

TOWN OF EMERALD ISLE



PERSONNEL POLICY

Effective January 1, 2006

Adopted by the Emerald Isle Board of Commissioners, December 19, 2005
(August 11, 2020 amended version)

TOWN OF EMERALD ISLE
PERSONNEL POLICY

BE IT RESOLVED by the Town Board of Commissioners of the Town of Emerald Isle 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 Emerald Isle.

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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 Emerald Isle 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 on employment opportunities or otherwise adversely affected as an employee because of such individual's race, color, religion, sex, national origin, political affiliation, non-disqualifying disability, or age.

Section 4. Responsibilities of the Town Commissioners

The Town Commissioners 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 General Statutes.

Section 5. Responsibilities of the Town Manager

The Town Manager shall be responsible to the Town Commissioners for the administration and technical direction of the personnel program. The Town Manager shall appoint, suspend, and remove all Town officers and employees except those elected by the people or 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:

- a) serve as the human resources officer for the Town and designate employees to assist in the implementation of the Town's human resources system;
- b) recommend rules and revisions to the personnel system to the Town Commissioners for consideration;
- c) make changes as necessary to maintain an up to date and accurate position classification plan;
- d) recommend necessary revisions to the pay plan;

- e) determine which employees shall be subject to the overtime provisions of FLSA;
- f) maintain a roster of all persons in the municipal service
- g) establish and maintain 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;
- h) develop and administer such recruiting programs as may be necessary to obtain an adequate supply of competent applicants to meet the needs of the Town;
- i) develop and coordinate training and educational programs for Town employees;
- j) investigate periodically the operation and effect of the personnel provisions of this policy; and
- k) perform such other duties as may be assigned by the Town Commissioners not inconsistent with this Policy.

Section 6. Application of Policies, Plan, 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 Town Commissioners and advisory boards and commissions will be exempted except in sections where specifically included. An employee violating any of the provisions of this policy shall be subject to appropriate disciplinary action, as well as prosecution under any civil or criminal laws which have been violated.

Section 7. 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 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 8. 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 which is authorized for an average work week of at least 40 hours and budgeted for at least 12 months.

Part-time employee. An employee appointed to a position for which the average work week required by the Town over the course of a year is less than 20 hours.

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

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

Temporary employee. An employee appointed to a position for which employment required by the Town is less than 12 months.

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 forty or more hours per week. All Town positions are subject to budget review and approval each year by the Town Commissioners 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.

The Town will not hire anyone into a position that a) requires an average of more than 20 hours and less than 40 hours per week; and b) extends more than 12 months. This is to prevent the Town hiring long term employees without providing benefits to those employees.

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 Town Manager 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 Town Manager shall periodically review portions of the classification plan and make minor revisions to insure that classifications accurately reflect current job duties and responsibilities. The Town Manager shall also periodically review the entire classification plan and, when needed, recommend major changes to the Town Commissioners.

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 Commissioners. New positions shall be recommended to the Town Commissioners with a recommended class title. The position classification plan, along with any new positions or

classifications shall be approved by the Town Commissioners and kept on file with the Town Clerk. Copies will be available to all Town employees for review 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 Town Manager. Upon receipt of such request, the Town Manager shall study the request, determine the merit of the reclassification, and take the appropriate action. The Town Manager will respond to this request within ten working days.

Department heads are responsible for identifying changes in job duties that may result in a position being mis-classified and making the Manager aware of the need for a review of the position classification.

ARTICLE III. THE PAY PLAN

Section 1. Definition

The pay plan includes the basic salary schedule and the "List of Classes Arranged by Grades" adopted by the Town Commissioners. The salary schedule consists of minimum or beginning, maximum, and intervening rates of pay for all classes of positions.

Section 2. Administration and Maintenance

The Town Manager 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 trainee status or employees whose existing salaries are above the established maximum rate following transition to a new pay plan. As needed, the Town Manager shall recommend a cost of living or market adjustment to the salary plan. When cost of living or market adjustments are approved by the Commissioners, the salary plan shall be adjusted.

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, from time to time the Town Manager shall oversee comparative studies of all factors affecting the level of salary ranges and may make minor adjustments in the allocation of positions to salary grades. Approximately every three to five years the Town will conduct a comprehensive classification and pay study to update the plan insuring internal equity and external competitiveness. When major adjustments encompassing numerous positions are needed, or when a general adjustment is needed to the pay plan, the Town Manager shall recommend such changes in salary ranges as appear to be warranted to the Town Commissioners. The Town Commissioners shall adopt the "Assignment of Classes to Grades and Ranges," including any minor adjustments made by the Town Manager during the previous budget year, annually as part of the budget process.

Section 3. Starting Salaries

All persons hired or promoted into positions approved in the position classification plan shall be compensated at the hiring rate for the classification in which they are employed; however, exceptionally well qualified applicants may be paid above the hiring rate of the established salary range upon recommendation of the hiring department head 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 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 one or (no more than) two grades below the hiring rate established for the position for which the person is being trained. A new employee designated as "trainee" shall concurrently serve a probationary period. However, probationary periods shall be no less than six months and trainee periods may extend from three 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, 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

Employees hired or promoted may receive a salary increase within the range of 5% if the employee is below the midpoint of the salary range, and 2.5% - 5% if the employee is above midpoint of the salary range upon successful completion of probation. Employees serving a twelve-month probationary period are eligible for consideration for this pay increase after six months of successful employment.

Section 6. Performance Pay

An annual performance evaluation shall be scheduled for each employee as close as is practicable to a year from the date of the successful completion of the probationary period. Consultation between the employee and supervisor regarding performance at times other than the annual performance evaluation is anticipated and encouraged under this policy and shall be considered to supplement rather than replace the annual performance evaluation. Upward movement within the established salary range for an employee is not automatic but rather based upon specific performance-related reasons. Employees may be considered for advancement within the established salary range based on the quality of their overall performance. Procedures for determining performance levels and performance pay increases shall be established in procedures approved by the Town Manager. Performance pay is subject to annual appropriation.

Section 7. Performance Pay Bonus

Employees who are at the maximum of the salary range for their position classification are eligible to be considered for a performance bonus at their regular performance evaluation time. Performance bonuses shall be awarded based upon the performance of the employee as described in the performance evaluation and shall be the same percentage of annual salary as employees within the salary range with the same performance level. Performance bonuses do not become part of base pay and shall be awarded in a lump sum payment.

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

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, provided, however, that the new salary may not exceed the maximum rate of the new salary range. The purpose of the promotion pay increase is to recognize and compensate the employee for taking on increased responsibility.

Demotions. When an employee is demoted to a position for which qualified, the salary shall be set at the rate in the lower pay range which provides a salary commensurate with the employee's qualifications to perform the job when the demotion is not the result of discipline. If the current salary is within the new range, the employee's salary may be retained at the previous rate, if appropriate. Consideration should be given to whether the employee is receiving the same pay for decreased workload or responsibility level and action should be appropriate to this consideration. If the demotion is the result of discipline, the salary shall be decreased at least 5%, but 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's salary is below midpoint of the new range. If the employee has completed probation, the employee's salary shall be advanced to at least the minimum (probation completion) amount in the new range. If the employee's salary is above the midpoint of the new range, the employee shall receive an increase of 2.5%.

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 a class of positions is assigned to a higher salary range, employees in that class shall receive a pay increase of at least 5%, or to the hiring rate of the new range, whichever is higher if the employee's current salary is below the midpoint of the new salary range. If the employee has passed probation, the employee's salary shall be advanced at least to the probation completion amount (minimum rate) in the new range. If the employee's salary is above the midpoint of the new range, the employee shall receive an increase of 2.5%.

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 established for the new class, the salary of that employee shall be maintained at that level until such time as the employee's salary range is increased above the employee's current salary.

Section 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 hiring rate established for their respective classes shall have their salaries raised at least to the new hiring 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; all employees not at a listed rate shall have their salaries raised to a listed rate.
- 4) All employees being paid at a rate above the maximum rate established for their respective classes shall be maintained at that salary level until such time as the employees' salary range is increased above the employees' current salary.

Section 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. Overtime Pay Provisions

Employees of the Town can be requested and may be required to work overtime hours as necessitated by the needs of the Town and determined by the Department Head. All overtime hours worked must be authorized by appropriate management or Town officials. To the extent that local government jurisdictions are so required, the Town will comply with the Fair Labor Standards Act (FLSA). The Town Manager shall determine which jobs are "non-exempt" and are therefore subject to the Act in areas such as hours of work and work periods, rates of overtime compensation, and other provisions.

Non-exempt employees will be paid at a straight time rate for hours up to the FLSA established limit for their position (usually 40 hours in a 7 day period; 171 hours for police and 212 for fire personnel in a 28 day cycle). Hours worked beyond the FLSA established limit will be compensated in 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 holidays, vacation, sick leave or compensatory leave hours be counted toward the total hours for the purpose of overtime compensation.

Whenever practicable, departments will schedule time off on an hour-for-hour basis within the applicable work period (work period is seven days except for law enforcement) 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 time may be accumulated by non-exempt employees up to 240 hours. Any employee who accumulates time over this limit must be paid. With the approval of the Town Manager, department heads may pay an employee for all or part of accumulated compensatory time below this limit when it is not possible or feasible to permit an employee's absence for the purpose of taking compensatory time or in order to control departmental liability. Employees must take compensatory time before use of any sick or vacation leave. (Amended 9-14-2010)

In emergency situations, where employees are required to work long and continuous hours, the Town Manager may approve compensation at time and one half for those hours worked and/or grant time off with pay for rest and recuperation to ensure safe working conditions. In emergencies specifically declared by the Town Manager, exempt employees may be compensated for overtime as approved by the Town Manager.

Employees in positions determined to be "exempt" from the FLSA (as Executive, Administrative, or Professional staff) will not receive pay for hours worked in excess of their normal work periods. These employees may be granted compensatory 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.

Section 13. Call-back and Stand-by 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.

Call-back. Non-exempt employees will be guaranteed a minimum payment of two hours of compensation in time or pay per twenty-four hour period for being called back to work outside of normal working hours when not on stand-by. "Call-back" provisions do not apply to previously scheduled overtime work (scheduled one or more days in advance).

Stand-by. Non-exempt employees required to be on "stand-by" duty will be paid for three hours of work for each week (approximately 128 hours, excluding work time) of stand-by time they serve. Stand-by compensation for less than one full week shall be determined by the ratio of .023 hours of pay per one hour of stand-by time. Hours actually worked while on stand-by are calculated beginning when the employee reports to the work site and are added to the regular total of hours worked for the week. Stand-by time is defined as that time when an employee must carry a pager or other communication device and must respond immediately to calls for service.

Section 14. Payroll Deduction

Deductions shall be made from each employee's salary, as required by law. Additional deductions may be made upon the request of the employee on determination by the Town Manager as to capability of payroll equipment and appropriateness of the deduction.

Section 15. Hourly Rate of Pay

Employees working in a part-time or temporary capacity with the same duties as full-time employees will work at a rate in the same salary range as the full-time employees. The hourly rate for employees working an average of 40 hours per week will be determined by dividing 2080 hours into the annual salary for the employee. The hourly rate for employees working an average of 42 hours per week (i.e. police officers) will be determined by dividing 2223 hours into the annual salary for the employee. The hourly rate for employees working an average of 53 hours per week (i.e. fire staff) will be determined by dividing 2756 hours into the annual salary for the employee. The general formula for determining the hourly rate for employees working other than 40 hours per week will be to divide the average number of hours scheduled per year into the annual salary for the employee. (Amended 10-13-2015)

Section 16. Pay for Interim Assignment in a Higher Level Classification

An employee who is formally designated for a period of at least one month to perform the duties of a job that is assigned to a higher salary grade than that of the employee's regular classification shall receive an increase for the duration of the acting assignment. The employee shall receive a salary adjustment to the entry level (Hiring rate) of the job in which the employee is acting or an increase of 10%. Criteria involved in determining the amount of compensation shall include 1) the difference between the existing job and that being filled on a temporary basis, and 2) the degree to which the employee is expected to fulfill all the duties of the temporary assignment. The salary increase shall be temporary and the employee shall go back to the salary he or she would have had if not assigned to the

acting role upon completion of the assignment.

Section 17. Longevity Bonus

Full-time employees of the Town may be compensated for years of service by payment of a longevity bonus based on continuous years of service as of December 1st of each year if funds are appropriated. Continuous service is continuous employment including any approved leave or involuntary reduction in force.

Longevity amounts shall be as follows:

| <u>Years of Service</u> | <u>Amount</u> |
|-------------------------|---------------|
| 0 - 1 years | \$ 50 |
| 1 - 2 years | \$100 |
| 2 - 5 years | 1% |
| 5 - 10 years | 2% |
| 10 - 15 years | 3% |
| 15 - 20 years | 4% |
| 20 + years | 5% |

Employees who separate from employment in good standing prior to December 1st shall be eligible for a pro-rated longevity payment at the time of separation, but only in the year of separation from employment.

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, sexual orientation, or marital status. Applicants with physical disabilities shall be given equal consideration with other applicants for positions in which their disabilities do not represent an unreasonable barrier to satisfactory performance of required duties with or without reasonable accommodation.

Section 2. Implementation of Equal Employment Opportunity Policy

All personnel responsible for recruitment and employment will continue to review regularly the implementation of this personnel policy and relevant practices to assure that equal employment opportunity based on reasonable, job-related requirements is being actively observed to the end that no employee or applicant for employment shall suffer discrimination because of age, sex, race, color, religion, disability, national origin, political affiliation, sexual orientation, or marital status. Notices with regard to equal employment matters shall be posted in conspicuous places on Town premises in places where notices are customarily posted.

Section 3. Recruitment, Selection and Appointment

Recruitment Sources. When position vacancies occur, the Town Manager shall cause these opportunities for employment to be publicized, including applicable salary information and employment qualifications. Information on job openings and hiring practices will be published on the Town's website and in local and/or other news media as necessary to inform the community and create a quality and diverse pool of applicants. In addition, notice of vacancies shall be posted at designated conspicuous sites within departments. Individuals shall be recruited from a geographic area as wide as necessary and for a period of time sufficient to ensure that well-qualified applicants are obtained for Town service. The North Carolina Employment Security Commission shall normally be used as a recruitment source. 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. The Town Manager will approve all employment advertisements prior to their publication. 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 currently being recruited.

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 shall make such investigations and conduct such examinations as necessary to assess accurately the knowledge, skills, and experience qualifications required for the position. All selection devices administered by the Town shall be valid measures of job performance.

Appointment. Before any commitment is made to an applicant either internal or external, the Department Head shall make recommendations to the Town Manager including the position to be filled, the salary to be paid, and the reasons for selecting the candidate over other candidates. The Town Manager must approve all hiring decisions.

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 sworn police officers, fire personnel, and department heads shall serve a twelve month probationary period. 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. 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. Probationary periods may be extended for a maximum of six additional months.

During the probationary period, the supervisor of the employee serving in a probationary status shall closely monitor the progress of that employee and shall frequently discuss with the employee his or her performance. Before the end of the probationary period, the department head of an employee serving in a probationary status shall make a written recommendation to the Manager whether the probationary period should be extended or whether the employee should be retained in his or her present position, transferred, demoted, or dismissed.

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 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 employees retain all other rights and benefits such as the right to use of the grievance procedures and to graduated disciplinary procedures.

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, or exceptional qualifications of an internal candidate so indicate, the Town will 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.

Department heads are responsible for developing staff capacity to provide back-up for coworkers and higher level positions; to prepare staff and the organization for smooth transitions; and to insure capability to cover interim absences and vacancies.

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 chapter.

An employee who wishes to accept a position with less complex duties and reduced responsibilities may request a voluntary demotion. A voluntary demotion is not a disciplinary action and is made without using the above-referenced disciplinary procedures.

Section 7. Transfer

Transfer is the movement of an employee from one position to a position in a class in the same salary range. If a vacancy occurs and an employee in another department is eligible for a transfer, the employee shall apply for the transfer using the usual application process. The Department Head wishing to transfer an employee to a different department or classification shall make a recommendation to the Town Manager with the consent of the receiving department head. Any employee transferred without requesting the action may appeal the action in accordance with the grievance procedure outlined in this policy. An employee who has successfully completed a probationary period may be transferred into the same classification without serving another probationary period.

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 State of North Carolina and in accordance with the Constitution and laws of the United States. However, no employee shall:

- a) Engage in any political or partisan activity while on duty;
- b) Use official authority or influence for the purpose of interfering with or affecting the result of a nomination or an election for office;
- c) Be required as a duty of employment or as 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 an 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 commission and all self-employment must be reported 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 decide whether to approve the work. Conflicting or unreported outside employment are grounds for disciplinary action up to and including dismissal. Documentation of the approval of outside employment will be placed in the employee's personnel file.

Examples of conflicts of interest in outside employment *include but are not limited to:*

- a) employment with organizations or in capacities that are regulated by the employee or employees department; or
- b) employment with organizations or in capacities that negatively impact the employees perceived integrity, neutrality, or reputation related to performance of the employees

Town duties.

Section 4. Dual Employment

A full or part-time employee of the Town may simultaneously hold another position with the Town if the part-time or temporary position is in a different department and clearly different program area from that of the full or part-time position and the employment in the temporary position is performed on an occasional or sporadic basis. The work of the full or part-time position shall take precedence over the temporary or second part-time position, and such work will not count toward the calculation of overtime for pay or time off. This policy is intended to reflect requirements of the FLSA; otherwise, hourly rate must be pro-rated by the two different salaries and overtime compensated after 40 hours per week.

Section 5. Employment of Relatives

The Town prohibits the hiring and employment of immediate family in permanent positions within the same work unit. "Immediate Family" is defined in Article VII, Section 12. The Town also prohibits the employment of any person into a permanent position who is an immediate family member of individuals holding the following positions: Mayor, Mayor Pro Tem, Town Commissioners Member, Town Manager, Finance Director, Town Clerk, or Town Attorney. Otherwise, the Town will consider employing family members or related persons in the service of the Town, provided that such employment does not:

- 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 clause shall not be retroactive concerning any relative currently working for the Town at the time of adoption.

Should a family member (as defined in Article VII, Section 12) of a current employee be elected to the Town Board of Commissioners, the employee must resign within six months of the relative taking office.

Section 6. Harassment

Harassment on the basis of race, color, religion, gender, national origin, age or disability constitutes discrimination. The Town opposes harassment by supervisors and co-workers in any form. Harassment is verbal or physical conduct that denigrates or shows hostility or aversion toward an individual because of his or her race, color, religion, gender, national origin, age, sexual orientation, or disability, or that of his or her relatives, friends, or associates.

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.

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 Town Manager, or any department head who will advise the Town Manager of the complaint. The Town Manager will insure that an investigation is conducted into any allegation of harassment and advise the employee and appropriate management officials of the outcome of the investigation.

Employees witnessing harassment shall also report such conduct to an appropriate Town official.

Section 7. Acceptance of Gifts and Favors

No official or employee of the Town shall accept any gift, favor, or thing of value (more than \$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 conduct performance evaluation conferences with each employee at least once a year to review the employee's accomplishments and strengths, areas for improvements, goals for the next year, and overall performance level. 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 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 the safe work procedures of all employees and providing necessary safety training programs. Employees shall follow the safety policies and procedures and attend safety training programs as a condition of employment. Employees who violate such policies and procedures shall be subject to disciplinary action up to and including dismissal.

Section 10. Direct Deposit

All new employees are required to participate in the Town's direct deposit program.

Section 11. Adverse Weather/Hazardous Conditions

The Town has responsibility for emergency services including law enforcement. 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 essential positions required to report to work regardless of weather or other hazardous conditions. Such designation may vary depending upon the nature of the hazardous situation. For example, most employees will be needed in the case of hurricanes. The Town Manager will declare when inclement weather or other hazardous conditions trigger the implementation of this policy.

The Town Manager shall have the authority to grant up to five working days off per employee for inclement weather annually. Employees in critical positions who are required to work during declared adverse weather or hazardous conditions shall receive an additional day (pro-rated as in Article VII, Section 16) of compensation.
(Amended 08-11-2020)

ARTICLE VI. EMPLOYEE BENEFITS

Section 1. Eligibility

All full-time employees (see definitions) of the Town are eligible for employee benefits as provided for in this policy. These benefits are subject to change at the Town 's discretion. Temporary and part-time employees are eligible only for workers' compensation and FICA. At the Town Manager's discretion, temporary and part-time employees may, however, be eligible for those certain benefits as described in Section 12. Recreational Benefits. (Amended 2-14-2012)

Section 2. Group Health and Hospitalization Insurance

The Town provides group health and hospitalization insurance programs for full-time employees, subject to annual appropriation by the Town Commissioners.

Information concerning cost and benefits shall be available to all employees from town staff assigned by the Town Manager. All employees have confidential access to such persons to meet benefits and other human resources needs.

Section 3. Group Life Insurance

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

Section 4. Other Optional Group Insurance Plans and Benefits

The Town may make other group insurance plans available to employees upon authorization of the Town Manager or Town Commissioners.

Section 5. 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 on the first day of employment as a condition of employment.

Section 6. Supplemental Retirement Benefits

The Town may provide supplemental retirement benefits for its full-time employees. Each law enforcement officer shall receive 401-K benefits at least at levels prescribed by North Carolina State Law and beginning on the first day of employment. Each general employee, including law enforcement officers, shall receive supplemental benefits of 5% as determined and amended from time to time, by the Town Commissioners. (Section 6 – Amended 11-12-2008; Amended 3-8-2011, effective 7-1-2011)

Section 7. Social Security

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

Section 8. Workers' Compensation

All employees of the Town (full-time, part-time, and temporary) are covered by the North Carolina Workers' Compensation Act and are required to report all injuries arising out of and in the course of employment to their immediate supervisors at the time of the injury in order that appropriate action may be taken at once. This provision also applies to reactions to small pox vaccinations administered to Town employees under Section 304 of the Homeland Security Act. Such reactions shall be treated the same as any other workers compensation claim as regards leave and salary continuation.

Employees may use sick leave, vacation leave, or compensatory time during the waiting period before Workers' compensation benefits begin.

Responsibility for claiming compensation under the Workers' Compensation Act is on the injured employee, and such claims should be filed with the North Carolina Industrial Commission within five days of the date of injury. Town staff assigned by the Town Manager will assist the employee in filing the claim. (Section 8 – Amended 05-08-07)

Section 9. Unemployment Compensation

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

Section 10. Tuition Assistance Program

Full-time employees who have completed initial probation may apply for tuition reimbursement for courses taken on their own time or during educational leave 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 up to a total of one thousand dollars (\$1000) per fiscal year. Satisfactory completion of the courses will be required for reimbursement including earning at least a B in graded courses. Requests for tuition assistance shall be submitted to the Town Manager prior to course registration and are subject to the review and approval of Department Head and Town Manager, subject to availability of funds. The Town Manager shall request funding for this program as part of the budget process and all approvals shall be subject to the availability of funds.

Section 11. Law Enforcement Officers Special Separation Allowance

The Town of Emerald Isle provides a special separation allowance to qualified retiring law enforcement officers in accordance with the conditions set forth in NC General Statute 143-166.42.

To qualify for payment of the special separation allowance, a retiring sworn law enforcement officer shall:

- (1) Have (i) completed 30 or more years of creditable service or, (ii) have attained 55 years of age and completed five or more years of creditable service; and
- (2) Not have attained 62 years of age; and
- (3) Have completed at least five years of continuous service as a law enforcement officer immediately preceding a service retirement.

(a) The annual compensation to an eligible retired officer is equal to 0.85% of his annual base rate of compensation multiplied by his total creditable service. No member contributions are required.

(b) As used in this section, "creditable service" means the service for which credit is allowed under the retirement system of which the officer is a member, provided that at least fifty percent (50%) of the service is as a law enforcement officer as herein defined.

(c) Payment to a retired officer under the provisions of this section shall cease at the first of:
(1) The death of the officer;
(2) The last day of the month in which the officer attains 62 years of age; or
(3) The first day of reemployment by a local government employer in any capacity.

Notwithstanding the provision of subdivision (3) of this subsection, a local government employer 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 the provisions of this section.

For purposes of this policy, a local government "employer" under G.S. 143-166.42 is understood to be an employer that is eligible to participate in the Local Government Employee's Retirement System. (Section 11 – Added 3-11-2008, Amended 1-12-2010)

12. Recreational Benefits

Community Center memberships: All full-time and part-time employees are eligible for one (1) free individual annual membership. Temporary employees are eligible for one (1) free individual 3-month membership.

Regional Access Free Parking Permits: All full-time, part-time, and temporary employees are eligible for one (1) free parking permit.

Beach Driving Permits: All full-time and part-time employees are eligible for one (1) free beach driving permit.

Employees retiring in good standing from the Town of Emerald Isle having completed at least twenty (20) years of full-time service with the Town prior to their retirement are eligible for the following life-time recreational benefits:

- One (1) free individual annual Community Center membership
- One (1) free parking permit
- One (1) free beach driving permit
- One (1) free golf permit

(Section 12 – Added 2-14-2012, Section Amended 07-10-2018).

13. Retiree Benefits

The Town of Emerald Isle offers a retiree health benefit for employees who retire in good standing from the Town under the following conditions:

- The employee has completed at least twenty (20) years of full-time service with the Town prior to retirement;

- The employee is eligible to retire with the North Carolina Local Government Employees' Retirement System (NCLGERS);

Eligible employees under the age of 65 will receive a health benefit payment of \$10.00 per month, per completed year of full-time service with the Town of Emerald Isle. The health benefit payment will become effective with the first day of retirement, as determined by the NCLGERS, and will be paid to the eligible retired employee, as determined by the Town. The health benefit payment will not be retroactive or pro-rated.

The purpose and intent of the health benefit payment is to assist the retiree with the costs of medical, dental, and vision expenses until becoming eligible for Medicare. The Town believes this benefit recognizes the contributions and dedication of its long-serving employees, and serves as a valuable retention and recruitment tool for the future.

Retired employees are no longer eligible to receive this benefit upon the first occurrence of the following:

1. The last day of the month in which the retiree turns 65 years of age, or the first day of the month in which the retiree becomes eligible for Medicare, whichever comes first; or
2. The first day the retiree is covered under another employer sponsored group health plan; or
3. The death of the retired employee.

Once the benefit is discontinued it cannot be reinstated. It is the responsibility of the retiree, or, in the event of death, the responsibility of the surviving spouse, beneficiary or estate administrator, to inform the Town of any such change in status. Failure to notify the Town immediately following a change of status shall result in such benefit paid after the change in status to be reimbursed to the Town by the retiree or their estate.

The benefits provided under this section are not intended to be contractual in nature. The Town retains the right to modify these benefits, including amendments and termination, if it deems such modification to be necessary.

(Section 13 added 07-10-2018)

ARTICLE VII. HOLIDAYS AND LEAVES OF ABSENCE

Section 1. Policy

The policy of the Town is to provide vacation, 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. Leave balances should be printed on payroll checks or provided to employees with each paycheck, including net accrued sick leave, vacation, compensatory time, etc.

Section 2. Holidays

The Town will follow the holiday schedule as published by the State of North Carolina for state employees. In order to receive a paid holiday, an employee must be on paid status before and after the holiday. The Town Manager will post the designated holidays at the beginning of each fiscal year.

Specific holidays to be observed are as follows:

- New Years Day
- Martin Luther King, Jr. Birthday
- Good Friday
- Memorial Day
- Independence Day
- Labor Day
- Veterans Day
- Thanksgiving (2 days)
- Christmas (2 or 3 days, depending on the day of the week for Christmas Day)

To be eligible for holiday pay, an employee must be in pay status for a full regular scheduled workday before and after the holiday, unless excused by the appropriate supervisor. (Amended 3-8-2011, effective 7-1-2011)

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

Employees required to perform work on regularly scheduled holidays may be granted compensatory time off or be paid at their hourly 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 shall receive the hours for paid holiday leave. Departments with employees working a shift schedule may elect to compensate those employees for working on the true holiday rather than the designated holiday. Holiday pay will be calculated according to the formula in Section 16 of this article. This means employees working an average 40 hour week are compensated for an 8 hour holiday; employees working a 42 hour week are compensated with a 8.4 hour holiday, and employees working an average 53 hour week are compensated with a 10.6 hour holiday.

Section 5. Vacation Leave

Vacation leave may be used for rest and relaxation, school appointments, medical appointments, and other personal needs.

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 the probationary period. Employees shall be allowed to take accumulated vacation leave after six months of service.

Section 7. Vacation Leave: Accrual Rate

Each full-time employee of the Town shall earn vacation at the following schedule, prorated by the average number of hours scheduled in the workweek:

40 hour Average Workweek

| Years of Service | Hours Accrued Per Month |
|-------------------------|--------------------------------|
| 0 - 5 years | 8 hours |
| 5 - 10 years | 12 hours |
| 10+ years | 14 hours |

42 hour Average Workweek

| Years of Service | Hours Accrued Per Month |
|-------------------------|--------------------------------|
| 0 - 5 years | 8.4 hours |
| 5 - 10 years | 12.6 hours |
| 10+ years | 14.7 hours |

53 hour Average Workweek

| Years of Service | Hours Accrued Per Month |
|-------------------------|--------------------------------|
| 0 - 5 years | 10.6 hours |
| 5 - 10 years | 15.9 hours |
| 10+ years | 18.6 hours |

Vacation should be accrued in each payroll period. Employees working greater or fewer than forty hours will have accrual rates prorated based upon the formula in Article VII Section 16.

Section 8. Vacation Leave: Maximum Accumulation

Vacation leave may be accumulated without any applicable maximum until December 31 of each year. However, if the employee departs from service, payment for accumulated vacation leave shall not exceed thirty days (30) pro-rated as described in Section 16 of this article. For example, 30 days for a 40 hours per week employee is 240 hours; for a 42 hours per week employee 252 hours; 318 hours for a 53 hour per week employee, etc.

Effective the last payroll in the calendar year, any employee with more than this maximum amount of accumulated leave shall have the excess accumulation removed so that only 30 days are carried forward to January 1 of the next calendar year. Employees are not eligible to receive pay for vacation time not taken.

Employees may have the excess vacation leave (over the above maximum) converted to sick leave.

Employees are cautioned not to retain excess accumulated vacation leave until late in the 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 should request vacation leave two weeks in advance. Employees shall be granted the use of earned vacation leave at those times designated by the Department Head which will least obstruct normal operations of the Town. Department heads are responsible for insuring that approved vacation leave does not hinder the effectiveness of service delivery. Vacation may be taken in one-half hour increments.

Section 10. Vacation Leave: Payment upon Separation or Retirement

An employee who has successfully completed six months of the probationary period will normally be paid for accumulated vacation leave upon separation, subject to a 30 day maximum as described in Section 8 of this Article, provided written notice is given to the supervisor at least two weeks in advance of the effective date of resignation (minimum of three weeks notice for department heads). Any employee failing to give the written 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.

An employee retiring under the provisions of the North Carolina Local Government Retirement System will be paid as wages all accumulated vacation leave effective as of the last day worked subject to a 30 day maximum as described in Section 8 of this Article. The use of accumulated vacation leave following the last day worked is not permitted. Employees may have any excess vacation (above the 30 day maximum) converted to sick leave and used for retirement service credit. (Amended 10-13-2015)

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 30 days (as described in Section 8 of this Article).

Section 12. Sick Leave

Sick leave is not a right but a privilege granted to employees for use as prescribed in this Section upon approval of the department. Sick leave may be granted to an employee absent from work for any of the following reasons: sickness, bodily injury, temporary disabilities, required physical or dental examinations or treatment, or exposure to a contagious disease, when continuing work might jeopardize the health of others.

Sick leave may be used when an employee must care for a member of his or her immediate family who is ill or needs medical care.

Sick leave may also be used for a death in the immediate family but is limited to three days per

occurrence. Additional time needed for bereavement or funerals may be charged to accrued vacation or compensatory time.

Sick leave may also be used to supplement Workers' Compensation Disability Leave during the first waiting period before Workers' compensation benefits begin.

Sick leave may not be used in the final two weeks of an employee's resignation notice, unless a physician's certification or comparable documentation is provided.

"Immediate family" shall be defined as spouse, child, parent, brother, sister, grandparent, grandchild, various combinations of step, half, and in-law, and adopted relationships of the employee, or guardian. (Section 12 – Amended 8-14-2007)

Section 13. Sick Leave: Accrual Rate, Accumulation, and Manner of Taking

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 work schedule shall be pro-rated as described in Section 16 of this Article.

| Average Work Week | Hours Accrued Per Month |
|--------------------------|--------------------------------|
| 40 hours per week | 8 hours |
| 42 hours per week | 8.4 hours |
| 53 hours per week | 10.6 hours |

Notification of the desire to take sick leave shall be submitted to the employee's supervisor prior to the leave or not later than two hours after the beginning of a scheduled work day. An employee who works in shifts must notify his/her supervisor of the desire to take sick leave prior to leave or not later than two hours prior to the beginning of the shift. Failure to so notify the appropriate supervisor may result in disciplinary action.

The minimum amount of sick leave that may be taken is one hour, and leave must be taken in increments of one half hour.

Sick leave will be cumulative for an indefinite period of time and may be converted upon retirement for service credit consistent with the provisions of the North Carolina Local Government Employees' Retirement System.

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

Section 14. Transfer of Sick Leave from Previous Employer

The Town will accept the transfer of sick leave for employees from other employers who are participants of the North Carolina Local Government or State Employees Retirement System. The sick leave will be treated as though it were earned with the Town of Emerald Isle. The sick leave amount must be certified by the previous employer. This sick leave may be taken after the employee successfully completes the initial hire probationary period. The Town of Emerald Isle will also cooperate in the event that an employee desires to transfer sick leave from the Town to a new employer, subject to the policies of the new employer.

Section 15. Sick Leave: Medical Certification

The employee's supervisor or Department Head may require a physician's certificate stating the nature of 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. Leave Pro-rated

Holiday, annual, and sick leave earned by full-time employees with more hours than the basic work week shall be determined by the following formula:

- 1) The number of hours worked by such employees shall be divided by the number of hours in the basic work week (usually 40 hours).
- 2) The proportion obtained in step 1 shall be multiplied by the number of hours of leave earned annually by employees working the basic work week.
- 3) The number of hours in step 2 divided by 12 shall be the number of hours of leave earned monthly by the employees concerned.

This means, for example, that law enforcement officers scheduled for an annual average 42 hour week earn 8.4 hours for each day of sick, vacation, or holiday leave they earn. Another example: fire staff scheduled for an average work week of 53 hours will earn 10.6 hours for each day of sick, vacation or holiday leave.

Section 17. Family and Medical Leave

The Town will grant up to 12 weeks of family and medical leave per twelve (12) months to eligible employees in accordance with the Family and Medical Leave Act of 1993 (FMLA). The leave may be paid (coordinated with the Town's Vacation and Sick Leave policies), unpaid, or a combination of paid and unpaid. Earned compensatory time may also be used during FMLA leave. 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; or
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 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 and accrued compensatory time for the remainder of the 12 week period.

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.

“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; or
- 6) 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 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.

For the purposes of determining available FMLA leave for reasons other than Military Caregiver Leave, the 12-month period during which employees may be eligible for FMLA leave will be calculated on a "rolling" 12-month period measured backward from the date the FMLA leave is requested to begin.

For the purposes of determining available Military Caregiver Leave, the 12 month period during which employees may be eligible for Military Caregiver Leave will be calculated on a 12-month period measured forward from the date the employees' leave to care for the covered service member begins.

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. Failure to provide timely or complete certifications may result in denial of leave or return to work. The certification and request must be made to the department head and filed with the staff designated by the Town Manager.

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. 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 shall be used for reasons of personal disability after both sick leave and vacation have been exhausted, 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 supervisor 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 supervisor shall be notified immediately. Failure to report at the expiration of a leave of absence, unless an extension has been requested, shall be considered a resignation.

Section 20. Family Medical Leave and Leave Without Pay: Retention and Continuation of Benefits

When an employee is on leave under FMLA (maximum of 12 weeks in a year, 26 weeks for military caregiver leave), 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.

An employee shall retain all unused vacation and sick leave while on Leave Without Pay. An employee ceases to earn 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 Commissioners and the regulations of the insurance carrier.

Section 21. Workers' Compensation Leave

An employee absent from duty because of sickness or disability covered by the North Carolina Workers' Compensation Act may elect to use accrued sick leave, vacation, or compensatory time during the first waiting period. An employee on workers' compensation leave may be permitted to continue to be eligible for benefits under the Town's group insurance plans. When workers' compensation leave extends long enough for the first waiting period to be reimbursed the employee will not be required to reimburse the Town for this paid leave.

All injuries arising out of, and during, the course of employment should be reported by the injured employee to the immediate supervisor as soon as possible. The supervisor or department head shall file an injury report with the Town Manager or his / her designee immediately. The employee must use sick leave, vacation leave, or compensatory time for the first seven (7) days waiting period of disability.

Before returning to work a statement from the attending physician should be submitted to the Town Manager giving permission for the employee to resume regular duties.

Upon return to work, the employee's salary will be computed on the basis of the last salary plus any merit increment or other salary increase to which the employee would have been entitled during the disability covered by Workers Compensation. While receiving workers compensation benefits, an employee continues to earn annual leave, sick leave, and will retain all accumulated sick or annual leave.

Any period of leave without pay for a workers compensation disability that qualifies as a "serious health condition" under the Family and Medical Leave Act (FMLA), will run concurrently with FMLA leave.

This provision also applies to reactions to small pox vaccinations administered to Town employees under Section 304 of the Homeland Security Act. Such reactions shall be treated the same as any other workers' compensation claim as regards leave and salary continuation. (Section 21 - Amended 05-08-07)

Section 22. Military Leave

Regular employees who are members of an Armed Forces Reserve organization or National Guard shall be granted two calendar weeks per year for military leave without pay. On rare occasions due to annual training being scheduled on a federal fiscal year basis, an employee may be required to attend two periods of training in one calendar year. For this purpose only, an employee shall be granted an

additional ten days of military leave during the same calendar year. 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 this ten workdays, the employee shall be eligible to take accumulated vacation leave or be placed in a leave without pay status, and the provisions of that leave shall apply. While taking military leave, the employee's leave credits and other benefits shall continue to accrue as if the employee physically remained with the Town during this period. Employees who are eligible for military leave have all job rights specified by the Vietnam Veterans Readjustment Act.

Section 23. Reinstatement Following Military Service

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

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

Section 24. Civil Leave

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

Section 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 paid leave (vacation or accrued compensatory 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.

Section 26 Educational Leave

The Town Manager may grant educational leave to an employee. Educational leave may be granted with or without pay to an employee and is limited to one course at a time (per semester, quarter, etc.).

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 weeks; three weeks notice is required for department heads. Failure to provide minimum notice shall result in forfeit of payment for accumulated vacation unless the notice is waived upon recommendation of the Department Head and approval by the Town Manager. Sick leave and vacation time may not be taken in the final two weeks when an employee is working his or her resignation notice.

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.

Participation in a work stoppage or strike against the Town by an employee(s) may be considered a resignation by the employee.

Employees must return any Town property including uniforms and equipment upon resignation.

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 temporary or probationary employees serving in the same class in the department, unless the regular employee is not willing to transfer to the position held by the temporary or probationary employee.

Section 4. Disability

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

Section 5. Voluntary Retirement

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

Section 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 reduction in force may be reinstated within five years of the date of separation, upon recommendation of the Department Head, and upon approval of the Town Manager. An employee who is reinstated in this manner shall be re-credited with his or her previously accrued sick leave and previous service.

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.

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. 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 aspect of the employee's job which are not performed as required to meet the standards set by the Department Head. *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) Repeated improper use of leave privileges;
- 7) Habitual pattern of 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; or
- 9) Failure to meet work standards over a period of time.

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 should 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 should 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 counseling sessions followed with written warnings from the supervisor before disciplinary action is taken. 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 counseling session followed by a 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 or Town Manager for disciplinary action such as suspension, demotion, or dismissal.

Disciplinary suspensions for nonexempt and exempt employees shall vary based on the seriousness of the offense at the discretion of the Department Head and/or the Town Manager. Copies of all disciplinary actions should be sent through the Town Manager to the personnel file.
(Amended 11-10-2014)

Section 4. Disciplinary Action for Detrimental Personal Conduct

With the approval of the Town Manager, an employee may be placed on disciplinary suspension, demoted, or dismissed without prior graduated discipline and written warnings 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.

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;
- 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 or the public with threatening or obscene language and/or gestures;

- 14) Harassment of an employee(s) and/or the public on the basis of sex or any other protected class status;
- 15) Stated refusal to perform assigned duties or flagrant violation of work rules and regulations;
- 16) Disclosure of confidential information;
- 17) Lying to and / or deceiving one's superiors, co-workers, and / or the public;
- 18) Habitual or continued use of alcohol or controlled substances to such an extent that it injures or affects the employee's standing in the community and / or substantially affects his / her job performance; or
- 19) Personal misconduct that affects the employee's standing in the community, casts doubt upon his / her ability to serve the public, and / or casts dishonor and disrespect upon the Town.

Section 6. Pre-dismissal Conference.

Before dismissal action is taken, whether for failure in personal conduct or failure in performance of duties, the Town Manager or a Department head will conduct a pre-dismissal conference. At this conference, the employee may present any response to the proposed dismissal to the Town Manager or Department Head. The Town Manager or 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. If the employee is dismissed, the notice shall contain a statement of the reasons for the action and the employee's appeal rights under the Town's grievance procedure.

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, be in the best interest of the Town, the Department Head may suspend the employee for part or all of the proceedings as a non-disciplinary action. In such cases, the Department Head 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.

Section 8. Substance Abuse Policy

The Town has established policies and procedures related to employee substance abuse in order to insure the safety and well-being of citizens and employees, and to comply with any state, federal, or other laws and regulations.

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.

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 an employee based upon an event or condition which affects the circumstances under which an employee works and is 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 through collaboration and/or mediation; 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. Procedure

When an employee has a grievance, the following successive steps are to be taken. 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. Mediation may be used at any step in the process and is encouraged. Mediation is the neutral facilitation of the conflict between or among parties where the facilitator helps the parties find a mutually agreeable outcome. The mediator should be a party agreed upon by all parties to the grievance.

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 (the person who took the action which created the grievance issue, could be immediate supervisor, division head, department head, etc.) in writing. The grievance must be presented within seven calendar days of the event or within seven calendar days of learning of the event or condition. The written grievance should identify the action that is deemed unfair and the reason the grieving employee believes it to be unfair. The supervisor shall respond to the grievance within seven calendar days after receipt of the grievance. The supervisor should, and is encouraged to, consult with any employee of the Town in order to reach a correct, impartial, fair and equitable determination or decision concerning the grievance. Any employee consulted by the supervisor is required to cooperate to the fullest extent possible.

The response from the supervisor for each step in the formal grievance process shall be in writing and signed by the supervisor. In addition, the employee shall sign a copy to acknowledge receipt thereof. The responder at each step shall send copies of the grievance and response to the Town Manager.

Step 2. If the grievance is not resolved by the first level supervisor to the satisfaction of the employee by the supervisor, the employee may appeal in writing to the next level supervisor (Division Head, Department Head, Town Manager, etc.) within seven calendar days after receipt of the response from Step 1. The next level supervisor shall respond to the appeal stating the determination of decision within seven 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 seven calendar days after receipt of the response from Step 2. 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 Commissioners 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 the appeal and make recommendations back to the Town Manager concerning the appeal. Such parties might consist of human resource professionals, attorneys, mediators, or other parties appropriate to the situation.

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

Section 5. 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, national origin, religion, creed, political affiliation, sexual orientation or non-job related handicap), 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 appeal directly to 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 GS 160A-168, the following information with respect to each Town employee is a matter of public record: name; age; date of original employment or appointment to the service; current position; title; current salary; date and amount of each increase or decrease in salary; date and type of each promotion, demotion, transfer, suspension, separation, or other change in position classification; and the office to which the employee is currently assigned; date and general description of the reasons for each promotion; date and type of each dismissal, suspension, or demotion for disciplinary reasons taken by the municipality. If the disciplinary action was a dismissal, a copy of the written notice of the final decision of the municipality setting forth the specific acts or omissions that are the basis of the dismissal is a matter of public record. 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. For the purposes of this subsection, the term "salary" includes pay, benefits, incentives, bonuses, and deferred and all other forms of compensation paid by the Town. (Amended 8-11-2009; Amended 9-14-2010)

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 Commissioners, 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.

- 8) Even if considered part of an employee's personnel file, the following information regarding any sworn law enforcement officer shall not be disclosed to an employee or any other person, unless disclosed in accordance with G.S. 132- 1.4, or in accordance with G.S. 132- 1.10, or for the personal safety of that sworn law enforcement officer or any other person residing in the same residence:
- (1) Information that might identify the residence of a sworn law enforcement officer.
 - (2) Emergency contact information.
 - (3) Any identifying information as defined in G.S. 14- 113.20. (Amended 10-13-2015)

Section 3. Personnel Actions

The Town Manager will prescribe necessary forms and reports for all personnel actions and will retain records necessary for the proper administration of the personnel system. The official personnel files are those which are maintained as directed by the Town Manager. 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 and insurance records, letters of recommendation, and other personnel-related documents. Any documents not contained in these files or maintained as designated by the Town Manager is not an official part of the personnel file.

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. The employee may seek removal of such material in accordance with established grievance procedures.

Section 6. 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 7. Destruction of Records Regulated

No public official may destroy, sell, loan, or otherwise dispose of any public record, except in

accordance with GS 121.5, without the consent of the State Department of Cultural Resources
Whoever unlawfully removes a public record from the office where it is usually kept, or whoever alters, defaces, mutilates or destroys it will be guilty of a misdemeanor and upon conviction will be fined in an amount provided in Chapter 132.3 of the North Carolina General Statutes.

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 thereunder 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. Effective Date

These policies shall become effective on January 1, 2006.

Section 4. Amendments

This policy may be amended by action of the Town Commissioners and by resolution appropriately approved. Notice of any suggested amendment to the policy, or any portion thereof, shall be provided to employees and opportunities for employee comment and reaction shall be made available prior to the amendments going to the Town Commissioners for action. Proposed amendments should be posted on bulletin boards in all employee work locations and/or in employee newsletters. Any revisions or amendments adopted in conformance with this procedure shall become effective as of the date of such adoption.

(Amended 5-8-2007 – Article VI, Section 8 and Article VII, Section 21)

(Amended 8-14-2007 – Article VII, Section 12)

(Amended 3-11-2008 – Article VI. Add Section 11)

(Amended 11-12-2008 – Article VI. Section 6)

(Amended 08-11-2009 – Article VII. Section 17, 18 and 20, and Article XI, Section 1)

(Amended 1-12-2010 – Article VI. Section 11)

(Amended 9-14-2010 – Article III, Section 12, and Article XI, Section 1)

(Amended 3-8-2011 – Article VI, Section 6, and Article VII, Section 2 to be effective 07-01-2011)

(Amended 2-14-2012 – Article VI. Section 1, and Add Section 12)

(Amended 11-10-2014 – Article IX. Section 3)

(Amended 10-13-2015 – Article III, Section 15, Article VII, Section 10, and Article XI, Section 2)

(Amended 07-10-2018 – Article VI. Section 12, and Add Section 13)

(Amended 08-11-2020 – Article V. Section 11)