



# Town of Wrightsville Beach PERSONNEL POLICY

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**TOWN OF WRIGHTSVILLE BEACH  
PERSONNEL POLICY**

BE IT RESOLVED by the Town 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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## **ARTICLE I. GENERAL PROVISIONS**

### **Section 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 under the supervision of the Town Manager. This policy is established under authority of Chapter 160A, Article 7, of the General Statutes of North Carolina.

### **Section 2. At Will Employment**

The Town of Wrightsville Beach is an "at will" employer. Nothing in this policy creates an employment contract or term between the Town and its employees. No person has the authority to grant any employee any contractual rights of employment.

### **Section 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, veteran status, marital status, political affiliation, non-disqualifying disability, age, or genetic information.

### **Section 4. Responsibilities in the Administration of the Personnel Program**

#### **Responsibilities of the Town Board**

The Town Board shall be responsible for establishing and approving personnel policies, the position classification and pay plan, and may change the policies and benefits as necessary. They also shall make and confirm appointments when so specified by the North Carolina General Statutes, including the appointment of the Town Manager.

#### **Responsibilities of the Town Manager**

The Town Manager shall be accountable to the Town Board for the administration and technical direction of the personnel program. The Town Manager shall appoint, suspend, and remove all 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 other policies and procedures spelled out in other Articles in this Policy.

The Town Manager shall supervise or participate in:

- a) recommending rules and revisions to the personnel system to the Town Board for consideration;
- b) making 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 Fair Labor Standards Act (FLSA);
- e) establishing and maintaining a roster of all persons and authorized positions in the municipal service, 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 implementing such administrative procedures as are necessary to implement these polices provided the administrative procedures are not in conflict with these policies;
- h) performing such other duties as may be required by law or assigned by the Town Board not inconsistent with this Policy; and
- i) appointing an employee to the role of Human Resources Officer.

### **Responsibilities of the Human Resources Officer**

The Town Manager shall appoint a Human Resources Officer or perform this role him/herself. The responsibilities of the Human Resources Officer are to make recommendations to the Town Manager on the following:

- a) rules and revisions to the personnel system for the Town Manager's consideration;
- b) changes as necessary to maintain an up-to-date and accurate position classification plan;
- c) necessary revisions to the pay plan;
- d) which employees shall be subject to the overtime provisions of FLSA;
- e) maintenance of a roster of all persons in the municipal service;
- f) establishment and maintenance of a list of authorized positions in the municipal service at the beginning of each budget year which identifies each authorized position, class title of position, salary range, any changes in class title and status, position number and other such data as may be desirable or useful;
- g) development and administration of such recruiting programs as may be necessary to obtain an adequate supply of competent applicants to meet the needs of the Town;
- h) development and/or coordination of training and educational programs for Town employees;
- i) development and recommendation of such administrative procedures as are necessary to implement these polices provided the administrative procedures are not in conflict with these policies;
- j) periodic evaluations of the operation and effect of the personnel provisions of this Policy;
- k) such other duties as may be assigned by the Town Manager not inconsistent with this Policy;

and

- l) maintaining proper personnel files and documentation.

**Responsibilities of Supervisors and Directors:**

Supervisors shall meet their responsibilities as directed by the Board and/or the Town Manager, being guided by this Policy and Town ordinances. The Town will require all supervisors to meet their responsibilities by:

- a) dealing with all employees in a fair and equitable manner and upholding the principles of equal employment opportunities;
- b) developing and motivating employees to reach their fullest potential through continued education and training;
- c) making objective evaluations of individual work performance and discussing these evaluations with each employee so as to bring about needed improvements;
- d) keeping employees informed of their role in accomplishing the work of their unit and of conditions or changes affecting their work;
- e) working with employees to create an environment of teamwork, mutual respect and collaborative conflict resolution;
- f) modeling customer service excellence;
- g) making proper documentation and maintaining current files.

**Section 5. 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 Town Board and advisory Boards and commissions will be exempted except in sections where specifically included. An employee violating any of the provisions of this policy may be subject to disciplinary action, as well as prosecution under any civil or criminal laws which have been violated.

**Section 6. Departmental Rules and Regulations**

Because of the particular personnel and operational requirements of the various departments of the Town, 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 review by the Human Resources Officer and 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 7. Definitions**

For the purposes of this Policy, the following words and phrases shall have the meanings



respectively ascribed to them by this section:

**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, as required by the Town.

**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.

**Regular employee.** An employee appointed to a full or part-time position who has successfully completed the designated probationary period.

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

**Limited Service employee.** An employee, not in a permanent position, for which either the average work week required by the Town over the course of a year is less than 20 hours, or continuous employment required by the Town is less than 12 months. **(This includes seasonal and similar workers).**

**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.

**Permanent position.** A position authorized for the budget year for a full twelve months and budgeted for twenty or more hours per week. All Town positions are subject to budget review and approval each year by the Town Board 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.

## **ARTICLE II. POSITION CLASSIFICATION PLAN**

### **Section 1. Purpose**

The position classification plan provides a complete inventory of all authorized and permanent positions in the Town service, and an accurate description and specification for each class of employment. The plan standardizes job titles, each of which is indicative of a definite range of duties and responsibilities.

### **Section 2. Composition of the Position Classification Plan**

The classification plan shall consist of:

- a) a grouping of positions in classes which are approximately equal in difficulty and responsibility which call for the same general qualifications, and which 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; and
- d) an allocation list showing the class title of each position in the classified service.

### **Section 3. Use of the Position Classification Plan**

The classification plan is to be used:

- a) as a guide in recruiting and examining applicants for employment;
- b) in determining lines of promotion and in developing employee training programs;
- c) in determining salary to be paid for various types of work;
- d) in determining personnel service items in departmental budgets; and
- e) in providing uniform job terminology.

### **Section 4. Administration of the Position Classification Plan**

The Human Resources Officer shall allocate each position covered by the classification plan to its appropriate class, and shall be responsible for the administration of the position classification plan. The Human Resources Officer shall periodically review portions of the classification plan and recommend appropriate changes to the Town Manager. The Town Manager will recommend changes to the Board.

### **Section 5. Authorization of New Positions and the Position Classification Plan**

New positions shall be established upon recommendation of the Town Manager and approval of the Town Board. New positions shall be recommended to the Town Board with a recommended class title after which the Human Resources Officer, with the approval of 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. The position classification plan, along with any new positions or classifications, shall be approved by the Town Board and will be on file with the Human Resources Officer. Copies will be available for review to all Town employees upon request.

#### **Section 6. Request for Reclassification**

Any employee who considers the position in which 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 Human Resources Officer. Upon receipt of such request, the Human Resources Officer shall study the request, determine the merit of the reclassification, and recommend to the Town Manager and Town Board a revision to the classification and pay plan where necessary.

#### **Section 7. Maintenance of the Classification**

Because job duties change over time and the market pay rate changes at different rates for different jobs, comprehensive classification and pay plan reviews are needed periodically. When the organization is stable, reviews are needed approximately every five years. When there is significant growth and/or change in the organization, comprehensive reviews are needed.

## **ARTICLE III. THE PAY PLAN**

### **Section 1. Definition**

The pay plan includes the basic salary schedule and the "Assignment of Classes to Grades" adopted by the Town Board. The salary schedule consists of hiring, minimum (normally probation completion), midpoint and maximum rates of pay for all classes of positions.

### **Section 2. Administration and Maintenance**

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

The pay 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 Human Resources Officer 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 Town Manager such changes in salary ranges as appear to be pertinent. Such changes shall be made in the salary ranges such that the hiring rate, minimum, midpoint, and maximum rates change according to market changes. Such changes are subject to approval by the Town Board.

### **Section 3. Starting Salaries**

All persons employed in positions approved in the position classification plan shall be employed at the hiring rate 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 recommendation of the department head and Human Resources Officer and approval of the Town Manager.

### **Section 4. Trainee Designation and Provisions**

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 shall be no more than two salary grades below the hiring rate established for the position for which the person is being trained. A new employee designated as "trainee" shall be regarded as being in a probationary period. However, probationary periods shall be no less than six months and trainee periods may extend up to eighteen months. A trainee shall remain a probationary employee until the trainee period is satisfactorily completed.

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 5. Probationary Pay Increases**

At the discretion of the Town Manager, employees hired or promoted shall receive a salary increase within the pay range of approximately 5% upon successful completion of the probationary period or upon six months of satisfactory service if the employee is not on probation.

Employees serving a twelve-month probationary period may be considered for this increase after six months of employment; employees with a twelve-month probationary period who receive an increase at the six month review will not be eligible for an increase at the end of the twelve-month probationary period.

## **Section 6. Performance Pay**

Upward movement within the established salary range for an employee is not automatic, but rather based upon specific performance-related criteria. Procedures for determining performance levels and performance pay increases or other performance-related movement within the range shall be established in procedures approved by the Town Manager.

## **Section 7. Performance Pay Bonus**

Employees who are at the maximum amount of the salary range for their position classification are eligible to be considered for a performance pay bonus at their regular performance evaluation time. Performance 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. Performance pay bonuses shall be awarded in lump sum payments and do not become part of base pay.

## **Section 8. Salary Effect of Promotions, Demotions, Transfers, and Reclassifications**

**Promotions.** The purpose of the promotion pay increase is to recognize and compensate the employee for taking on increased responsibility. 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 which provides an increase of at least 5% over the employee's salary before the promotion, whichever is greater. In the event of highly skilled and qualified employees, shortage of qualified applicants, or other reasons related to the merit principle of employment, the Town Manager may set the salary at an appropriate rate in the range of the position to which the employee is promoted that best reflects the employee's qualifications for the job and relative worth to the Town, taking into account the range of the position and relative qualifications of other employees in the same classification. In no event, however, shall the new salary exceed the maximum rate of the new salary range. In setting the promotion salary, the Town shall consider internal comparisons with other employees in the same or similar jobs.

**Demotions.** Demotion is the movement of an employee from one position to a position in a class assigned to a lower salary range. 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 employees' qualifications to perform the job and consistent with the placement of other employees within the same classification in that salary range. 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 5%. Salaries of demoted employees may be no greater than the maximum of the new range.

**Transfers.** 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.

**Reclassifications.** An employee whose position is reclassified to a class having a higher salary range shall receive a pay increase of 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 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 9. Salary Effect of Salary Range Revisions**

When an individual class of positions is assigned to a higher salary range, employees in that class shall normally receive a pay increase of 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 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 rate established for the 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 10. Transition to a New Salary Plan**

The following principles shall govern the transition to a new salary plan:

- 1) No employee shall receive a salary reduction as a result of the transition to a new salary plan.
- 2) All employees being paid at a rate lower than the minimum rate established for their respective classes shall have their salaries raised at least to the new minimum rate for their classes.
- 3) All employees being paid at a rate below the maximum rate established for their respective classes shall be paid at a rate within the salary schedule
- 4) All employees being paid at a rate above the maximum rate established for their respective classes shall have their salaries maintained at that salary level with no increases until such time as the employees' salary range is increased above the employees' current salary.

### **Section 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, or at such specific date as may be provided by procedures approved by the Town Manager.

### **Section 12. Fair Labor Standards Act and Overtime Pay Provisions**

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.

Overtime work should normally be approved in advance by the department head, Town Manager or other designee.

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

### **Non-Exempt Employees**

Employees are expected to work during all assigned periods exclusive of breaks or meal times. Employees are not to perform work at any time that they are not scheduled to work, unless they receive approval from their department head or supervisor, except in cases of emergency.

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 sworn police and/or 212 for fire staff 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 shall be considered. In no event will vacation, sick leave, or holidays be included in the computation of hours worked for FLSA purposes.

Whenever practical, 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 compensated in accordance with the FLSA.

Compensatory leave balances may not exceed 240 hours except for public safety employees (sworn police and fire) who may not accrue more than 480 hours. Any overtime worked after such maximum balances must be compensated in pay. The Manager will be notified whenever a compensatory balance exceeds 100 hours.

In emergency conditions, when long and continuous work is required over multiple days, the Town Manager may approve special overtime compensation.

### **Exempt Employees**

Employees in positions determined to be "exempt" from the FLSA (as Executive, Administrative or Professional staff) are paid on a salary basis and will not receive pay for hours worked in excess of their normal work periods. These employees may be granted occasional compensatory leave by their supervisor where the convenience of the department allows and in accordance with procedures established by the Town Manager. Such compensatory time is not guaranteed to be taken and ends without compensation upon separation from the organization.

In declared disaster or emergency situations requiring long and continuous hours of work, exempt employees may be compensated at a rate of up to time and one half and/or be granted time off with pay for rest and recuperation to ensure safe working conditions for the duration of the emergency period, when authorized by the Town Manager or Town Board.

### **Section 13. Stand-by and Call-back Pay**

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.

**Stand-by.** Stand-by ("on-call") time is defined as that time when an employee must carry a pager or other communication device and must respond immediately to calls for service. Non-exempt employees required to be on "stand-by" duty will be paid for seven hours of work at straight time for each week of stand-by time they serve. The Town Manager will approve the standby rotation for each department. Stand-by compensation for less than one full week shall be determined by the ratio of 1 hour of pay per one hour of stand-by time.

Standby time requiring an employee to remain at a designated location or otherwise substantially restrict personal activities in order to be ready to respond when called is considered work time under the provisions of the FLSA.

**Call-back.** Non-exempt employees will be guaranteed a minimum payment of two hours of wages or compensatory time for being called back to work outside of normal working hours. Hours actually worked while on call-back are calculated beginning when the employee reports to the work site and are added to the regular total of hours worked for the week. "Call-back" provisions do not apply to previously scheduled overtime work (scheduled in advance).

**Special Event.** When employees are called in specifically to work a special event, they will be compensated at their hourly overtime rate. When employees are already scheduled to work on the day of a special event, they will be compensated at their regular rate.

### **Section 14. Payroll Deductions**

Deductions shall be made from each employee's salary as required by law. Additional deductions may be made for insurance or for other reasons as authorized by the Town Manager considering the capability of the payroll system, associated increase in workload, and appropriateness of the deduction.

### **Section 15. Hourly Rate of Pay**

Employees working in a part-time or limited service capacity with the same duties as full-time employees will normally work at a rate in the same salary range as the full-time employees.

The hourly rate for employees working other than 40 hours per week, such as police officers working an average 42 hours per week, will be determined by dividing the average number of hours scheduled per year into the annual salary for the position.

### **Section 16. Longevity Pay**

Full-time employees of the Town are compensated for years of service by payment of a longevity supplement based on the following table:



<u>Years of Continuous Service</u>	<u>Longevity Amount</u>
5 to 10	\$ 300
10 to 15	500
15 to 20	600
20 to 25	700
25 to 30 plus	800

Longevity pay will be issued on a date in November approved by the Town Manager. Appropriate federal, state, retirement, etc. deductions will be made.

### **Section 17. Pay for Interim Assignments in a Higher Level Classification**

An employee who is formally designated, for a period of at least one month, by the Town Manager to perform the duties of a job that is assigned to a higher salary grade than that of the employee's regular classification shall normally receive an increase for the duration of the interim assignment. The employee shall receive a salary adjustment to the hiring rate level of the job in which the employee is acting or an increase of 5%, whichever is greater. Criteria involved in determining the amount of the compensation will include:

- a) the difference between the existing job and that being filled on a temporary basis, and
- b) the degree to which the employee is expected to fulfill all the duties of the temporary assignment.

The salary increase shall be temporary and upon completion of the assignment, the employee shall go back to the salary he or she would have had if not assigned in the interim role, taking into account any increase the employee would have received if not placed in the interim role.

### **Section 18. Certification and Educational Increases**

The Town Manager may approve a schedule of salary increases to reward employees for attaining and maintaining certifications and obtaining degrees that increase the employee's value to the Town.

## **ARTICLE IV. RECRUITMENT AND EMPLOYMENT**

### **Section 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 and award them with respect to compensation and opportunity for training and advancement, including upgrading and promotion, without regard to age, sex, race, color, religion, national origin, disability, political affiliation, marital status, veteran status, or genetic information. 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 essential duties with or without reasonable accommodation.

It is a violation of Town policy to retaliate in any way against an employee who assists, participates in, or supports this policy or anyone making a bona-fide complaint under this policy or who participates or assists in any EEOC, OSHA or other internal or external processes protected by law.

### **Section 2. Implementation of Equal Employment Opportunity Policy**

The Human Resources Officer and 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, political affiliation, veteran status, marital status or genetic information. Notices with regard to equal employment matters shall be posted in conspicuous places on Town premises in places where notices are customarily posted.

### **Section 3. Recruitment, Selection and Appointment**

**Recruitment Sources.** When position vacancies occur, the Human Resources Office 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 the Division of Employment Security and organizations and news media available to minority applicants. In addition, notice of vacancies shall be posted at designated conspicuous Town sites. Individuals shall be recruited from a geographic area as wide as necessary and for a period of time sufficient to ensure that well-qualified applicants are obtained for Town service. In rare situations because of emergency conditions, high turnover, etc., the Town may hire or promote without advertising jobs upon approval of the Town Manager.

**Job Advertisements.** Jobs may be advertised in local area newspapers, professional publications, websites, and other relevant publications, as needed, in order to establish a diverse and qualified applicant pool. Employment advertisements will also be posted in departments in areas where employees may be notified of any advancement opportunities. Employment advertisements shall contain assurances of equal employment opportunity and shall comply with Federal and State statutes.

**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 being recruited. The Town accepts applications and resumes only for vacant advertised positions. Applications will be received by the Human Resources Officer who will pre-screen applications for minimum qualifications.

**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 guidelines.

**Selection.** Department heads, with the assistance of the Human Resources Officer, shall make such investigations and conduct such examinations as necessary to assess accurately the knowledge, skills, and experience qualifications required for the position, including criminal and/or driving history where job-related. All selection devices administered by the Town shall be valid measures of job performance.

**References and Background Investigations.** Before any commitment is made to an applicant the Town will conduct reference checks regarding the employee's qualifications and work performance. In addition, physical examinations, drug screening and criminal background investigations may be performed. Conviction of a crime is not automatically disqualifying. The Town will consider the severity of the crime, degree to which the crime is job related to the job for which the applicant is being considered, and length of time since the conviction to determine the degree to which there is a business necessity for choosing not to hire the applicant.

**Appointment.** Before any commitment is made to an applicant either internal or external, the department head shall make recommendations to the Human Resources Officer including the position to be filled, the salary to be paid, and the reasons for selecting the candidate over other candidates. The Human Resources Officer and department head shall recommend approval of appointments and the starting salary for all applicants to the Town Manager. The Town Manager shall approve appointments and the starting salary for all applicants.

#### **Section 4. Probationary Period**

An employee appointed or promoted to a permanent position shall serve a probationary period. Employees shall serve a six-month probationary period, except that department heads and employees in sworn police positions may be required to serve a twelve-month probationary period, depending on their probationary status with the North Carolina Criminal Justice Education & Training Standards Division. Employees hired as "trainees" shall remain on probation until the provisions of their traineeship are satisfied. During the probationary period, supervisors shall monitor an employee's performance and communicate with the employee concerning performance progress. Employees serving a twelve-month probation shall have a probationary review at the end of six months as well as before the end of twelve months.

An important purpose of the probationary period is to provide an opportunity for the appointee to adjust to the new job. Likewise it serves as a trial period during which the employee demonstrates his or her ability to perform the work, to demonstrate good work habits and to work well with the public and coworkers. Before the end of the probationary period, the supervisor shall conduct a performance evaluation conference with the employee and discuss accomplishments, strengths, and needed improvements. A summary of this discussion shall 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. With approval of the Town Manager probationary periods may be extended for a maximum of six additional months.

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 for disciplinary action. A probationary employee dismissed during the probationary period is not eligible for terminal pay for accrued annual leave.

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.

## **Section 5. Promotion**

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:

- 1) the benefits to employees and the organization of promotion from within;
- 2) providing equal employment opportunity and a diversified workforce to the community; and
- 3) obtaining the best possible employee who will provide the most productivity in that position.

Therefore, except in rare situations where previous Town experience is essential (such as promotions to Police Sergeant), or exceptional qualifications of an internal candidate so indicate, the Town will conduct an open recruitment and consider external and internal candidates 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 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 demotion. A voluntary demotion is not a disciplinary action and is made without using the above-referenced disciplinary procedures.

## **Section 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. A department head wishing to transfer an employee to a different department or classification shall make a recommendation through the Human Resources Officer 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. Notwithstanding the employee's right to file a grievance, the Town reserves the right to transfer employees either

temporarily or permanently when doing so will serve the Town's best interest.

An employee who has successfully completed a probationary period may be transferred into the same classification without serving another probationary period.

## ARTICLE V. CONDITIONS OF EMPLOYMENT

### Section 1. Work Schedule

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

### Section 2. Political Activity

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 United States and the State of North Carolina. 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 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; or
- f) Be a candidate for nomination or election to office under the Town Charter;

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

### Section 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 writing in advance to the employee's supervisor, who in turn will report it to the department head. The department head will review such employment for possible conflict of interest and then submit a record of the employment to the Town Manager for review and approval. Conflicting and/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*:

- a) employment with organizations or in capacities that are regulated by the employee or employee's department; or
- 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.

An employee who sustains an injury or illness in connection with outside employment and is receiving worker's compensation from that employer shall not be entitled to receive Town worker's compensation benefits or accrued Town sick leave.

#### **Section 4. Dual Employment**

The Town prohibits any employee from holding more than one position with the Town if the combined positions will result in the employee working more than 40 hours per week in any week of the year unless approved by the Town Manager. The Town will consult FLSA regulations in all dual employment cases to insure that the regulations are followed.

#### **Section 5. Employment of Relatives**

The Town prohibits the hiring and employment of immediate family in full or part-time positions within the same work unit if such employment would result in one family member supervising another or if one member will occupy a position of influence over another member's employment or any condition of employment. Examples of potential influence include but are not limited to hiring, promotions, salary administration and disciplinary action.

For the purposes of this Article, immediate family shall be defined as spouse, child, parent, sibling, grandparent, grandchild, aunt and uncle to include in-law, step and half relationships. The definition for this Article also includes individuals living in the same household who share a relationship comparable to immediate family members.

The Town also prohibits the employment of any person into a position who is an immediate family member of individuals holding the following positions: Mayor, Town Board Member, Town Manager, Finance Officer, Human Resources Officer, Town Clerk, or Town Attorney.

Other circumstances may also prohibit the hiring of family members. Otherwise, the Town will consider employing family members or related persons in the service of the Town, provided that such employment does not:

- 1) result in a relative supervising relatives;
- 2) result in a relative auditing the work of a relative;
- 3) create a conflict of interest with either relative and the Town; or
- 4) create the potential or perception of favoritism.

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

#### **Other Relationships**

In order to prevent actual or perceived discrimination and/or favoritism in the workplace, and to aid in the enforcement of the Town's harassment prevention and non-discrimination policies, the Town does not ordinarily permit persons who are dating or otherwise engaged in a romantic, physical, sexual, or otherwise personal relationship to work in a direct supervisory relationship with each other.

All employees are required, whether a direct supervisory relationship exists or not, to disclose any such relationships upon employment and/or the commencement of the relationship. Disclosures may be made to the immediate supervisor and/or the Human Resources Officer. This information will be maintained as confidential upon request if possible. Upon disclosure, both parties will be required to affirm the consensual nature of the relationship and their understanding of an agreement to comply with the Town's harassment prevention and non-discrimination policies and other applicable policies. Where applicable and possible, supervisory assignments will be modified to eliminate any supervisory relationship between such employees.

In general, the Town requires that:

- 1) any such relationships must be consensual and not otherwise violate applicable law;
- 2) personal relationships should not interfere with the day-to-day operations or business of the Town; and
- 3) no person should receive any more, or less, favorable treatment in the terms and conditions of his or her employment because of his or her personal relationship with other employee(s) of the Town or lack thereof.

## **Section 6. Harassment Prohibited**

The Town prohibits harassment in any form that is based on sex, race, color, religion, national origin, age, disability, veteran status or genetic information. Harassment is defined as conduct that culminates in tangible employment action or is sufficiently severe or pervasive as to create a hostile work environment.

A particular form of harassment, 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.

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 Human Resources Officer or 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 Human Resources Officer will ensure that an investigation is conducted into any allegation of harassment and advise the employee and appropriate management officials of the outcome of the investigation.

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 7. Expectation of Ethical Conduct**

The proper operation of Town government requires that public officials and employees be independent, impartial, and responsible to the people; that governmental decisions and policy be made in the proper channels of the governmental structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government. No official or employee of the Town shall solicit or accept any gift, favor, or thing of value (over \$50) that may tend to influence such employee in the discharge of the employee's duties, or grant in the discharge of duty an improper favor, service, or thing of value.

### **Section 8. Performance Evaluation**

Supervisors and/or department heads shall normally conduct performance evaluation conferences with each employee at least once a year. These performance evaluations shall be documented in writing and placed in the employee's personnel file. Procedures for the performance evaluation program shall be published by the Human Resources Officer with the approval of the Town Manager.

### **Section 9. Safety**

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 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 safe work procedures, including the use of all required personal protective equipment and providing necessary safety training programs.

### **Section 10. Use of Town Property and Equipment**

Town equipment, materials, tools and supplies shall not be available for personal use and are not to be removed from Town property except in the conduct of official Town business, unless approved by the Town Manager. All Town property issued to the employee shall be returned to the employee's supervisor upon termination of employment prior to the issuance of the final pay check.

### **Section 11. Substance Abuse Policy**

The Town is committed to a drug-free workplace to maintain a safe and healthy working environment for employees and a productive, effective work force for the Town's citizens. The Town prohibits employees reporting to work with their ability to perform impaired by alcohol, illegal drugs, intentionally and inappropriately used prescriptions, over-the-counter drugs, or other chemicals and substances. A separate Substance Abuse Policy will be maintained by the Town and provided to all employees.

### **Section 12. Driver's License**

All employees who are in positions required on the class specification to maintain an active driver's license are required to do so as a condition of employment. Each year, upon completion of the employee's performance review, the Human Resources Officer will verify the status of the employee's driver's license. If the driver's license is not in good standing, the employee may be suspended, demoted or dismissed.

### **Section 13. Technology/Social Media Policy**

The Town will establish a separate Technology/Social Media Policy and communicate the policy to employees. The policy will be considered a part of the Personnel Policy and may be updated periodically as needed to react to changing technology.

### **Section 14. Direct Deposit of Payroll**

All employees are required to participate in direct deposit of payroll checks. Employees will receive a statement detailing pay and deduction amounts.

### **Section 15. Use of Tobacco Products**

The use of any and all tobacco products, either in Town owned or leased buildings or in Town owned or leased vehicles or equipment is prohibited. Tobacco use is permitted outside of buildings in areas defined by the Town for such use provided they are not adjacent to a public entrance or air intake vent.

### **Section 16. Lactation Breaks**

The Town may provide reasonable paid break time for an employee to express breast milk for a child provided that doing so does not unduly disrupt the operations of the Town. If the employee does not have a private office, the Town will make reasonable efforts to provide a room or other location, excluding a bathroom, (in close proximity to the work area) where the employee can express her milk in privacy (See Section 4207 Fair Labor Standards Act).

## **ARTICLE VI. EMPLOYEE BENEFITS**

### **Section 1. Eligibility**

All full and some part-time employees of the Town are eligible for employee benefits as provided for in this Article which are subject to change at the Town's discretion and annual budget appropriations. Limited Service employees are eligible only for legally mandated benefits such as Workers' Compensation and FICA.

### **Section 2. Employee Group Health and Dental Insurance**

The Town provides group health and dental insurance programs for full time employees and their families as specified under the terms of the group insurance contract. Employees may be responsible for a portion of the premium.

The Town will comply with the Affordable Care Act by providing health insurance for all employees expected to work 30 or more hours per week for three or more months.

Full time employees who are on the health insurance policy may, if they so desire, purchase available group health, dental and/or vision coverage through the Town for qualified dependents when the Town offers it and within the stipulations of the insurance contract. Employees will pay the amount stipulated by the Town for their qualified dependents.

Information concerning cost and benefits shall be available to all employees from the Human Resources Officer.

#### Health Insurance for Retired Employees

Employees hired prior to July 1, 2010 and who retire after at least twenty years of service to the Town shall receive full health insurance coverage on the Town's group policy. Once retirees become Medicare eligible, the Town will provide a Medicare Supplement Policy.

### **Section 3. Other Optional Insurance Plans**

The Town may make other insurance plans available to employees upon authorization of the Town Manager or Town Board. Such benefits will be reviewed to ensure they do not create an incentive for absence prior to being offered. For information about optional group benefit programs, employees may contact the Human Resources Office.

### **Section 4. Retirement**

Each employee who is expected to work for the Town more than 1,000 hours annually shall join the North Carolina Local Governmental Employees' Retirement System as a condition of employment and contribute the amount determined by the system.

### **Section 5. Supplemental Retirement Benefits**

The Town may provide supplemental retirement benefits for its full and part-time employees as determined in the budget each year. As prescribed by North Carolina State Law, the Town will contribute a percentage of salary to the State 401-K plan for each sworn law enforcement officer

(currently 5%).

All full- and part-time employees may make voluntary contributions to the 401-K plan up to the limits established by law and the 401-K provider.

### **Section 6. Social Security**

The Town, to the extent of its lawful authority and power, has extended Social Security benefits to its eligible employees.

### **Section 7. Workers' Compensation**

All employees of the Town (full-time, part-time, and Limited Service) are covered by the North Carolina Worker's 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.

Responsibility for claiming compensation under the Worker's Compensation Act is on the injured employee, and such claims must be filed by the employee with the North Carolina Industrial Commission within two years from date of injury. The department head and the Human Resources Officer will assist the employee in filing the claim.

Pursuant to a declaration invoking Section 304 of the Homeland Security Act, this provision will also apply to reactions to small pox vaccinations administered to Town employees under the Homeland Security Act. Such reactions shall be treated the same as any other worker's compensation claim.

### **Section 8. Unemployment Compensation**

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 designated office.

### **Section 9. Law Enforcement Separation Allowance**

Every sworn law enforcement officer, as defined by N.C. Gen. Statute 128-21(11b) or N.C. Gen. Statute 143-166.50, shall be eligible for a separation allowance, as provided by N.C. Gen. Statute 143-166.42, in the amount specified in N.C. Gen. Statute 143-166.41(a).

Currently the law enforcement separation allowance is "equal to eighty-five hundredths percent (0.0085%) of the annual equivalent of the base rate of compensation most recently applicable to the officer for each year of creditable service". The Town will pay this benefit on a monthly basis.

Eligibility and continuation of these benefits are subject to the following conditions:

- a) The officer shall have completed 30 or more years of creditable service, or have attained 55 years of age and completed five or more years of creditable service (as defined in General Statute 143-166.42); and
- b) The officer shall not have attained 62 years of age;
- c) The officer shall have completed at least five years of continuous service as a law

enforcement officer immediately preceding a service retirement, as defined by N.C. Gen. Statute 143-166.41(a)(3) and 143-166.41(b).

- d) The law enforcement officer, after separation from Town employment, notifies the Town of any new employment involving local law enforcement duties. Such notification shall include the nature and extent of the employment, and any change of employment status.

Payment of separation allowance benefits to a retired officer shall cease at the first of:

- a) The death of the officer;
- b) The last day of the month in which the officer attains 62 years of age; or
- c) The first day of re-employment in any position in any local government in North Carolina requiring retirement system participation.

The Town may employ retired officers in a public safety position in a capacity not requiring participation in the Local Governmental Employees' Retirement System and doing so shall not cause payment to cease to those officers under these benefits. Participation in the retirement system is required by anyone scheduled to work 1000 hours per year or more.

Should the separation allowance for law enforcement officers, now required by law, be rescinded, this separation allowance shall be rescinded at the same time.

#### **Section 10. Tuition Assistance Program**

Full-time employees who have worked for twelve months 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 with the Town. Tuition, registration, fees, laboratory fees, and student fees are eligible expenses. Employees may be reimbursed eligible expenses based on an amount determined in the budget for the fiscal year. Satisfactory completion of the courses will be required for reimbursement. Requests for tuition assistance shall be submitted to the Human Resources Office prior to course registration and are subject to the review and approval of Department Head and Town Manager, subject to availability of funds. Employees should refer to the administrative procedure for more details.

## **ARTICLE VII. HOLIDAYS AND LEAVES OF ABSENCE**

### **Section 1. Policy**

The policy of the Town is to provide vacation leave, sick leave, and holiday leave to all full-time employees and to provide proportionately equivalent amounts to employees having average work weeks of different lengths. Employees shall accrue leave proportionately at the end of each month. In all cases, an employee with a compensatory leave balance shall use compensatory leave prior to use of sick or vacation leave.

Holiday, vacation and sick leave hours taken in any time payroll cycle do not count toward the total number of hours for the purpose of calculating overtime.

### **Section 2. Holidays**

The Town will follow the holiday schedule as published by the State of North Carolina for state employees.

Employees wishing to schedule time off for religious observances, other than those observed by the Town, may request vacation leave from their respective department head. 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 observances may be denied only when granting leave would create an undue hardship for the Town.

### **Section 3. Holidays: Effect on Other Types of Leave**

Regular holidays which occur during a vacation, sick or other leave period of any employee shall not be considered as vacation, sick, or other leave.

### **Section 4. Holidays: Compensation When Work is Required or Regularly Scheduled Off for Shift Personnel**

All employees, exempt and nonexempt, required to perform work on regularly scheduled holidays may be granted compensatory time off or paid at their regular rate for hours actually worked in addition to any holiday pay to which they are entitled. If a holiday falls on a regularly scheduled off-duty day for shift personnel, the employee will receive the hours for paid holiday leave. Whether holiday time is provided in time or pay for shift employees is determined by the Town. Employees shall receive holiday compensation in hours or pay based on the pro rata amount identified in Section 16 of this Article.

In addition, employees required to work on New Year's Day, Fourth of July, Thanksgiving Day, and Christmas Day will receive a holiday premium of double time up to 12 hours per holiday.

### **Section 5. Vacation Leave**

Vacation is a privilege granted to employees by the Town. Vacation leave is intended to be used for rest and relaxation, school appointments, and other personal needs. Vacation should be requested in advance in methods determined by the department and approved by the supervisor.

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 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 first six months of employment unless approved by the Town Manager. A probationary employee who is dismissed during the probationary period will not be eligible for terminal pay for any accumulated vacation leave.

**Section 7. Vacation Leave: Accrual Rate**

Each full-time general employee of the Town will accrue vacation on the following schedule. Sworn law enforcement officers who work 171 hours in a 28 day cycle and fire staff who work 212 hours in a 28 day cycle will earn a prorated amount based on the average number of hours in the work week. (See Section 16 of this Article for more information.)

<b>Years of Service</b>	<b>Days Accrued Per Year</b>
0 - 2	13
2 - 5	15
5 - 10	18
10 - 15	21
15 - 20	24
20 - 25	27
25 plus	30

**Section 8. Vacation Leave: Maximum Accumulation**

Vacation leave may be accumulated without any applicable maximum until the last pay period in the fiscal year. During the pay period containing June 30, any employee with a balance exceeding 30 days shall have the excess accumulation transferred to sick leave so that only a balance of 30 days is carried forward to July 1.

Regardless of accumulated balance if an employee separates from service, the payment for accumulated vacation leave shall not exceed 30 days.

Employees are cautioned not to retain excess accumulated vacation leave until late in the fiscal year. Because of the necessity to keep all functions in operation, large numbers of employees cannot be granted vacation leave at any one time. If an employee has excess leave accumulation during the latter part of the 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 9. Vacation Leave: Manner of Taking**

Employees shall be granted the use of accrued 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.

#### **Section 10. Vacation Leave: Payment upon Separation**

An employee who has successfully completed six months of the probationary period will normally be paid for accumulated vacation leave upon separation not to exceed 30 days provided notice is given to the supervisor at least two weeks in advance of the effective date of resignation, thirty days for department heads.

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 leave not to exceed 30 days.

#### **Section 11. 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 8 of this Article.

#### **Section 12. Sick Leave**

Sick Leave with pay is a privilege granted to employees by the Town Board, not a right, and may be used only for the purposes described in this Policy. Abuse of sick leave privileges will subject the employee to disciplinary action.

Sick Leave may be used for the following reasons: sickness, non-job related bodily injury, required physical or dental examinations or treatment, or exposure to a contagious disease, when continuing work might jeopardize the health of others.

Sick leave also may be used when an employee must care for a member of his or her immediate family who is ill. For the purposes of this benefit, immediate family is defined as spouse, child, parents of employee or spouse, grandparent, grandchild, brother or sister, or someone living in the home or in-law or step relations of same. Sick leave may not be used to care for a healthy infant or child.

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 the employee may not exceed the regular gross salary amount using this provision.

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 13. Sick Leave: Accrual Rate and Accumulation**



Sick leave shall accrue at a rate of one day per month of service or twelve days per year. Sick leave for full-time employees working other than the basic forty-hour work schedule (sworn law enforcement officers and fire staff who work a 28 day cycle) shall be prorated as described in this Article. 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 Governmental Employees Retirement System. A day shall be calculated based on the formula found in Section 16 of this Article.

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 above for retirement or upon reinstatement within one year of separation.

#### **Section 14. Transfer of Sick Leave from Previous Employer**

The Town will accept sick leave balances from new hires and former employees who have left the local government employer and have participated in the NC Retirement System. The leave must be documented by a previous employer covered by the North Carolina State or Local Government Retirement Systems and the employee must not have withdrawn accumulated retirement contributions from that employer when leaving employment.

The sick leave will be treated as though it were earned with the Town of Wrightsville Beach and may be used as any other accrued sick leave by the employee. The sick leave amount must be certified by the previous employer and it is the employee's responsibility to provide documentation from his or her previous employer within three (3) months of employment. Transferred sick leave will be credited to the employee upon successful completion of the six months of employment.

#### **Section 15. Sick Leave: Medical Certification**

The employee's supervisor or department head may require a physician's certificate certifying the employee's or employee's family member's illness and the employee's capacity to resume duties, for each occasion on which an employee uses sick leave or whenever the supervisor observes a "pattern of absenteeism." The employee may be required to submit to such medical examination or inquiry as the department head deems desirable. The department head shall be responsible for the application of this provision to the end that:

- 1) Employees shall not be on duty when they might endanger their health or the health of other employees; and
- 2) There will be no abuse of leave privileges.

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 16. Bereavement Leave**

An employee may have up to three days at full pay granted in case of death in the immediate family. For the purposes of this benefit, immediate family is defined as spouse, child, parents of employee or spouse, grandparent, grandchild, brother or sister, or someone living in the home or in-law or step relations of same. Additional time or time to attend funerals of other family members may be charged to vacation leave, compensatory time or leave without pay.

## **Section 17. Family and Medical Leave**

The Town will grant up to 12 weeks of family and medical leave per twelve months to eligible employees in accordance with the Family and Medical Leave Act of 1993 (FMLA). Employees are eligible when the Town has 50 or more employees or when determined by the Town, whichever comes first. The Town requires employees to use accrued paid leave while taking FMLA leave. In order to use paid leave for FMLA leave, employees must comply with the Town's normal paid leave policies. The paid leave will run concurrently with the FMLA leave. Once all accrued paid leave has been used, any remaining FMLA will be unpaid. The entire leave period (both paid and unpaid) will be counted towards the employee's FMLA entitlement. Unpaid leave will be granted only when the employee has exhausted all appropriate types of paid leave. Additional time away from the job beyond the 12-week period may be approved in accordance with the Town's Leave without Pay policy.

To qualify for FMLA coverage, the employee must have worked for the employer 12 months or 52 weeks; these do not have to be consecutive. However, the employee must have worked 1,250 hours during the twelve-month period immediately before the date when the FMLA time begins.

Family and medical leave can be used for the following reasons:

- 1) the birth of a child and in order to care for that child;
- 2) the placement of a child for adoption or foster care;
- 3) to care for a spouse, child, or parent with a serious health condition;
- 4) the serious health condition of the employee; or
- 5) military exigency.

A serious health condition is 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. This policy covers illness of a serious and long-term nature resulting in recurring intermittent or lengthy absences. Generally, a chronic or long term health condition which results in a period of incapacity for more than three days would be considered a serious health condition.

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 parent in-law) with a serious health condition, the husband and wife together may only take a total of 12 weeks leave under FMLA.

An employee taking leave for the birth of a child may use paid sick leave for the period of actual disability, based on medical certification. The employee shall then use all paid vacation, accrued compensatory time and leave without pay for the remainder of the 12-week period.

"Military Exigency" is a qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is a military service member (reserve or national guard) under a call or order to

federal active duty in support of a contingency operation. Qualifying events are:

- 1) deployment of service member with seven or fewer days' 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) taking up to five days leave to spend with a covered military member who is on short-term temporary rest and recuperation leave during deployment;
- 7) attending counseling provided by someone other than a health provider for oneself, the covered military member, or the child of the military member, the need for which arises from the active duty service or call to active duty status of the covered military member; or
- 8) post-deployment activities for a period of ninety days after the termination of the service member's active duty status.

**Military Caregiver Leave:** An employee whose spouse, son, daughter, parent or next of kin is a current service member who is undergoing treatment, therapy, recuperation or outpatient treatment or has temporary disability retirement for injury or illness sustained in the line of duty, is eligible for 26 weeks of FMLA leave in a single 12 month period. During a single 12 month period, the employee is eligible for a total of 26 weeks of all types of FMLA Leave combined.

The request for the use of leave must be made in writing by the employee and approved by the department head or Town Manager.

An employee who takes leave under this policy will return to the same job or a job with equivalent status, pay, benefits, and other employment terms. The position will be the same or one which entails substantially equivalent skill, effort, responsibility, and authority.

### **Section 18. Family Medical Leave – Certification**

In order to qualify for leave under this law, the Town requires medical certification. This statement from the employee's or the family member's physician should include the date when the condition began, its expected duration, diagnosis, and brief statement of treatment. For the employee's own health condition, it should state that the employee is unable 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 30 days prior to the needed leave unless the employee's or family member's condition is a sudden one. The certification should be furnished as soon as possible (no longer than 15 days from the date of the employee's request). The certification and request must be made to the department head and filed with the Human Resources Officer.

The employee is expected to return to work at the end of the time frame stated in the medical certification, unless he/she has requested additional time in writing under the Town's Leave Without Pay policy.

### **Section 19. Family Medical Leave: Retention and Continuation of Benefits**

When an employee is on leave under FMLA, the Town will continue the employee's health benefits during the leave period 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 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 insurance premium 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 by the first of each month.

After using all paid leave for which the employee qualifies, the employee on FMLA may use leave without pay for the remainder of the FMLA 12/26 week entitlement. An employee ceases to earn holiday or leave credits on the date leave without pay begins.

### **Section 20. Leave Without Pay**

A full-time employee may be granted a leave of absence without pay for a period of up to twelve months by the Town Manager. The leave may be used for reasons of personal disability, sickness or disability of immediate family members, 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 Town Manager for leave. The employee is obligated to return to duty within or at the end of the time determined appropriate by the Town Manager. Upon returning to duty after being on leave without pay, the employee shall be entitled to return to the same position held at the time leave was granted or to one of like classification, seniority, and pay.

If the employee decides not to return to work, the department head shall be notified immediately. Failure to report at the expiration of a leave of absence, unless an extension has been requested and granted, shall be considered a resignation.

An employee shall retain all unused vacation and sick leave while on leave without pay. An employee ceases to earn holiday or leave credits on the date leave without pay begins. The employee may continue to be eligible for benefits under the Town's group insurance plans at his or her own expense, subject to any regulation adopted by the Town and the regulations of the insurance carrier. If the Leave Without Pay is for a circumstance that coincides with FMLA or USERRA then the provisions of those policies will apply.

### **Section 21. Worker's Compensation Leave**

An employee absent from duty because of sickness or disability covered by the North Carolina Worker's Compensation Act may elect to use accrued sick leave, vacation, or compensatory time during the first waiting period of seven days. Once Worker's Compensation benefits begin, the employee may supplement the two thirds payments with one third of a day of sick leave, except that the employee may not exceed the regular gross salary amount using this provision.

Limited Service employees will be placed on leave without pay effective with the date of injury. Once the waiting period is over, Workers' Compensation covers two thirds of regular pay.

Any worker's compensation disability that qualifies under the requirements of FMLA shall run

concurrently with FMLA. An employee on worker's compensation leave without pay will be permitted to continue to be eligible for benefits under the Town's group insurance plans during the period of worker's compensation leave that is concurrent with FMLA.

Other insurance and payroll deductions are the responsibility of the employee and the employee must make those payments for continued coverage of that benefit. Any amounts owed are due and payable by the first of the month.

An employee shall retain all unused vacation and sick leave while on Worker's Compensation Leave Without Pay. An employee ceases to earn holiday hours on the date Worker's Compensation Leave without Pay begins. After the period of FMLA eligibility ends, the employee may continue to be eligible for benefits under the Town's group insurance plans at his or her own expense subject to the regulations of the insurance carrier.

## **Section 22. Military and other USERRA Leave**

The Town will fully comply with the requirements of the 1994 Uniformed Services Employment and Re-Employment Rights Act (USERRA) and related federal regulations.

For the purposes of USERRA covered employees are the following:

1. Armed Forces Active and Reserve (Army, Navy, Marine Corps, Air Force, Coast Guard)
2. Army National Guard and Air National Guard
3. FEMA's Disaster Assistance Teams
4. Commissioned Corps of the Public Health Service
5. Military Service Academies
6. Reserve Officer's Training Corps (ROTC)

Employee taking leave under USERRA shall be eligible to take accumulated vacation leave, accrued compensatory time or be placed in a leave without pay status, and the provisions of that leave shall apply. While taking USERRA leave, the employee's unused leave balances will be retained and any seniority based benefits such as leave accrual rates will continue to accrue.

Employees performing USERRA duty of more than 30 days may elect to continue the Town's health care for up to 24 months but will be responsible for paying the insurance premiums up to 102% of the premium costs. Employees whose USERRA duty is less than 31 days will have their health insurance coverage paid as if they were at work with the Town.

### **Military Training**

In addition to complying with the requirements of USERRA, the Town provides additional benefits for military training. Full and part-time employees who are members of an Armed Forces Reserve organization or National Guard shall be granted fifteen calendar days per year for military leave with pay. If the compensation received while on military leave is less than the salary that would have

been earned during this same period as a Town employee, the employee shall receive partial compensation equal to the difference. The effect will be to maintain the employee's salary at the normal level during this period.

If such duty is required beyond the fifteen calendar days, 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 on military leave, seniority-based benefits such as leave accrual rates shall continue to accrue as if the employee was actively at work. Employees on extended military leave will remain eligible for health benefits on a voluntary basis, at the employee's expense for a period of 24 months.

Limited Service employees will be granted time off without pay to meet their military reserve or National Guard training obligations.

### **Section 23. Reinstatement Following Military and other USERRA Service**

An employee who volunteers or is called to active duty with the United States military forces, and who returns to work in less than five years will be returned to the same or like position he or she occupied prior to the active duty enlistment with full seniority, status, leave accrual rates and pay as if there had been no break in employment. A military discharge form "DD 214" with an honorable discharge must be submitted with the notification of intent to return to work.

Time limits for employees to reapply for return to work after release from military service are:

- 1) Less than 31 days absence - employee must report to employer by the next business day.
- 2) 31 days-180 days absence - notification to the supervisor must be submitted within 14 days.
- 3) More than 180 days absence - notification to the supervisor must be submitted within 90 days.

All reporting deadlines are extended for two years if the employee is injured during USERRA service.

### **Section 24. Civil Leave**

A full-time 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 25. Parental School Leave**

A Town employee who is a parent, guardian, or person standing in loco parentis (in place of the parent) may take up to four 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 following conditions:

- 1) The leave must be taken at a time mutually agreed upon by the employee and the Town;

- 2) The Town may require the employee to request the leave in writing at least 48 hours prior to the time of the desired leave; and
- 3) The Town may require written verification from the child's school that the employee was involved at the school during the leave time.

Paid leave (vacation time) taken by a full-time employee to attend to school activities of his or her child shall count toward the fulfillment of this provision by the Town. (GS 95-28.3)

### **Section 26. Voluntary Shared Leave**

The Town Manager has the authority to create administrative procedures whereby employees may donate vacation to other employees who have major illnesses or need leave to care for family members with major illnesses.

### **Section 27. Adverse Weather/Hazardous Conditions**

The Town has responsibility for several emergency services including law enforcement and fire services. Adequate staff are required to operate these critical services seven days per week and 24 hours per day in all weather. Department heads should designate which staff are in critical positions required to report to work regardless of weather or other hazardous conditions.

The adverse weather/hazardous conditions policy is established to be as fair as possible to all employees applying the following principles:

1. Maintain adequate staffing at all times of emergency services;
2. Provide for as much safety as possible for all employees in traveling to and from work in hazardous conditions; and
3. Not pay regular salaries to some people for *not working* when others are required to be at work.

Town offices and departments shall remain open for the full scheduled working day unless authorization for closing or other deviation is received from the Town Manager's office. The Manager will consider the hazard of driving conditions and other relevant factors in determining whether to close Town offices. All departments and offices will be given sufficient advance notice of any authorized closing of noncritical Town functions. Upon authorizing a closing, non-critical staff may use vacation, earned compensatory time, or time without pay for the un-worked hours. Employees who leave work before an official early closing time, as well as employees who report for work late or do not report for work because of hazardous conditions may also use earned vacation or compensatory leave for days or hours not worked.

In accordance with the rules set forth below, exempt and nonexempt employees will be paid overtime when work is related to an Emergency Declaration as outlined below.

- A. When the Town Manager has deemed it necessary to enact disaster response and the Mayor declares a State of Emergency, all required employees, exempt and nonexempt, must report to duty and work hours sufficient to protect the safety and well-being of the

Town of Wrightsville Beach residents and other individuals who happen to be in the Town of Wrightsville Beach.

- B. All employees, exempt and nonexempt, who are required to respond to the disaster shall be paid overtime at the rate of one and one-half times (1.5) the employee's regular hourly rate of pay for any hours worked over his or her regular work schedule.
- C. No employees, whether exempt or nonexempt, required to respond to the disaster shall be compensated with compensatory time off for overtime hours worked in a declared State of Emergency disaster response.



## **ARTICLE VIII. SEPARATION AND REINSTATEMENT**

### **Section 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, or death.

### **Section 2. 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 calendar weeks. Failure to provide minimum notice shall result in forfeit of payment for accumulated vacation unless the notification requirement is waived upon recommendation of the department head and approval by the Town Manager. Thirty days notice is expected of department heads and the Town Manager.

Three 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 weeks of a notice with a physician's certification or comparable documentation.

### **Section 3. 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 weeks notice of the anticipated action. No regular employee shall be separated because of a reduction in force while there are Limited Service 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 Limited Service or probationary employee.

### **Section 4. Disability**

The Town will comply with the Americans with Disabilities Act and will make all responsible efforts to provide reasonable accommodation to employees who may be or become disabled. 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.

Employees who meet the requirements of the North Carolina Local Governmental Employees Retirement System may qualify for a disability retirement. Information about this option is available from the Human Resources Officer or the Retirement System.

### **Section 5. Voluntary Retirement**

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

**Section 6. Death**

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

**Section 7. Dismissal**

An employee may be dismissed in accordance with the provisions and procedures of Article IX.

**Section 8. Reinstatement**

An employee who is separated because of a reduction in force or who resigns while in good standing may be reinstated within one 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.

**Section 9. 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. A former employee who returns within five years may be credited with the sick leave balance in place when the employee left Town employment as long as the balance was not transferred to another employer.

## **ARTICLE IX. UNSATISFACTORY JOB PERFORMANCE AND DETRIMENTAL PERSONAL CONDUCT**

### **Section 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. The Human Resources Officer will be available to assist all parties with the procedures in taking or responding to disciplinary actions. All cases of disciplinary suspension, demotion, or dismissal must be approved by the Town Manager prior to giving final notice to the employee.

### **Section 2. Unsatisfactory Job Performance Defined**

Unsatisfactory job performance includes any aspects of the employee's job which are not 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:*

- 1) Demonstrated inefficiency, negligence, or incompetence in the performance of duties;
- 2) Careless, negligent or improper use of Town property or equipment;
- 3) Physical or mental incapacity to perform duties after reasonable accommodation;
- 4) Discourteous treatment of the public or other employees;
- 5) Absence without approved leave;
- 6) Improper use of leave privileges;
- 7) Failure to report for duty at the assigned time and place;
- 8) Failure to complete work within time frames established in work plan or work standards;
- 9) Failure to meet work standards over a period of time;
- 10) Failure to follow the chain of command to address work-related issues;
- 11) Failure to maintain certifications required by the job.

### **Section 3. Communication and Warning Procedures Preceding Disciplinary Action for Unsatisfactory Job Performance**

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.

An employee whose job performance is unsatisfactory over a period of time should normally receive

at least two documented warnings, one of which may be in the final written warning, 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. If the employee's performance continues to be unsatisfactory, then the supervisor should use the following steps:

- 1) A final written warning from the supervisor serving notice upon the employee that corrected performance must take place immediately in order to avoid suspension, demotion, or dismissal.
- 2) If performance does not improve, a written recommendation should be sent to the department head, Human Resources, and Town Manager for disciplinary action such as suspension, demotion, or dismissal.

Disciplinary suspensions are for the purpose of communicating the seriousness of the performance deficiency, not for the purpose of punishment, and should not generally exceed three days (24 hours) for non-exempt employees. Suspensions for exempt employees shall be for one full work week in accordance with FLSA requirements to maintain exempt status. Under FLSA, suspensions of less than a week are authorized for major safety violations or infractions of workplace conduct rules (detrimental personal conduct).

Demotions are appropriate when an employee has demonstrated inability to perform successfully in the current job, but shows promise and commitment to performing successfully in a lower level job. If no other options are available, dismissal is appropriate.

If after suspension or demotion, the employee's performance does not reach an acceptable level, the employee may be dismissed. Dismissals are appropriate when the employee has shown he/she is unwilling or unable to perform work in a manner that meets the work and conduct standards of the Town.

#### **Section 4. Disciplinary Action for Detrimental Personal Conduct**

Normally, the Department Head or Town Manager would place the employee on non-disciplinary suspension prior to making a disciplinary determination to allow time to gather facts regarding the detrimental personal conduct and make a determination regarding the severity of the conduct.

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) to protect the safety of persons or property; or
- 3) for other serious reasons.

In exigent circumstances, a department head or designated supervisor may, with or without prior approval, suspend employees for the remainder of the work day. In such cases, the department head shall immediately notify the Town Manager.

## **Section 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 have 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:*

- 1) Fraud or theft;
- 2) Conviction of a felony or the entry of a plea of nolo contendere thereto;
- 3) Falsification of records for personal profit, to grant special privileges, or to obtain employment;
- 4) Willful misuse or gross negligence in the handling of Town funds or personal use of equipment or supplies;
- 5) Willful or wanton damage or destruction to property;
- 6) Willful or wanton acts that endanger the lives and property of others;
- 7) Possession of unauthorized firearms or other lethal weapons on the job;
- 8) Brutality in the performance of duties;
- 9) 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;
- 10) Engaging in incompatible employment or serving a conflicting interest;
- 11) Request or acceptance of gifts in exchange for favors or influence;
- 12) Engaging in political activity prohibited by this Policy;
- 13) Harassment of an employee and/or the public on the basis of sex or any other protected class status; or
- 14) Harassment of an employee or the public with threatening or obscene language and/or gestures or any incidence of workplace violence
- 15) Stated refusal to perform assigned duties, flagrant violation of work rules and regulations, or serious malfeasance of work.

## **Section 6. Pre-Dismissal Conference**

Before dismissal action is taken, whether for failure in personal conduct or failure in performance of duties, the department head or Town Manager (in the case of disciplinary action of a department head) will conduct a pre-dismissal conference. At this conference, the employee may present any

response to the proposed dismissal to department head. The department head will consider the employee's response, if any, to the proposed dismissal, and will, within three working days following the pre-dismissal conference, notify the employee in writing of the final decision after obtaining approval of the decision from the Town Manager. If the employee is dismissed, the notice shall contain a statement of the reasons for the action and the employee's appeal rights.

### **Section 7. Non-Disciplinary Suspension**

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 department head or Town Manager, be in the best interest of the Town, the department head with approval of 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:

- 1) 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
- 2) 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.

If the employee is reinstated following the suspension such employee shall not lose any compensation or 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.

## **ARTICLE X. GRIEVANCE PROCEDURE AND ADVERSE ACTION APPEAL**

### **Section 1. Policy**

It is the policy of the Town to provide a just procedure for the presentation, consideration, and disposition of employee grievances. The purpose of this article is to outline the procedure and to assure all employees that a response to their complaints and grievances will be prompt and fair. The Human Resources Officer will be available to assist all parties with the procedures during the grievance process.

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 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 established policy pertaining to employment conditions.

### **Section 3. Purposes of the Grievance Procedure**

The purposes of the grievance procedure include, but are not limited to:

- 1) Providing employees with a procedure by which their complaints can be considered promptly, fairly, and without reprisal;
- 2) Encouraging employees to express themselves about the conditions of work which affect them as employees;
- 3) Promoting better understanding of policies, practices, and procedures which affect employees;
- 4) Increasing employees' confidence that personnel actions taken are in accordance with established, fair, and uniform policies and procedures;
- 5) Increasing the sense of responsibility exercised by supervisors in dealing with their employees;
- 6) 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 of the chain of command; and
- 7) 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 4. Grievance Procedure**

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. 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.

**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 or the Human Resources Officer as a resource to help resolve the grievance.

In some instances, if both parties agree, and with the approval of the Town Manager, the parties may request mediation assistance from a neutral party to assist in identifying mutually agreeable solutions or understandings. Mediation may be used at any step in the process if agreed to by the parties and with the approval of the Town Manager.

**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 calendar days of the event or within fifteen calendar days of learning of the event or condition. The supervisor shall respond to the grievance within ten 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 Human Resources Officer.

**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 calendar days after receipt of the response from Step 1. The department head shall respond to the appeal, stating the determination of decision within ten calendar days after receipt of the appeal.

**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 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 calendar days after receipt of the appeal. The Town Manager's decision shall be the final decision. The Town Manager will notify the Town Board of any impending legal action.

**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:

- 1) provide mediation between the grieving department head and the Town Manager (see



definition of mediation in “informal resolution” above); or

- 2) consider an appeal and make recommendations back to the Town Manager concerning the appeal. Such parties might consist of human resource professionals, attorneys trained in mediation, mediators, or other parties appropriate to the situation.

The Town Manager’s decision shall be the final decision. The Town Manager will notify the Town Board of any impending legal action.

### **Section 5. Role of the Human Resources Officer**

Throughout the grievance procedure, the roles of the Human Resources Officer shall be as follows:

- 1). To advise parties (including employee, supervisors, and Town Manager) of their rights and responsibilities under this policy, including interpreting the grievance and other policies for consistency of application;
- 2) To be a clearinghouse for information and decisions in the matter including maintaining files of all grievance documents;
- 3) To give notices to parties concerning timetables of the process, etc.;
- 4) To assist employees and supervisors in drafting statements; and
- 5) To facilitate the resolution of conflicts in the procedures or of the grievance at any step in the process; and
- 6) To help locate mediation or other resources as needed.

The Human Resources Officer shall also determine whether or not additional time shall be allowed to either side in unusual circumstances if the parties cannot agree upon extensions when needed or indicated.

### **Section 6. Grievance and Adverse Action Appeal Procedure for Discrimination**

When an employee, former employee, or applicant, believes that any employment action discriminates illegally (i.e. is based on age, sex, race, color, veteran status, religion, creed, political affiliation, non-job related disability, or genetic information), he or she has the right to appeal such action using the grievance procedure outlined in this Article (Section 4 above). While such persons are encouraged to use the grievance procedure, they shall also have the right to go directly to the Human Resources Officer or 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 calendar days of the alleged discriminatory action, but may appeal for up to six months following the action.

## ARTICLE XI. RECORDS AND REPORTS

### Section 1. Public Information

In compliance with North Carolina GS 160A-168, the following information with respect to each Town employee is a matter of public record:

- 1) name;
- 2) age;
- 3) date of original employment or appointment to the service;
- 4) the terms of any contract by which the employee is employed whether written or oral, past and current, to the extent that the Town has the written contract or a record of the oral contract in its possession;
- 5) current position title;
- 6) current salary;
- 7) date and amount of each increase or decrease in salary with the Town;
- 8) date and type of each promotion, demotion, transfer, suspension, separation, or other change in position classification with the Town;
- 9) date and general description of the reasons for each promotion with the Town;
- 10) date and type of each dismissal, suspension, or demotion for disciplinary reasons taken by the Town. If the disciplinary action was a dismissal, a copy of the written notice of the final decision of the Town setting forth the specific acts or omissions that are the basis of the dismissal; and
- 11) 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. An individual examining a personnel record may copy the information. The cost of photocopying may be assessed to the individual who requests the copies.

For the purposes of this subsection, the term "salary" includes pay, benefits, incentives, bonuses, deferred and all other forms of compensation paid by the Town.

A record will be maintained of all disclosures of personnel records, except for authorized personnel processing personnel actions or supervisors in the line of authority of the employee. Upon request the records of disclosure will be made available to the employee to whom it pertains.

## **Section 2. Access to Confidential Records**

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:

- 1) 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.
- 2) A licensed physician designated in writing by the employee may examine the employee's medical record.
- 3) A Town employee having supervisory authority over the employee may examine all material in the employee's personnel file.
- 4) By order of a court of competent jurisdiction, any person may examine all material in the employee's personnel file.
- 5) 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.
- 6) 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.
- 7) The Town Manager, with the concurrence of the Town Board, 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 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 3. Personnel Actions**

The Human Resources Officer, with the approval of 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, normally in the Human Resources Office. Any document not located there is not an official part of that employee's personnel record. These files shall contain documents such as employment applications and related materials, records of personnel actions, documentation of employee warnings, disciplinary actions, performance

evaluations, retirement, letters of recommendation, and other personnel-related documents.

#### **Section 4. Records of Former Employees**

The provisions for access to records apply to former employees as they apply to present employees.

#### **Section 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. In accordance with established grievance procedures, the employee may seek to have a record of upheld grievances relating to personnel records placed in the file and/or may seek removal of material in the file contingent upon approval of the North Carolina Department of Cultural Resources.

#### **Section 6. Penalties for Permitting Access to Confidential Records**

Section 160A-168 of the General Statutes provides that any public official or employee who knowingly and willfully permits any person to have access to any confidential information contained in an employee personnel file, except as expressly authorized by the designated custodian, is guilty of a misdemeanor and upon conviction shall be fined in an amount consistent with the General Statutes.

#### **Section 7. 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 8. Destruction of Records Regulated**

No public official may destroy, sell, loan, or otherwise dispose of any public record, except in accordance with NC General Statute 121.5, without the consent of the North Carolina 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 misdemeanor and upon conviction will be fined in an amount provided in NC General Statute 132.3.

## **ARTICLE XII. IMPLEMENTATION OF POLICIES**

### **Section 1. Conflicting Policies Repealed**

All policies, ordinances, or resolutions that conflict with the provisions of these policies are hereby repealed.

### **Section 2. Separability**

If any provision of these policies or any rule, regulation, or order hereunder of the application of such provision to any person or circumstances is held invalid, the remainder of these policies and the application of such remaining provisions of these policies of such rules, regulations, or orders to persons or circumstances other than those held invalid will not be affected thereby.

### **Section 3. Amendments**

This policy may be amended by action of the Town Board and by resolution appropriately approved. Any revisions or amendments adopted in conformance with this procedure shall become effective as of the date of such adoption.

Notice of any amendment to the policy or any portion thereof, shall be provided to employees. Adopted amendments should be posted on bulletin Boards in employee work locations and/or in employee newsletters.