

TOWN OF MOORESVILLE

PERSONNEL POLICY

The following policies, as they may be amended from time to time, shall apply to the appointment, classification, benefits, salary, promotion, demotion, and conditions of employment of the employees of the Town of Mooresville (the "Town"). Except as otherwise provided by an express contractual agreement between an employee and the Town of Mooresville, all employees of the Town are employed AT WILL. Nothing in this Policy shall be interpreted as creating contractual rights or establishing a property interest in continued employment.

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ARTICLE I GENERAL PROVISIONS

Section 1. Purpose of the Policy

It is the purpose of this Policy to establish a fair and uniform system of personnel administration for all employees of the Town under the supervision of the Town Manager.

Section 2. At Will Employment

The Town of Mooresville is an "AT WILL" employer, meaning that either the Town or the Employee may terminate the employment relationship at any time for any reason. Nothing in this Policy creates an employment contract or term between the Town and its employees. Nothing in this Policy creates a property interest in continued employment with the Town.

Section 3. Merit Principle

All appointments and promotions shall be made solely on the basis of merit. No applicant for employment or employee shall be deprived of an employment opportunity or otherwise adversely affected because of the individual's race, color, religion, sex, national origin, disability or age.

Section 4. Responsibilities of the Town Board of Commissioners

The Board shall be responsible for establishing and approving plans for the compensation, position classifications, and benefits for Town employees, which may be amended from time to time. The Board shall make and approve such appointments that are required by the North Carolina General Statutes.

Section 5. Responsibilities of the Town Manager

The Town Manager shall be responsible to the Board for the administration and direction of the personnel policy and 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:

- 1) make and recommend amendments and revisions to this Policy as authorized by the Board and the North Carolina General Statutes;
- 2) make and recommend amendments and revisions necessary to maintain an up to date and accurate position classification plan;

- 3) recommend amendments and revisions to the pay plan;
- 4) determine which employees shall be subject to the overtime provisions of the Fair Labor Standards Act ("FLSA");
- 5) 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;
- 6) perform such other duties as may be assigned by the Board not inconsistent with this Policy; and
- 7) appoint an employee to the role of Human Resources Director.

Section 6. Responsibilities of the Human Resources Director

The Human Resources Director shall be responsible to the Town Manager for providing advice and recommendations regarding the administration of the personnel program.

The Human Resources Director shall:

- 1) recommend amendments and revisions to the personnel system for the consideration of the Town Manager;
- 2) recommend amendments and revisions as necessary to maintain an up to date and accurate position classification plan;
- 3) recommend amendments and revisions to the pay plan;
- 4) recommend which employees shall be subject to the overtime provisions of FLSA;
- 5) maintain a roster of all persons in the municipal service;
- 6) maintain a list of authorized positions in the municipal service at the beginning of each budget year identifying each authorized position, class title of position, salary range, changes in class title and status, position number and other such information;
- 7) develop and administer a recruiting program as necessary to ensure an adequate supply of qualified applicants to meet the personnel needs of the Town;
- 8) develop and coordinate training and educational programs for Town employees;
- 9) monitor the operation and effect of the personnel provisions of this Policy; and
- 10) perform such other duties as may be assigned by the Town Manager not inconsistent with this Policy.

Section 7. Application of Policies, Plan, Rules, and Regulations

This Personnel Policy and all rules and regulations adopted pursuant hereto shall apply to all Town employees except the Town Manager, Town Attorney, and members of the Town Board. An employee violating any of the provisions of this policy shall be subject to appropriate disciplinary action.

Section 8. Departmental Rules and Regulations

Each department is authorized to establish supplemental rules and regulations applicable only to the personnel of that department, subject to the approval of the Town Manager. Any such rules and regulations shall not conflict with the provisions of this Policy, but shall be considered as a supplement to this Policy. In the event of a conflict, this Policy shall prevail.

Section 9. Definitions

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

- 1) "Full-time employee" shall mean an employee in a position authorized for an average work week of at least 37 ½ hours and budgeted for at least 12 months.
- 2) "Part-time employee" shall mean an employee in a position authorized for an average work week of 20 hours (50% position) or 30 hours (75% position) and budgeted for at least 12 months.
- 3) "Regular employee" shall mean an employee appointed to a full-time or part-time position who has successfully completed the designated probationary period.
- 4) "Probationary employee" shall mean an employee appointed to a full-time or part-time position who has not yet successfully completed the designated probationary period.
- 5) "Temporary employee" shall mean an employee appointed to a position for which either: 1) the average work week over the course of a year is less than 20 hours; or 2) continuous employment required by the Town is less than 12 months.
- 6) "Trainee" shall mean an employee who is being trained for possible retention as a Regular employee in a particular position. A new employee shall be considered a Probationary employee during any period of training.

ARTICLE II POSITION CLASSIFICATION PLAN

Section 1. Purpose

The position classification plan provides an inventory of permanent positions in the Town service and a description of each class of employment.

Section 2. Composition of the Position Classification Plan

The classification plan shall consist of:

- 1) a grouping of positions in classes which are approximately equal in responsibility and call for the same general qualifications, and thus can be equitably compensated within the same range of pay;
- 2) class titles descriptive of the work of the class;
- 3) written specifications for each class of positions; and
- 4) 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:

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

Section 4. Administration of the Position Classification Plan

The Human Resources Director shall assign each position to its appropriate class, and shall be responsible for the administration of the position classification plan. The Human Resources Director shall periodically review the classification plan and recommend appropriate changes to the Town Manager.

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

New positions may be established upon recommendation of the Town Manager and approval of the Board. New positions recommended to the Board shall include a recommended class title.

Section 6. Availability of Position Classification Plan

The position classification plan shall be on file with the Human Resources Director and available to all Town employees for review upon request.

Section 7. Request for Reclassification

Any employee may submit a written request for position reclassification. Such request shall be delivered to the Human Resources Director. The Human Resources Director shall study the request, determine the merit of the reclassification, and make a recommendation to the Town Manager. The Town Manager shall make a recommendation and communicate it to the employee within ten working days. If the recommendation of the Town Manager is for a change in the position classification plan, the Manager shall communicate such recommendation to the Board within a reasonable time.

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 Board. The salary schedule consists of steps for minimum or beginning, maximum, and intervening rates of pay for all classes of positions.

Section 2. Administration and Maintenance

The Town Manager, assisted by the Human Resources Director, 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. The pay plan is intended to provide equitable compensation for all positions. Factors to consider in establishing the pay plan may include, but is not limited to: 1) differences in the duties and responsibilities of various positions; 2) rates of pay for comparable positions in private and public employment; 3) the cost of living; 4) the financial condition of the Town; and 5) other relevant factors. From time to time the Human Resources Director shall make comparative studies of all factors affecting the salary ranges and recommend to the Town Manager whether to make any changes. The Town Manager may then recommend changes for approval by the Board.

Section 3. Starting Salaries

All new employees shall initially be employed at the minimum salary for the applicable job classification unless a higher starting salary is approved by the Town Manager.

Section 4. Trainee Designation and Provisions

Under certain circumstances, the Town may designate an employee as a Trainee. For purposes of this Section, a Trainee is defined as an employee who does not meet all of the requirements for the position and is being trained for possible retention as a Regular employee.

Whenever an employee is designated as a Trainee, the supervisory department manager shall prepare a training plan which shall include the expected duration of the training period. During the training period, a Trainee shall be paid a salary no less than two grades below the minimum salary for the position for which the Trainee is being trained.

A new employee designated as a Trainee shall concurrently serve a probationary period. A Trainee will be treated as a Probationary employee for purposes of this Policy until the training period is satisfactorily completed.

If the training is not successfully completed to the satisfaction of the Town, the Trainee is subject to being transferred, demoted, or dismissed. If the training is successfully completed, the employee's designation will be changed from a Trainee to a Regular employee and will be paid at least the minimum rate established for the position for which the employee was trained and shall serve a regular probationary period as a regular employee. This probationary period shall apply in addition to the probationary period served concurrently while holding the status of Trainee.

Section 5. Probationary Pay Increases

Employees hired, promoted, or reclassified below step 5 of the pay range shall receive a salary increase within the range of approximately 5%, or to step 5, whichever is less, upon successful completion of the probationary period. Employees hired or promoted at or above step 5 of the pay table may be considered for a probationary increase of up to 2 ½% , based upon performance.

Section 6. Merit Pay

Upward movement within the established salary range for an employee is not automatic but rather based on performance. Employees may be considered for advancement within the established salary range based on the quality of their overall performance.

Section 7. Merit Pay Bonus

Employees who are at the top step of the salary range for their position classification are eligible to be considered for a Merit bonus at their regular performance evaluation time. Merit bonuses are 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. Merit bonuses are discretionary. Merit 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 minimum level 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.

Demotions. When an employee is demoted, the employee's salary may be reduced or retained at the same level, as appropriate. Factors to be used to consider whether and how much to reduce a demoted employee's salary include, but are not limited to: 1) the

employee's qualifications; 2) whether the demotion is the result of discipline; and, 3) the workload and responsibility of the new position.

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 approximately 2.5% or an increase to the minimum of the new pay range, whichever is higher. If the employee has completed probation, the employee's salary shall be advanced to at least the probation completion amount in the new range. If the position is reclassified to a lower pay range, the employee's salary shall remain the same. If the employee's salary is above the maximum established for the new range, the salary of that employee shall be maintained at the current level until the range is increased above the employee's salary.

Section 9. Salary Effect of Salary Range Revisions

When a class of positions is assigned to a higher salary range, employees in that class shall receive a pay increase of approximately 2.5%, or to the minimum step of the new range, whichever is higher. If the employee has passed probation, the employee's salary shall be advanced at least to the probation completion amount in the new range. When a class of positions is assigned to a lower salary range, the salaries of employees in that class will remain unchanged.

Section 10. Transition to a New Salary Plan

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

- 1) No employee shall receive a salary reduction as a result of the transition to a new salary plan.
- 2) All employees being paid at a rate lower than the minimum rate established for their respective classes shall have their salaries raised to the new minimum 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 listed in 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 employee's salary range is increased above the employee's 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 the Town Manager.

Section 12. Overtime Pay Provisions

Employees of the Town may be required to work overtime hours as necessitated by the needs of the Town and determined by the Department Manager. To the extent that local government jurisdictions are so required, the Town will comply with the Fair Labor Standards Act (FLSA). The Human Resources Director 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. Employees in positions determined to be "exempt" from the FLSA as defined by the FLSA will not receive overtime pay.

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 may be necessary for certain employees to respond to any reasonable requests 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 may be subject to disciplinary action up to and including dismissal.

Call-back. Non-exempt employees will be guaranteed a minimum payment of two hours of wages 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 (overtime work that is scheduled one or more days in advance).

Stand-by. Non-exempt employees required to be on "stand-by" duty will be paid for five hours of work for each week of stand-by time they serve. Stand-by compensation for less than one full week shall be determined by the ratio of .035 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 (a) must be available for contact by telephone; (b) must refrain from drinking alcoholic beverages, ingesting a controlled substance by any means, taking an over-the-counter medication or a prescription medication that can affect the person's ability to perform his or her duties; and (c) must be able to respond within 30 minutes after being called in. Employees on stand-by time are otherwise free to engage in personal activities.

Section 14. Payroll Deduction

Deductions shall be made from each employee's salary as required by law. Other deductions may from time-to-time be available for employees who may authorize such deductions.

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 other than 40 hours per week will be determined by dividing the average number of hours scheduled per year into the annual salary for the position.

Section 16. Longevity Pay

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

<u>Years of Service</u>	<u>Longevity Amount</u>
1-5	2.0%
6-10	2.5%
11-15	3.0%
16-19	3.5%
20 plus	4.0%

Years of service are calculated on a calendar year basis. Payment is calculated by applying the longevity percentage to the employee's annual salary as of June 30 of the current year.

Employees with less than one (1) year of service as of December 1 of the current year will not be eligible for longevity pay; however, they will receive \$25 in lieu of longevity pay.

An employee who retires with sufficient service to receive a retirement benefits check from the North Carolina Local Government Employees Retirement System before December 1 of the current year shall receive a final longevity payment at the rate of one twelfth the annual amount for each full month worked from December 31 of the prior year to their retirement date.

Longevity pay and in-lieu payments will be issued on the first Friday in December or on a date in December designated by the Town Manager.

Section 17. Education Incentive Pay

All employees who obtain an educational level higher than the minimum qualifications established for initial appointment are eligible for an educational incentive salary increase. Degrees must be earned from an accredited college or university and certified transcripts must be furnished to Human Resources before the increase will be authorized.

For job-related degrees (such as, for example, a Police Officer who earns a Criminal Justice Degree), a salary increase of 3.75% will be awarded for an Associates Degree and an additional 3.75% will be awarded upon completion of a Bachelor of Science/Arts degree. For degrees that are not job related, a salary increase of 1.25% will be awarded for an Associate Degree and an additional 1.25% will be awarded upon completion of a Bachelor of Science/Arts degree.

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. All employment decisions shall be made solely on the basis of merit and in accordance with all applicable anti-discrimination laws.

Section 2. Implementation of Equal Employment Opportunity Policy

Personnel involved in recruitment and hiring of Town employees are responsible for ensuring that such decisions are based on merit and not on any prohibited characteristic. If any employee has any question about prohibited characteristics and/or the Town's equal employment opportunity Policy, it is the responsibility of the employee to contact the Human Resources Director for clarification.

Section 3. Recruitment, Selection and Appointment

Recruitment Sources. The Human Resources Director shall be responsible for publicizing employment vacancies, including salary information and employment qualifications. Vacancies may be published in local or other news media as necessary to inform the community and create a quality and diverse pool of applicants. Notice of vacancies shall be posted at designated locations within departments. The North Carolina Employment Security Commission may be used as a recruitment source. At the discretion of the Town Manager, the Town may hire or promote without advertising a vacancy based on the needs of the Town.

Job Advertisements. Employment advertisements shall contain assurances of equal employment opportunity.

Application for Employment. All persons expressing interest in employment with the Town shall be given the opportunity to file an application for employment.

Applicant Interest Card. Persons interested in employment with the Town may complete an applicant interest card for each of the positions for which they wish to apply. When a vacancy occurs in a position of interest, the card will be sent, notifying the person and requesting that the person complete an application before a designated deadline. Such cards will be maintained in the Human Resources Department as required by State Law or State Policy.

Application Reserve File. Applications shall be kept in an inactive reserve file for a period of three years, in accordance with the EEOC guidelines.

Selection. Department Managers, with the assistance of the Human Resources Director, shall make such investigations and conduct such examinations based upon valid measures of job performance as necessary to assess accurately the knowledge, skills, and experience qualifications required for any vacant position.

Appointment. Before any commitment is made to an applicant, the Department Manager shall make a recommendation to the Human Resources Director including the position to be filled, the salary to be paid, and the reasons for selecting the candidate. The Human Resources Director and Department Manager shall recommend approval of appointments and the starting salary for all applicants to the Town Manager.

Section 4. Probationary Period

An employee appointed or promoted to a permanent position shall serve a probationary period. Employees shall normally serve a six month probationary period, except that department managers shall serve a twelve month probationary period. Employees hired as Trainees shall remain on probation until the completion of their training. During the probationary period, the employee's supervisor shall monitor the employee's performance and discuss it with the employee. Before the end of the probationary period, the supervisor shall conduct a performance evaluation conference with the employee and discuss the employee's strengths and areas for improvement. A summary of this discussion shall be documented in the employees 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 no longer than six additional months.

New hires in the probationary period may be demoted or dismissed by the Town Manager at any time during the probationary period. A new hire who is demoted or dismissed during the probationary period shall not be entitled to go through the steps of the Town's grievance procedure.

A town employee who is promoted who does not successfully complete the probationary period may be transferred or demoted to another position. If no such position is available, the employee is subject to being dismissed. Promoted employees shall be entitled to go through the steps of the grievance procedure.

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. Candidates for promotion shall be chosen on the basis of their qualifications and work records. Internal candidates shall apply for vacant positions by following the same application process as external candidates.

Section 6. Demotion

Demotion is the movement of an employee from one position to a position in a class assigned to a lower salary range. Demotion may occur for disciplinary reasons or other reasons. Any demotion for disciplinary reasons shall follow the disciplinary procedures outlined in this Policy.

Section 7. Transfer

Transfer is the movement of an employee from one position to a position in a class in the same salary range. An employee may apply for a transfer by following the usual application process. Any Department Managers wishing to transfer an employee to a different department or classification shall make a recommendation to the Town Manager. 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 Managers shall establish work schedules, with the approval of the Town Manager, to meet the operational needs of the department.

Section 2. Political Activity

Each employee has a civic responsibility to encourage good government. 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 while on duty (meaning that time period when an employee is engaged in the duties of his or her employment) or in the workplace (meaning any place where an employee engages in his or her job duties) shall:

- 1) Engage in any political or partisan activity;
- 2) Use his or her official authority or influence for the purpose of interfering with or affecting the result of a nomination or an election for political office; or
- 3) Coerce, solicit, or compel contributions from another employee of the Town for political or partisan purposes;

No employee may 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;

No employee may use city funds, supplies, or equipment of the Town for political or partisan purposes except where such political uses are otherwise permitted by law; or

An employee cannot be a candidate for, or hold a seat on, the Town Board.

Violation of this section can subject the employee to disciplinary action up to and 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 Manager. The Department Manager will review such employment for possible conflict of interest and decide whether to approve the work.

Conflicting or unreported outside employment is 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:

- 1) Employment with organizations or in capacities that are regulated by the employee or employee's department; and
- 2) Employment with organizations or in capacities that negatively impact the employee's perceived integrity, neutrality, or reputation related to performance of the employee's town duties.

Section 4. Dual Employment

A full or part-time employee of the Town may simultaneously hold another position with the Town if the temporary position is in a different department and clearly different program area from that of the full or part-time position. The work of the temporary position must also be performed on an occasional or sporadic basis as identified in Fair Labor Standards Act regulations. However, the work of the full or part-time position shall take precedence over the temporary position, and the work of the temporary position will not count toward the calculation of overtime for pay or time off.

Section 5. Employment of Relatives

The Town prohibits the hiring and employment of immediate family in permanent positions within the same department. "Immediate Family" is defined as an employee's spouse, child, parent, step-parent, guardian, brother, sister, grandparent, grandchild, son-in-law, daughter-in-law, mother-in-law or father-in-law.

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

- 1) an employee shall not supervise a relative;
- 2) an employee shall not audit the work of a relative;
- 3) employment of relatives shall not create a conflict of interest; and
- 4) employment of relatives shall not create an appearance of favoritism or a conflict of interest.

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

Section 6. Harassment

The Town is committed to providing a work environment that is free from all forms of discrimination and conduct that can be considered harassing, coercive, or disruptive, including sexual harassment and any other forms of harassment. Actions, words, jokes, or comments based on an individual's sex, gender, race, color, national origin, age, religion, disability, sexual orientation, or any other legally protected characteristic is prohibited and will not be tolerated.

Sexual harassment is defined as unwanted sexual advances, or visual, verbal, or physical conduct of a sexual nature. This definition includes many forms of offensive behavior and includes gender-based harassment of a person of the same sex as the harasser. The following are examples of sexual harassment and not intended to be a complete list of possible behaviors:

- Unwanted sexual advances.
- Offering employment benefits in exchange for sexual favors.
- Making or threatening reprisals after a negative response to sexual advances.
- Visual conduct that includes leering, making sexual gestures, or displaying of sexually suggestive objects or pictures, cartoons or posters.
- Verbal conduct that includes making or using derogatory comments, epithets, slurs, or jokes.
- Verbal sexual advances or propositions.
- Verbal abuse of a sexual nature, graphic verbal commentaries about an individual's body, sexually degrading words used to describe an individual, or suggestive or obscene letters, notes, or invitations.
- Physical conduct that includes touching, assaulting, or impeding or blocking movements.

Unwelcome sexual advances (either verbal or physical), requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when: (1) submission to such conduct is made either explicitly or implicitly a term or condition of employment; (2) submission or rejection of the conduct is used as a basis for making employment decisions; or, (3) the conduct has the purpose or effect of interfering with work performance or creating an intimidating, hostile, or offensive work environment.

Any employee who experiences or witnesses sexual or other unlawful harassment in the workplace is required to report it immediately to the employee's supervisor or the Human Resources Director. If the supervisor or the Human Resources Director is unavailable or the employee is uncomfortable contacting either of those individuals, the employee should immediately contact the Town Manager or Assistant Town Manager.

All concerns and reports of harassment will be accepted and investigated without reprisal or retaliation against the reporting employee. Allegations of harassment will be investigated as quickly and discreetly as possible under the circumstances. To the extent possible, the reporting employee's confidentiality, and that of any witnesses and the alleged harasser, will be protected against unnecessary disclosure.

Any supervisor or manager who becomes aware of possible sexual or other unlawful harassment must immediately advise the Human Resources Director or the Town Manager so it can be investigated in a timely manner. Anyone found to have engaged in sexual or other unlawful harassment will be subject to disciplinary action up to and including dismissal.

Section 7. Acceptance of Gifts and Favors

An employee of the Town shall not accept any gift, favor, or thing of value that may tend to influence such employee in the discharge of the employee's duties, or cause the employee to give someone a favor, service, or thing of value.

Section 8. Performance Evaluation

Supervisors or Department Managers shall conduct performance evaluation conferences with each employee at least once per year. Performance evaluations shall be documented in writing and placed in the employee's personnel file.

Section 9. Safety

Safety is the responsibility of both the Town and its employees. Department Managers and supervisors are responsible for inspecting their worksites to determine that there are safe working conditions and providing necessary safety training programs as provided by the Town. Employees shall follow any Town safety policies and procedures and attend safety training programs as a condition of employment. Employees who violate such policies and procedures can be subject to disciplinary action up to and including dismissal.

ARTICLE VI EMPLOYEE BENEFITS

Section 1. Eligibility

All full-time and part-time employees of the Town are eligible for employee benefits as described herein, provided these benefits may change at any time in the discretion of the Town. Part-time/temporary employees are eligible only for workers' compensation and FICA.

Section 2. Group Health and Hospitalization Insurance

The Town provides group health and hospitalization insurance programs for full-time and part-time employees.

Employees who are scheduled to work 20 or more hours per week on a continuous year-round basis may purchase group health insurance through the Town for themselves or for themselves and qualified dependents. The Town shall pay a portion of the cost of such coverage, based on the employee's normal working hours, and the balance of the cost shall be paid by the employee.

Information regarding cost and benefits shall be available to all employees from the Human Resources Director.

Section 3. Group Life Insurance

The Town may elect to provide group life insurance for each employee subject to the provisions of its insurance contract. Life insurance provided by the Town will be for an amount equal to the employee's annual salary, rounded to the nearest \$1000.00, subject to appropriation. Employees may elect to purchase additional coverage and/or to insure other family members under this plan, at their expense, subject to the provisions of the Town's insurance contract.

Section 4. Other Optional Group Insurance Plans

The Town may make other group insurance plans available to employees upon authorization of the Town Manager or Board. Additional information about any such plan will be available from the Human Resources Director.

Section 5. Retirement

As a condition of employment, every 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.

Section 6. Supplemental Retirement Benefits

The Town may provide supplemental retirement benefits for its full and part-time employees. Law enforcement officers shall receive 401-K benefits as prescribed by law, beginning on the first day of employment. Additional information about any such benefit is available from the Human Resources Director.

Section 7. Social Security Benefits

The Town, as provided by applicable law, 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.

It is the responsibility of an injured employee to claim compensation under the Workers' Compensation Act, and such claims should be filed with the Risk Manager within twenty-four hours of the date of injury. The Risk Manager will file the claim with the Industrial Commission.

Section 9. Unemployment Compensation

Town employees who are terminated due to a reduction in force or released from Town service for reasons other than misconduct or substantial fault may be eligible for benefits through the local Employment Security Commission office. Additional information about unemployment benefits is available from the Human Resources Director.

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, which will improve their skills for their current job or prepare them for promotional opportunities within the Town service. Tuition, registration fees, books, laboratory fees, and student fees are eligible expenses. Employees may be reimbursed eligible expenses up to a total of seven hundred and fifty dollars (\$750) per fiscal year. Satisfactory completion of the courses will be required for reimbursement. Requests for tuition assistance shall be submitted to the Human Resources Director prior to course registration and are subject to the review and approval of the Department Manager and Town Manager. Tuition assistance will be provided subject to the availability of funds.

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 and part-time employees, and to provide proportionately equivalent amounts to employees having average work weeks of different lengths. Leave balances accrue bi-weekly. Leave balances are printed on payroll checks.

Section 2. Holidays

The following days, and other such days as the Board may designate are holidays with full pay for employees and officers of the Town:

- New Years Day
- Martin Luther King's Birthday
- Good Friday
- Memorial Day
- Independence Day
- Labor Day
- Veterans' Day
- Thanksgiving (Thursday and Friday)
- Christmas (see schedule below)

When Christmas Day falls on:

The Town observes:

Sunday	Friday and Monday
Monday	Monday and Tuesday
Tuesday	Monday, Tuesday, and Wednesday
Wednesday	Tuesday, Wednesday, and Thursday
Thursday	Wednesday, Thursday, and Friday
Friday	Thursday and Friday
Saturday	Friday and Monday

When any recognized holiday falls on Saturday Friday will be designated or Sunday, the following Monday will be the designated holiday.

In order to receive a paid holiday, an employee must have worked the day before and the day after the holiday(s), or have been given approved paid leave.

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

Shift employees required to perform work on regularly scheduled holidays may be granted compensatory time off or paid at their hourly rate for hours actually worked in addition to any holiday pay to which they are entitled. Compensatory time shall be granted whenever feasible. If a holiday falls on a regularly scheduled off-duty day for shift personnel, the employee shall receive the hours for paid holiday leave at another time.

Section 5. Vacation Leave: Accrual Rate

Each full and part-time employee of the Town shall earn vacation at the following schedule, pro-rated by the average number of hours in the workweek:

<u>Years of Service</u>	<u>Days Accrued Per Year</u>
Less than 2	10
2-4	12
5-9	15
10-14	18
15 plus	20

Section 6. Vacation Leave: Maximum Accumulation

Vacation leave may be accumulated without any applicable maximum until December 31 of each year. Effective the last payroll in the calendar year, any employee with more than 240 hours of accumulated vacation leave shall have the excess accumulation converted to sick leave. The converted sick leave shall be used in the same manner as accrued sick leave and may be only used for authorized sick leave purposes.

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 excess of 240 hours will automatically be converted to sick leave and subject to rules governing the use of such leave.

Section 7. Vacation Leave: Manner of Taking

Employees who wish to use vacation leave should request leave from their Department Manager as far in advance as possible. The Department Manager may or may not be able to accommodate a particular request for vacation leave.

Section 8. Vacation Leave: Payment upon Separation

An employee who has successfully completed six months of the probationary period and who provides at least two weeks notice of the employee's resignation will be paid for accumulated vacation leave upon separation, up to a maximum accumulation of 30 days. Any employee failing to give the notice required by this section shall forfeit payment for accumulated leave unless it is specifically authorized by the Town Manager.

Section 9. 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 employee's accumulated vacation leave not to exceed maximum established in Section 7 of this article.

Section 10. Sick Leave

Sick leave may be granted to an employee absent from work for any of the following reasons: sickness, bodily injury, psychological, medical 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. "Immediate Family" is defined as an employee's spouse, child, parent, step-parent, guardian, brother, sister, grandparent, grandchild, son-in-law, daughter-in-law, mother-in-law or father-in-law.

Sick leave may be used for death in the employee's immediate family, but may not exceed three days for any one occurrence. Additional leave time required for such occurrence may be charged to vacation leave or other approved leave approved by the department manager and/or Town Manager.

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

Notification of the desire to take sick leave shall be submitted to the employee's supervisor as far in advance as possible prior to the leave, or according to departmental procedures.

Section 11. Sick Leave: Accrual Rate and Accumulation

Sick leave shall accrue at a rate of one day per month of service or twelve days per year. Sick leave for employees working other than the regular full-time schedule shall be pro-rated. 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. An employee who has been separated because of a reduction in force or who resigned while in good standing and is reemployed with the Town within one year may be credited with the previously accrued sick leave balance.

Sick leave accumulated during prior employment may be transferred to a new employee's sick leave balance upon employment with the Town. The new employee must be an active enrollee in a state or local government retirement system under the umbrella of the North Carolina State Treasury Department. The new employee must provide a certified accounting from the employee's previous state or local government employer, of the sick leave balance which was available for the employee's use at the time of termination and for which the employee received no compensation.

Section 12. Sick Leave: Medical Certification

The Town through the Human Resources Director reserves the right to require a physician's certification confirming an employee's or family member's medical condition. Claiming sick leave under false pretenses shall be grounds for disciplinary action up to and including dismissal.

Section 13. Leave Pro-rated

Holiday, annual, and sick leave earned by full-time and part-time employees with fewer or more hours than the regular full-time 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 regular full-time work week (usually 40 hours).
- 2) The result obtained in step 1 shall be multiplied by the number of hours of leave earned annually by employees working the regular full-time work week.

- 3) The result obtained in step 2 shall be divided by 12.
- 4) The result obtained in step 3 shall be the pro-rated number of hours of leave earned monthly.

Section 14. Family and Medical Leave

a. Eligibility

Employees must have been employed for a minimum of 12 months and must have worked at least 1,250 hours in the preceding 12 months immediately before the date when they would begin to be eligible for family and medical leave.

b. Types of Family and Medical Leave Covered By This Policy

Eligible employees are entitled by law to the following unpaid leaves of absence.

- 1) Birth/Adoption/Foster Care Leave: An employee may take up to the maximum family and medical leave for the birth of the employee's natural child or the placement of a child with the employee for adoption or foster care. Birth leave may be a combination of parental leave and pregnancy leave. Parental leave is time off work for employees who are physically able to return to work but choose to stay home and care for newborn children. Pregnancy leave is characterized by physical disability because of childbirth or related medical condition.
- 2) Family Care Leave: An employee may take up to the maximum family and medical leave to care for a family member suffering from a serious health condition. For these purposes, the term "family member" means an employee's spouse, parent or child under the age of 18, as well as any other family member disabled under applicable federal or state regulations.
- 3) Medical Leave: An employee may take up to the maximum family and medical leave if he/she suffers from a serious health condition which renders the employee unable to perform his/her duties. A "serious health condition" means an illness, injury, impairment or condition involving any of the following:
 - a) inpatient care in a hospital, nursing home or hospice, including any period of incapacity or subsequent treatment in connection with or consequent to such inpatient care; or
 - b) outpatient care that requires continuing treatment or supervision by a health care provider for:
 - i) a period of incapacity of more than 3 consecutive calendar days that also involves treatment 2 or more times by a health care

- provider or treatment by a health care provider on at least 1 occasion which results in a regimen of continuing treatment;
- ii) any period of incapacity due to pregnancy or for prenatal care;
 - iii) a chronic condition which requires periodic visits for treatment by a health care provider, continues over an extended period of time and may cause a periodic rather than a continuing period of incapacity;
 - iv) a period of incapacity which is permanent or long term due to a condition for which treatment may not be effective (the employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider); or
 - v) any period of absence to receive multiple treatments (including any period of recovery) by a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than 3 consecutive calendar days in the absence of medical intervention or treatment.

c. Maximum Period For Leave

In General: Leave may not exceed 12 weeks in any 12-month period. The method for determining the "12 month period" is measured forward from the date an employee's first FMLA leave begins. The time period within which leave may be taken for birth, adoption or foster care placement extends until 1 year from the birth or placement of the child.

Intermittent Leave: Intermittent leave or reduced working hour arrangements may be provided for family care leaves or medical leaves when required as part of a medically necessary course of conduct, provided adequate medical certification of such need is obtained. Intermittent leave or reduced working hours for birth, child placement or other non-health-related reasons may be provided in the discretion of the Department Manager. The Town reserves the right to transfer temporarily an employee to an alternative position with equivalent pay and benefits to accommodate intermittent leaves.

Two Employee Households: 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, adoption or placement of a child in foster care, or to take care for a parent with a serious health condition, the husband and wife together may only take a combined total of 12 weeks leave.

d. Scheduling and Notice

- 1) Scheduling: A leave of absence request must be completed and turned in to the employee's Department Manager for all leaves of absence whether paid or unpaid. An employee intending to take leave must give 30 days advance notice to the Town if the leave is foreseeable. If not foreseeable, the employee must provide as much advance notice as possible. In situations involving leave for a medical condition, every reasonable effort to schedule medical treatment so that it does not disrupt the Town's operations must be made before a leave will be considered.
- 2) Certification: An employee requesting medical leave must provide medical certification indicating that a serious health condition exists and other information as requested within 15 days after the employee makes the request for leave.

The certification must include:

- a) the date on which the serious health condition commenced;
- b) the probable duration of the condition;
- c) the approximate medical facts within the knowledge of the health care provider regarding the condition, including a diagnosis of the particular condition involved and a brief description of the prescribed regimen of treatment;
- d) indication of whether hospitalization is required; and
- e) for an employee's own illness or serious health condition, a statement that the employee cannot perform the essential functions of his/her job.

If the leave is to care for a child, parent or spouse, the certification must state that the employee is needed to care for the family member and provide an estimate of the amount of time the employee will be needed to provide care or assistance.

The Town is entitled to request a second opinion at its expense. If necessary to resolve a conflict between the original certification and the second opinion, the Town will require the opinion of a third doctor. The Town and the employee will jointly select the third doctor, and the Town will pay for the opinion. This third opinion will be considered final. The Town has a form, which may be presented to your physician in order to provide medical certification. The Town reserves the right to seek periodic medical recertification during the employee's medical leave.

- 3) Return To Work: Failure to return to work after the scheduled end of family and medical leave without notifying the Department Manager in advance shall be

considered a voluntary resignation of employment. If medical reasons require extension of leave beyond a scheduled date of return, and if the employee retains accrued but unused family and medical leave, the employee must give the Town as much advance notice as possible of the additional leave. The Town may require additional certification to demonstrate the medical need for the additional leave.

e. Use of Paid Leave During Family and Medical Leave

- 1) If the employee has accrued other paid leave, the employee must use paid leave first and take the remainder of the twelve weeks as unpaid leave.
- 2) Worker's compensation and any other paid leave will run concurrently with FMLA leave.

f. Benefits During Leave

During the period of leave, participants in the group health insurance plan will continue to receive coverage on the same basis as employees not on leave. The Town will continue to pay the same portion of the insurance premiums for employees on leave as it pays for active employees. The employee on leave will be responsible for any additional costs such as costs associated with obtaining family/dependent coverage.

g. Rights Upon Return To Work

Employees who return to work within the approved family and medical leave period will be returned to their same position or to an equivalent one in accordance with applicable federal and state laws.

Section 16. Discretionary Leave Without Pay

A full or part-time employee may be granted a leave of absence without pay for a period of up to twelve months after leave balances have been exhausted in the discretion of the Town Manager.

Section 16. 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 or vacation leave during the first waiting period. The employee may also elect to supplement workers' compensation payments with sick leave or vacation leave, provided that the combination of leave supplement and workers' compensation payments may not exceed the employee's normal rate of pay. 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 waiting period to be reimbursed, the employee shall return the reimbursement check to

the Town and have leave hours re-instated for all time covered by paid leave. In such cases, the Town will pay the employee for any unpaid time that is owed the employee.

Section 17. Military Leave

a. Regular employees who are members of an Armed Force Reserve organization or National Guard shall be granted two calendar weeks per year for military training 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 (excluding overtime and other salary additions that may have been earned if the employee were on the job). The effect will be to maintain the employee's salary at the normal level during this period. It shall be the employee's responsibility to furnish official military verification of pay to Human Resources. If such duty is required beyond these 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 reserves training 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.

b. Activated Military Reservists:

Regular employees who are called to active duty will receive a payment supplement consisting of the difference between the employee's military pay and regular Town salary (excluding overtime and other salary additions that may have been earned if the employee were on the job).

The amount of the pay supplement will be determined upon receipt of official military verification of the reservist's pay. It is the responsibility of the employee to have this information forwarded to Human Resources. Taxes will be deducted from the pay supplement; other optional deductions such as medical insurance and other voluntary deductions may be arranged for on an individual basis.

The Town will continue benefits for the employees that have been called to active service. Activated reservists may continue supplemental life insurance at their own expense, which will be at the same rate they were paying prior to the leave of absence.

Activated reservists may continue dependent medical/dental/vision insurance through the Town's plan at the same rate they were paying prior to the leave of absence. The Town will continue to contribute the same share of the cost for dependent coverage as when the employee was actively at work. Dependent life

insurance may also be continued at the same rate they were paying prior to the leave of absence. It shall be the responsibility of the employee to contact Human Resources before leaving for active duty and make the necessary arrangement for payment of any benefits (medical/dental/vision/voluntary life) that they wish to continue while on active duty. If an activated reservist drops dependent medical/dental/vision or dependent life insurance during the military leave, coverage will automatically be reinstated upon return to work with no preexisting condition.

Unused vacation and sick leave balances accrued at the time of being called to active duty will be retained. Any vacation which exceeds the limit at the end of the calendar year may be retained if it was not used due to active service.

401(k) plan contributions and loan repayments will be handled according to rules issued by the Administrator of the NC 401(k) plan.

Section 18. 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 thirty (30) 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.

At the time of reinstatement to active status with the Town; the amount of leave time the employee would have accrued while on active duty will be credited to the employees leave balances.

Section 19. Civil Leave

A Town employee called for jury duty or as a court witness 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, an employee's benefits and other leave shall accrue as though the employee was on regular duty.

Section 20. Parental School Leave

A Town employee who is a parent, guardian, or person standing in loco parentis (in place of the parent) may take up to four hours of unpaid leave annually for school activities. This leave is subject to the 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.

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 his or her immediate supervisor as far in advance as possible. The minimum notice requirement is two weeks. Failure to provide minimum notice can result in forfeiture of payment for accumulated vacation in the discretion of the Town Manager.

Sick leave will only be approved during the final two weeks of a notice of resignation with a physician's certification or comparable documentation.

Three consecutive days of absence without contacting the employee's immediate supervisor or Department Manager may be considered to be a voluntary resignation.

Section 3. Reduction In Force

A reduction in force is defined as the elimination of positions due to lack of work, lack of funds, budget constraints, work unit reorganization, or other business reasons.

In the event that a reduction in force becomes necessary, consideration shall be given to the quality of each employee's performance, organizational needs, seniority and other factors 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

The Town makes every effort to comply with the Americans with Disabilities Act (ADA). The ADA prohibits discrimination on the basis of disability in employment.

To be protected by the ADA, one must have a disability or have a relationship or association with an individual with a disability. An individual with a disability is defined by the ADA as a person who has a physical or mental impairment that substantially

limits one or more major life activities, a person who has a history or record of such an impairment, or a person who is perceived by others as having such an impairment.

The ADA permits employers to establish qualification standards that will exclude individuals who pose a direct threat -- i.e., a significant risk of substantial harm -- to the health or safety of the individual or of others, if that risk cannot be eliminated or reduced below the level of a direct threat by reasonable accommodation.

Consequently, a disabled employee under the standards established by the ADA who because of such disability poses a significant risk of substantial harm in the workplace may be separated from employment with the Town.

An employee also has the right to leave their job with the town because of disability based on 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. Information for disabled Employees, including information about the possibility of disability retirement, is available from the Human Resources Director.

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

Upon the death of an employee, the date of separation from town employment shall be effective as of the date of death. All compensation due to the employee 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

Any employee who is separated because of reduction in force may be reinstated within one year of the date of separation, upon recommendation of the Department Manager, and upon approval of the Town Manager. An employee who is reinstated in this manner shall be credited with his or her previously accrued sick leave.

Section 9. Rehiring

A former Town employee who returns to Town employment may, under certain circumstances, be reinstated as a new employee to the employee's previous 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 continues 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 2A. Unsatisfactory Job Performance Defined

Unsatisfactory job performance includes any aspect of the employee's job performance that does not meet the standard set by the Department Manager. Examples of unsatisfactory job performance include, but are not limited to, the following:

- 1) Demonstrated inefficiency or incompetence in the performance of duties;
- 2) Careless or improper use of Town property or equipment;
- 3) Physical or mental inability to perform essential duties with or without a reasonable accommodation;
- 4) Discourteous treatment of the public or other employees;
- 5) Absence without approved leave;
- 6) Improper use of leave;
- 7) Failure to report for duty at the assigned time and place;
- 8) Failure to complete work within time frames established in work plan or work standards; or
- 9) Failure to meet work performance standards.
- 10) Insubordination.

Section 2B. Communication and Warning Procedures Preceding Disciplinary Action for Unsatisfactory Job Performance

When an employee's job performance is unsatisfactory, the employee's supervisor should meet with the employee to discuss the specific performance issues. A brief summary of these counseling sessions should be noted in the employee's file by the

supervisor. For an employee whose job performance is unsatisfactory over a period of time, the employee's supervisor will generally give at least two written warnings to the employee, one of which may be the final written warning, before disciplinary action is taken. However, circumstances may prescribe that fewer than two warnings are given and a supervisor may proceed with a recommendation for disciplinary action if needed. 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 established for improvement. If the employee's performance continues to be unsatisfactory, then the supervisor should follow the following steps:

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

Section 3. 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 warning for detrimental personal conduct in order to: (1) avoid undue disruption of work; (2) to protect the safety of persons or property; (3) maintain order and control within the workplace; (4) maintain the integrity of the Town, its officers, officials, or citizens; or, (5) for any reason that is of such a serious nature as to warrant discipline.

Section 3A. Detrimental Personal Conduct Defined

Detrimental personal conduct includes behavior of such a serious nature that: (1) the functioning of the Town may be or has been impaired; (2) the safety of persons or property may be or has been threatened; or (3) a law may 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 to a felony;
- 3) Conviction of a misdemeanor involving violence, injury to persons, stolen property, domestic violence, child abuse, alcohol, or controlled substances.
- 4) Arrest for a felony or a misdemeanor offense that is listed in Section 3A
- 5) Falsification of records for personal profit, to grant or obtain special privileges, or to obtain employment;

- 6) Willful misuse or gross negligence in the handling of Town funds;
- 7) Willful damage or destruction of property;
- 8) Willful acts that endanger the lives and property of others;
- 9) Possession of unauthorized firearms or other lethal weapons on the job;
- 10) Brutality in the performance of duties;
- 11) 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 provided it is medically necessary and does not interfere with the employee's ability to safely perform his or her duties.
- 12) Engaging in incompatible employment or a conflict of interest;
- 13) Requesting or accepting gifts in exchange for favors or influence;
- 14) Engaging in political activity prohibited by this Policy;
- 15) Harassing an employee or the public with threatening or obscene language and/or gestures;
- 16) Harassing an employee or the public on the basis of race, sex, national origin, religion, or any other legally protected characteristic;
- 17) Refusal to perform assigned duties;
- 18) Flagrant violation of work rules and regulations;
- 19) Intentionally making false statements to a supervisor, department manager, town official, or citizen when such falsification is made in response to a job-related function.

Section 4. Pre-disciplinary Conference

Before disciplinary action is taken, whether for unsatisfactory job performance or for detrimental personal conduct, the Town Manager or a Department Manager will conduct a pre-disciplinary conference. At this conference the employee shall have an opportunity to respond to the proposed discipline and, if the employee disagrees with the discipline, explain the reasons for his or her disagreement. The Town Manager or Department Manager will consider the employee's response, if any, and notify the employee in writing within three working days of any disciplinary action to be taken. The notification shall contain a statement of the reasons for the action and the employee's appeal rights under the Town's grievance procedure.

Section 3. Non-Disciplinary Suspension or Transfer

During the investigation, hearing, or trial of an employee on any criminal charge, or during an investigation of alleged detrimental personal conduct, or during the course of any civil action involving an employee, the Department Manager may suspend the employee for part or all of the proceedings as a non-disciplinary action. In such cases, the Department Manager may:

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

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

ARTICLE X
GRIEVANCE PROCEDURE AND
ADVERSE ACTION APPEAL

Section 1. Policy

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

Employees utilizing the grievance procedures shall not be subjected to retaliation or harassment from supervisors or other employees. 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 affecting the circumstances of an employee's employment and that is either (a) perceived by the employee to be caused by a misinterpretation or unfair application of Policy or (b) that is believed by the employee to be caused by the lack of an established Policy.

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;
- 3) Promoting better understanding of policies, practices, and procedures;
- 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 possible level of the chain of command; and

- 7) Creating a work environment free of continuing conflicts, disagreements and negative feelings about the employee's employment with the Town.

Section 4. Procedure

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

Step 1: Informal Resolution. Prior to the submission of a formal grievance, the employee and supervisor should meet to discuss the problem and attempt to resolve it informally or through other dispute resolution measures. Either the employee or the supervisor may involve the Human Resources Director as a resource to help resolve the grievance.

Step 2. If no resolution to the grievance is reached informally, the employee who wishes to pursue a grievance shall present the grievance in writing to the appropriate supervisor (the person who took the action being challenged, for example the immediate supervisor, division head, department manager, etc.).

The grievance must be presented within fourteen (14) calendar days of the event or within fourteen (14) calendar days of when the employee learned of the event or condition.

The supervisor shall respond to the grievance in writing within fourteen (14) calendar days after receiving the grievance. The supervisor is encouraged to consult with any employee of the Town, as needed, in order to reach a correct, impartial, fair and equitable decision. The employee shall sign a copy of the supervisor's decision to acknowledge its receipt. Copies of the grievance and the supervisor's response shall be sent to the Human Resources Director.

If the grievance is not resolved to the satisfaction of the employee, the employee may proceed to Step 3, except in the case of a grievance brought by an employee reporting directly to the Town Manager or Assistant Town Manager, which shall proceed directly to Step 4.

Step 3. If the grievance is not resolved to the satisfaction of the employee in Step 2, the employee may appeal, in writing, to the next level supervisor (division manager, department manager, Town Manager, etc.) within fourteen (14) calendar days after receiving the response in Step 1. The next level supervisor shall respond to the appeal

in writing, stating a decision with fourteen (14) calendar days after receiving the appeal. A copy of the Step 3 response shall be sent to the Human Resources Director.

Step 4. If the grievance is not resolved to the satisfaction of the employee at the end of Step 3, the employee may appeal in writing with fourteen (14) calendar days using the following procedure:

- a. For all employees not reporting directly to the Town Manager or Assistant Town Manager, the Step 4 appeal shall be sent to the Town Manager.
- b. For employees reporting directly to the Assistant Town Manager, the Step 4 appeal shall be sent to the Town Manager.
- c. For employees reporting directly to the Town Manager, the Step 4 appeal shall be sent to the Assistant Town Manager. The Town Manager or Assistant Town Manager, as applicable, shall issue a written decision within fourteen (14) calendar days after receiving the Step 4 appeal.

In all cases, the Step 4 appeal decision shall be final.

Section 5. Role of the Human Resources Director

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

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

The Human Resources Director shall determine whether additional time shall be allowed to either side, upon request, in the event the parties cannot agree upon an extension of any deadline.

ARTICLE XI RECORDS AND REPORTS

Section 1. Public Information

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

Section 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;
- 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 materials in the employee's personnel file;
- 4) Any person may examine all materials in the employee's personnel file by order of a court of competent jurisdiction;
- 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, without an order from a court of competent jurisdiction. 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 approval of the Board, may inform any person of the employment, non-employment, promotion, demotion, suspension or other disciplinary action, reinstatement, transfer, or termination of a Town employee, and of 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 Managers office, is a record for public inspection and shall become a part of the employee's personnel file.

Section 3. Personnel Actions

The Human Resources Director, with the approval of the Town Manager, will prescribe necessary forms and reports for all personnel actions and will retain records necessary for the proper administration of the personnel system. The official personnel files are those which are maintained by the Human Resources Director. 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 document not contained in these files or maintained as designated by the Human Resources Director 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 the Town grievance procedure.

Section 6. Penalties for Permitting Access to Confidential Records

Section 160A-168 of the General Statutes provides that any public official or employee who knowingly, willfully, and with malice permits any person to have access to any information contained in an employee personnel file in violation of Section 160A-168 of the General Statutes, is guilty of a misdemeanor and upon conviction shall be fined in an amount as set out in such statute.

Section 7. Examining and/or Copying Confidential Material without Authorization

Section 160A-168 of the General Statutes of North Carolina provides that any person, not specifically authorized to have access to a personnel file designated as confidential, who shall knowingly and willfully examine in its official filing place, remove or copy any portion of a confidential personnel file shall be guilty of a misdemeanor and upon conviction shall be fined in an amount as set out in such statute.

SUPPLEMENTAL POLICIES AND MEMORANDA

The following section contains supplemental policies and memoranda providing additional detail about specific aspects of Town employment. To the greatest extent possible, these policies and memoranda should be read in conjunction with the policies set forth above. To the extent that a supplemental Policy or memorandum is inconsistent with the above policies, the above policies shall control. Neither the above policies nor the supplemental policies and memoranda are intended to create any contractual right or property interest, and both may be amended at any time.