a FMLA leave, the Town may require a physician's certification that the employee can safely resume employment and is capable of performing the essential functions of his/her job.

Section 7.19 Use of Sick/Vacation Time to Supplement Workers' Compensation
An employee absent from work because of sickness or disability covered by the North Carolina Workers' Compensation Act may elect to use accrued Sick or Vacation Leave during the first waiting period. After Workers' Compensation payments begin, the employee may elect to supplement payments with Sick Leave, Vacation Leave, or Compensatory Time, provided that the combination of leave supplement and Workers' Compensation payments do not exceed the employee's normal compensation levels. When Workers' Compensation leave extends long enough for the waiting period to be reimbursed, the employee will reimburse the Town for the amount paid by the Town during the waiting period, and have leave hours reinstated for all time covered by paid leave. In such cases, the Town will pay the employee for any unpaid time that is owed the employee.

Section 7.20 Leave Due To Work Related Injury

7.20.1 General. This section applies only to situations in which Leave Without Pay is necessary due to work related injury and/or situations in which Workers' Compensation benefits are applicable. A full or part-time employee may be granted Leave Without Pay due to a job related injury for a period of up to twelve (12) months by the Town Manager. The leave shall be used for reasons of personal disability due to job related injury after both accrued Sick Leave and Vacation Leave have been exhausted. The employee shall apply in writing to the supervisor for this category of leave; however, the Town Manager is the approval authority. If returning to the job within twelve (12) months, the employee shall be entitled to return to the same position held at the time Leave Without Pay was granted or to one of like classification, seniority, and compensation (see Section 7.21). If the employee does not return to work within such twelve (12) month period, continued employment with the Town will be at the discretion of the Town Manager. If the employee decides not to return to work, the supervisor shall be notified immediately. Failure to report to work at the expiration of a leave of absence, unless an extension has been granted, shall be considered a resignation.

7.20.2 Benefits.

7.20.2.1 Medical, Dental and Life Insurance. An employee will continue to be eligible for medical, dental and life insurance benefits provided by the Town while on Leave Without Pay status that is due to a job related injury or leave associated with Workers' Compensation benefits. This eligibility will continue for a period not to exceed twelve (12) months and shall be contingent on approval of the insurance carrier. Extension of such benefits beyond twelve (12) months will be determined by the Town Manager and may be subject to conditions.

7.20.2.2 Accrual of Sick and Vacation Leave. The employee will continue to accrue Sick and Vacation Leave while on Leave Without Pay status due to a job related injury or leave associated with Workers' Compensation benefits. Continued accrual of Sick and Vacation Leave beyond the twelve (12) month period will be subject to review and determination by the Town Manager.

Section 7.21 Leave Without Pay – Other Than Job Related Injury

7.21.1 General. A full or permanent part-time employee may be granted Leave Without Pay (for other than job related injury) for a period up to twelve (12) months by the Town Manager. The leave shall be used for reasons associated with personal disability (non-work related) after both Sick Leave and Vacation Leave have been exhausted, sickness or disability of an immediate family member, continuation of education, special work that will permit the Town to benefit by the experience gained or the work performed, or for other reasons deemed justified by the Town Manager. The employee shall apply in writing to the supervisor for this category of leave; however, the Town Manager is the approval authority. If returning to the job within twelve (12) months, the employee shall be entitled to return to the same position held at the time Leave Without Pay was granted or to one of like classification, seniority, and compensation. If the employee does not return to work within such twelve (12) month period, continued employment with the Town will be at the discretion of the Town Manager. If the employee decides not to return to work, the supervisor shall be notified immediately. Failure to report to work at the expiration of Leave Without Pay, unless an extension has been granted, shall be considered a resignation.

7.21.2 Benefits.

7.21.2.1 Medical, Dental and Life Insurance. An employee may continue to be eligible for benefits under the Town's group medical and life insurance plan while in Leave Without Pay status; however will be responsible for payment of monthly premiums. This eligibility will continue for a period not to exceed twelve (12) months, and shall be contingent upon approval of the insurance carrier. Extension of eligibility beyond twelve (12) months will be determined by the Town Manager and may be subject to conditions.

7.21.2.2 Accrual of Sick and Vacation Leave. An employee shall retain all unused Vacation and Sick Leave while on Leave Without Pay status; however, the employee ceases to earn Vacation and Sick Leave on the date Leave Without Pay status begins.

Section 7.22 Reserved

Section 7.23 Military Leave

7.23.1 Regular full-time or permanent part-time employees who are members of an Armed Forces Reserve organization or National Guard shall be granted ten (10) workdays per fiscal year for Military Leave Without Pay. If the compensation from the National Guard or Armed Forces Reserve does not equal the compensation from the Town, the Town will pay the difference upon submission of documentation of military compensation. On rare occasions due to annual training being scheduled on a federal fiscal year basis, an employee may be required to attend two periods of training in one fiscal year. For this purpose only, an employee shall be granted an additional ten (10) days of Military Leave during the same fiscal year. If such duty is required beyond the ten (10) workdays, the employee shall be eligible to take accumulated vacation leave or be placed in a Leave Without Pay status, and the provisions of that leave shall

apply. While taking military leave, the employee's vacation credits and other benefits shall continue to accrue as if the employee physically remained with the Town during this period. Employees who are eligible for Military Leave have all job rights specified by the Vietnam Veterans Readjustment Act.

7.23.2 Employees called to active duty may have the difference in military compensation and Town compensation paid by the Town for up to three (3) months upon submission of documentation for military compensation.

Section 7.24 Reinstatement Following Military Service

An employee called to extended active duty with the United States military forces, who does not volunteer for service beyond the period for which called, shall be reinstated with full benefits provided the employee:

a. Applies for reinstatement within ninety (90) days after the release from military service, and
b. Is able to perform the duties of the former position or similar position; or
c. Is unable to perform the duties of the former position or a similar position due to disability sustained as a result of the military service, but is able to perform the duties of another position in the service of the Town. In this case, the employee shall be employed in such other position as will provide the nearest approximation of the seniority,
status, and pay which the employee otherwise would have been provided, if available.

Section 7.25 Civil Leave

A Town employee called for jury duty or as a court witness for the federal or state governments, or a subdivision thereof, shall receive leave with pay for such duty during the required absence without charge to accumulated leave. The employee may keep fees and travel allowances received for jury or witness duty in addition to regular compensation; except, that employees must turn over to the Town any witness fees or travel allowance awarded by that court for court appearances in connection with official duties. While on Civil Leave, benefits and leave shall accrue as though on regular duty.

Section 7.26 Parental School Leave

7.26.1 A Town employee who is a parent, guardian, or person standing in loco parentis (in place of the parent) may take up to four (4) hours of unpaid leave annually to involve him or herself in school activities of his or her child(ren). This leave is subject to the three (3) following conditions:

a. The leave must be taken at a time mutually agreed upon by the employee and the Town; and
b. The Town may require the employee to request the leave in writing at least forty-eight (48) hours prior to the time of the desired leave; and
c. The Town may require written verification from the child’s school that the employee was involved at the school during the leave time.

7.26.2 Paid leave (vacation time) taken by an employee to attend to school activities of his or her child shall count toward the fulfillment of this provision by the Town.

Section 7.27 Administrative Leave
An employee may be placed in Administrative Leave status at the direction of the Town Manager. Depending on circumstances, Administrative Leave may be with or without pay as determined by the Town Manager and/or Board of Aldermen.

CHAPTER 8.0 SEPARATION AND REINSTATEMENT

Section 8.1 Types of Separations
All separations of employees from positions in the service of the Town shall be designated as one of the following types and shall be accomplished in the manner indicated: Resignation, reduction in force, disability, voluntary retirement, dismissal, suspension, or death.

Section 8.1.1 Resignation
An employee may resign by submitting the reasons for resignation and the effective date in writing to the immediate supervisor as far in advance as possible. In all instances, the minimum notice requirement is two (2) weeks. Failure to provide minimum notice shall result in forfeit of payment for accumulated annual vacation unless the notice is waived upon recommendation of the Department Head and approval by the Town Manager. Three (3) consecutive days of absence without contacting the immediate supervisor or Department Head may be considered to be a voluntary resignation. Sick Leave will only be approved during the final two (2) weeks of a notice with a physician's certification or comparable documentation.

Section 8.1.2 Reduction in Force.
In the event that a reduction in force becomes necessary, consideration shall be given to the quality of each employee's performance, organizational needs, and seniority in determining those employees to be retained. Employees who are separated because of a reduction in force shall be given at least two (2) weeks notice of the anticipated action. No regular employee shall be separated because of a reduction in force while there are temporary or probationary employees serving in the same class in the department, unless the regular employee is not willing to transfer to the position held by the temporary or probationary employee.

Section 8.1.3 Disability
An employee who cannot perform the essential duties of a position because of a physical or mental impairment may be separated for disability. Action may be initiated by the employee or the Town. In cases initiated by the employee, such action must be accompanied by medical evidence acceptable to the Town Manager. The Town may require an examination, at the Town's expense, performed by a physician of the Town's choice.

Section 8.1.4 Voluntary Retirement
An employee who meets the conditions set forth under the provision of the North Carolina Local Government Employee's Retirement System may elect to retire and receive all benefits earned under the retirement plan.

Section 8.1.5 Death
Separation shall be effective as of the date of death. All compensation due shall be paid to the estate of the employee.

Section 8.1.6 Dismissal
An employee may be dismissed in accordance with the provisions and procedures of Chapter 9 of this Policy.

Section 8.2 Reinstatement
An employee who is separated because of reduction in force may be reinstated within one (1) year of the date of separation, upon recommendation of the Department Head, and upon approval of the Town Manager. An employee who is reinstated in this manner shall be re-credited with his or her previously accrued Sick Leave and seniority status.

Section 8.3 Rehiring
An employee who resigns while in good standing may be rehired with the approval of the Town Manager, and may be regarded as a new employee, subject to all of the provisions of rules and regulations of this Policy. An employee in good standing who is separated due to a reduction in force shall be given the first opportunity to be rehired in the same or a similar position. Rehired employees may have credit for previous service reinstated after accruing five (5) years of service commencing with the rehire date.

CHAPTER 9.0 UNSATISFACTORY JOB PERFORMANCE AND DETRIMENTAL PERSONAL CONDUCT

Section 9.1 Disciplinary Action for Unsatisfactory Job Performance
A regular employee may be placed on disciplinary suspension, demoted, or dismissed for unsatisfactory job performance, if after following the procedure outlined below, the employee's job performance is still deemed to be unsatisfactory. All cases of disciplinary suspension, demotion, or dismissal must be approved by the Town Manager prior to giving final notice to the employee.

Section 9.2 Unsatisfactory Job Performance Defined
Unsatisfactory job performance includes any aspect of the employee's job that is not being performed as required to meet the standards set by the Department Head or Town Manager. Examples of unsatisfactory job performance include, but are not limited to, the following:

a. Demonstrated inefficiency, negligence, or incompetence in the performance of duties.
b. Careless, negligent or improper use of Town property or equipment.
c. Physical or mental incapacity to perform the essential duties of the job with reasonable accommodation as determined by a physician.
d. Discourteous treatment of the public or other employees.
e. Absence without approved leave.
f. Improper use of leave privileges.
g. Failure to report for duty at the assigned time and place.
h. Failure to complete work within time frames established in work plan or work standards.
i. Failure to meet work standards over a period of time.
j. Failure to follow the chain of command to address work-related issues.

Section 9.3 Communication and Warning Procedures Preceding Disciplinary Action for Unsatisfactory Job Performance

9.3.1 When an employee's job performance is unsatisfactory, or when incidents or inappropriate actions warrant, the supervisor shall meet with the employee as soon as possible

in one or more counseling sessions to discuss specific performance problems. A brief summary of these counseling sessions shall be noted in the employee's file by the supervisor.

9.3.2 An employee whose job performance is unsatisfactory over a period of time should normally receive at least two (2) warnings from the supervisor before disciplinary action resulting in dismissal is taken by the Town Manager. In each case, the supervisor should record the dates of discussions with the employee, the performance deficiencies discussed, the corrective actions recommended, and the time limits set (time limits for corrective actions shall be determined by the Department Head). If the employee's performance continues to be unsatisfactory, then the supervisor should use the following steps:

a. A final written warning from the supervisor serving notice upon the employee that corrected performance must take place in order to avoid suspension, demotion or dismissal.
b. If performance does not improve, a written recommendation should be sent to the Town Manager for disciplinary action such as suspension, demotion or dismissal.

9.3.3 Disciplinary suspensions should not generally exceed three (3) work days for nonexempt employees.

Section 9.4 Disciplinary Action for Detrimental Personal Conduct

9.4.1 With the approval of the Town Manager, an employee may be placed on disciplinary suspension, demoted, or dismissed without prior warning for causes relating to personal conduct detrimental to Town service in order to 1) avoid undue disruption of work; 2) protect the safety of persons or property; or 3) for other serious reasons.

9.4.2 Disciplinary suspensions should not generally exceed three (3) work days* for non-exempt employees.

**hours associated with work days may differ depending on employee status and department assigned, ie; police, fire, etc.*

Section 9.5 Detrimental Personal Conduct Defined

Detrimental personal conduct includes behavior of such a serious detrimental nature that the functioning of the Town may be or has been impaired; the safety of persons or property may be or has been threatened; or the laws of any government may be or have been violated. Examples of detrimental personal conduct include, but are not limited to, the following:

a. Fraud or theft;
b. Conviction of a felony or the entry of a plea of nolo-contendere thereto;
c. Falsification of records for personal profit, to grant special privileges, or to obtain employment;
d. Willful misuse or gross negligence in the handling of Town funds;
e. Willful or wanton damage or destruction to property;
f. Willful or wanton acts that endanger the lives and property of others;
g. Possession of unauthorized firearms or other lethal weapons on the job;
h. Brutality in the performance of duties;
i. Reporting to work under the influence of alcohol or drugs or partaking of such while on duty. Prescribed medication may be taken within the limits set by a physician as long as medically necessary;

j. Engaging in incompatible employment or serving a conflicting interest;
k. Request or acceptance of gifts in exchange for favors or influence;
l. Engaging in political activity prohibited by this policy;
m. Harassment of an employee(s) and/or the public on the basis of sex or any other protected class status; or
n. Stated refusal to perform assigned duties or flagrant violation of work rules and regulations.

Section 9.6 Pre-Disciplinary Conference
Before suspension, demotion, or dismissal action is taken, whether for failure in personal conduct or failure in performance of duties, the Town Manager or a Department Head will conduct a pre-disciplinary conference. At this conference, the employee may present any response to the proposed disciplinary action to the Town Manager or Department Head. The Town Manager or Department Head will consider the employee's response, if any, to the proposed disciplinary action, and will, within three (3) working days following the pre-disciplinary conference, notify the employee in writing of the final decision to take disciplinary action. The notice of the final disciplinary action shall contain a statement of the reasons for the action and the employee's appeal rights.

Section 9.7 Non-Disciplinary Suspension

9.7.1 During the investigation, hearing, or trial of an employee on any criminal charge, or during an investigation related to alleged detrimental personal conduct, or during the course of any civil action involving an employee, when suspension would, in the opinion of the Town Manager, be in the best interest of the Town, the Town Manager may suspend the employee for part or all of the proceedings as a non-disciplinary action. In such cases, the Town Manager may:

a. Temporarily relieve the employee of all duties and responsibilities and place the employee on paid or unpaid leave for the duration of the suspension; or
b. Assign the employee new duties and responsibilities and allow the employee to receive such compensation as is in keeping with the new duties and responsibilities.

9.7.2 If the employee is reinstated following the suspension, such employee shall not lose any benefits to which otherwise the employee would have been entitled had the suspension not occurred. If the employee is terminated following suspension, the employee shall not be eligible for any pay from the date of suspension; provided, however, all other benefits with the exception of accrued Vacation and Sick Leave shall be maintained during the period of suspension.

CHAPTER 10.0 GRIEVANCE PROCEDURE AND ADVERSE ACTION APPEAL

Section 10.1 Policy

10.1.1 It is the policy of the Town to provide a just procedure for presentation, consideration, and disposition of employee grievances. The purpose of this Section is to outline the procedure and to assure all employees that a response to their complaints and grievances will be prompt and fair.

10.1.2 Employees utilizing the grievance procedures shall not be subjected to retaliation or any form of harassment from supervisors or employees for exercising their rights under this policy.

Supervisors or other employees who violate this policy shall be subject to disciplinary action up to and including dismissal from Town service.

Section 10.2 Grievance Defined
A grievance is a claim or complaint by a current or a former employee based upon an event or condition, which affects the circumstances under which an employee works, allegedly caused by misinterpretation, unfair application, or lack of clear or consistent policy or practice pertaining to employment conditions. Grievances include the appeal of a disciplinary action, warning, performance evaluation, merit pay decision, etc.

Section 10.3 Purposes of the Grievance Procedure
The purposes of the grievance procedure include, but are not limited to:

a. Providing employees with a procedure by which their complaints can be considered promptly, fairly and without reprisal.
b. Encouraging employees to express themselves about the conditions of work which affect them as employees.
c. Promoting better understanding of policies, practices and procedures which affect employees.
d. Increasing employees' confidence that personnel actions taken are in accordance with established, fair and uniform policies and procedures.
e. Increasing the sense of responsibility exercised by supervisors in dealing with their employees.
f. Encouraging conflicts to be resolved between employees and supervisors who must maintain an effective future working relationship, and therefore, encouraging conflicts to be resolved at the lowest level possible in the chain of command.
g. Creating a work environment free of continuing conflicts, disagreements and negative feelings about the Town or its leaders, thus freeing up employee motivation, productivity and creativity.

Section 10.4 Procedure

10.4.1 When an employee has a grievance, the following successive steps are to be taken unless otherwise provided. The number of calendar days indicated for each step should be considered the maximum, unless otherwise provided, and every effort should be made to expedite the process. However, the time limits set forth may be extended by mutual consent of the employee and the Town. The last step initiated by an employee shall be considered to be the step at which the grievance is resolved. A decision to rescind a disciplinary suspension, demotion or dismissal must be approved by the Town Manager before the decision becomes effective.

10.4.2 Informal Resolution. Prior to the submission of a formal grievance, the employee and supervisor should meet to discuss the problem and seek to resolve it informally. Either the employee or the supervisor may involve the respective Department Head as a resource to help resolve the grievance. In addition, the employee or supervisor may request mediation from local mediation services or other qualified parties to resolve the conflict. Mediation may be used at any step in the process when mutually agreed upon by the employee and supervisor. Mediation is the process where a neutral party assists the parties in conflict with identifying mutually agreeable solutions or understandings.

10.4.3 Formal Resolution

10.4.3.1 Step 1. If no resolution to the grievance is reached informally, the employee who wishes to pursue a grievance shall present the grievance to the appropriate supervisor in writing. The grievance must be presented within fifteen (15) calendar days of the event or within fifteen (15) calendar days of learning of the event or condition. The supervisor shall respond to the grievance within ten (10) calendar days after receipt of the grievance. The supervisor should, and is encouraged to, consult with any employee of the Town in order to reach a correct, impartial, fair and equitable determination or decision concerning the grievance. Any employee consulted by the supervisor is required to cooperate to the fullest extent possible. The response from the supervisor for each step in the formal grievance process shall be in writing and signed by the supervisor. In addition, the employee shall sign a copy to acknowledge receipt thereof. The responder at each step shall send copies of the grievance and response to the Town Manager.

10.4.3.2 Step 2. If the grievance is not resolved to the satisfaction of the employee by the supervisor, the employee may appeal, in writing, to the appropriate Department Head within ten (10) calendar days after receipt of the response from Step 1. The Department Head shall respond to the appeal, stating the decision within ten (10) calendar days after receipt of the appeal.

10.4.3.3 Step 3. If the grievance is not resolved to the satisfaction of the employee at the end of Step 2, the employee may appeal, in writing, to the Town Manager within ten (10) calendar days after receipt of the response from Step 3. The Town Manager shall respond to the appeal, stating the determination of decision within ten (10) calendar days after receipt of the appeal. The Town Manager's decision shall be the final decision. The Town Manager shall notify the Board of Aldermen of any impending legal action.

10.4.4 Department Heads. In the case of Department Heads or other employees where the Town Manager has been significantly involved in determining disciplinary action, including dismissal, the Town may wish to obtain a neutral outside party to either:

a. Provide mediation between the grieving Department Head and the Town Manager (see definition of mediation in “informal resolution” above); or
b. Consider an appeal and make recommendations back to the Town Manager concerning the appeal. Such parties might consist of human resource professionals, attorneys, mediators or other parties appropriate to the situation.

10.4.5 The Town Manager's decision shall be the final decision in all grievances. The Town Manager shall notify the Board of Aldermen of any impending legal action.

Section 10.5 Grievance and Adverse Action Appeal Procedure for Discrimination
When an employee, former employee, or applicant, believes that any employment action discriminates illegally (ie. is based on age, sex, race, color, national origin, religion, creed, political affiliation, or non-job related handicap), he or she has the right to appeal such action using the grievance procedure outlined in this Chapter. While such persons are encouraged to use the grievance procedure, they shall also have the right to appeal directly to the Town Manager. Employment actions subject to appeal because of discrimination include promotion, training, classification, pay, disciplinary action, transfer, layoff, failure to hire, or termination of employment. An employee or applicant should appeal an alleged act of discrimination within

thirty (30) calendar days of the alleged discriminatory action, but may appeal for up to six (6) months following the action.

Section 10.6 Whistleblower and Non-Retaliation Protections
The Occupational Safety and Health Act (OSH Act) and a number of other laws protect employees against retaliation for complaining to their employers, the Occupational Safety and Health Administration (OSHA), or other government agencies about unsafe or unhealthful conditions in the workplace, environmental problems, certain public safety hazards, and certain violations of federal provisions concerning securities fraud. Whistleblowers may not be transferred, denied a raise, have hours reduced or be fired or punished in any other way because they have exercised any right afforded to them under one of the laws that protect whistleblowers.

CHAPTER 11.0 RECORDS AND REPORTS

Section 11.1 Public Information
In compliance with GS 160A-168, the following information with respect to each Town employee is a matter of public record: name; age; date of original employment or appointment to the service; current position title; current salary; date and amount of the most recent increase or decrease in salary; date of the most recent promotion, demotion, transfer, suspension, separation, or other change in position classification; and the office to which the employee is currently assigned. Any person may have access to this information for the purpose of inspection, examination, and copying, during regular business hours, subject only to such rules and regulations for the safekeeping of public records as the Town may adopt.

Section 11.2 Access to Confidential Records

11.2.1 All information contained in a Town employee's personnel file, other than the information mentioned above, is confidential and shall be open to inspection only in the following instances:

a. The employee or his/her duly authorized agent may examine all portions of his/her personnel file except letters of reference solicited prior to employment, and information concerning a medical disability, mental or physical, that a prudent physician would not divulge to the patient.
b. A licensed physician designated in writing by the employee may examine the employee's medical record.
c. A Town employee having supervisory authority over the employee may examine all material in the employee's personnel file.
d. By order of a court of competent jurisdiction, any person may examine such portion of an employee's personnel file as may be ordered by the court.
e. An official of an agency of the State or Federal Government, or any political subdivision of the State, may inspect any portion of a personnel file when such inspection is deemed by the Town Manager to be necessary and essential to the pursuit of a proper function of the inspecting agency, but no information shall be divulged for the purpose of assisting in a criminal prosecution of the employee, or for the purpose of assisting in an investigation of the employee's tax liability. However, the official having custody of the personnel records may release the name, address and telephone number from a personnel file for the purpose of assisting in a criminal investigation.
f. An employee may sign a written release to be placed in his/her personnel file that permits the record custodian to provide, either in person, by telephone, or by mail,

information specified in the release to prospective employers, educational institutions, or other persons specified in the release.

g. The Town Manager, with the concurrence of the Board of Aldermen, may inform any person of the employment, non-employment, promotion, demotion, suspension or other disciplinary action, reinstatement, transfer, or termination of a Town employee, and the reasons for that action. Before releasing that information, the Town Manager shall determine in writing that the release is essential to maintaining public confidence in the administration of town services or to maintaining the level and quality of Town services. The written determination shall be retained in the Town Manager's office, is a record for public inspection, and shall become a part of the employee's personnel file.

Section 11.3 Personnel Actions
The Town Manager will prescribe necessary forms and reports for all personnel actions and will retain records necessary for the proper administration of the personnel system. There shall be one set of official personnel files, centrally located as designated by the Town Manager. Any document not located there is not an official part of that employee's personnel record.

Section 11.4 Records of Former Employees
The provisions for access to records apply to former employees as they apply to present employees.

Section 11.5 Remedies of Employees Objecting to Material in File
An employee who objects to material in his/her file may place a statement in the file relating to the material considered to be inaccurate or misleading. The employee may seek removal of such material in accordance with established grievance procedures.

Section 11.6 HIPAA Privacy Compliance
HIPAA, which stands for the American Health Insurance Portability and Accountability Act of 1996, is a set of rules to be followed by doctors, hospitals and other health care providers. HIPAA helps insure that medical records, medical billing, and patient account information meets certain consistency standards with regard to documentation, handling and privacy. The Town's role in compliance with HIPAA Privacy Standards insures that employee health and medical information is handled in a manner that is consistent with the standard and protects the employee's interest.

Section 11.7 Penalties for Permitting Access to Confidential Records
Section 160A-168 of the North Carolina General Statutes provides that any public official or employee who knowingly, willfully, and with malice permits any person to have access to information contained in an employee personnel file, except as permitted by this Section, is guilty of a Class 3 misdemeanor and upon conviction shall be fined ~~in~~ an amount not more than $500.

Section 11.8 Examining and/or Copying Confidential Material without Authorization
Section 160A-168 of the General Statutes of North Carolina provides that any person not specifically authorized to have access to a personnel file designated as confidential, who shall knowingly and willfully examine in its official filing place, remove or copy any portion of a confidential personnel file shall be guilty of a misdemeanor and upon conviction shall be fined consistent with the General Statutes.

Section 11.9 Destruction of Records Regulated

No person may destroy, sell, loan, or otherwise dispose of any public record, except in accordance with GS 121.5 and GS 130A.199, without the consent of the State Department of Cultural Resources. Whoever unlawfully removes a public record from the office where it is usually kept, or whoever, alters, defaces, mutilates or destroys it will be guilty of a Class 3 misdemeanor and upon conviction will be fined in an amount provided in Policy 132.3 of the General Statutes.