

Town of Boiling Springs  
North Carolina



# Personnel Policy

**TOWN OF BOILING SPRINGS  
PERSONNEL POLICY**

**BE IT RESOLVED** by the Town Board of the Town of Boiling Springs 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 Boiling Springs.

Adopted November 05, 2013

\*The contents of this employee copy vary in font and format from the original text adopted by the Town Board.

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## ARTICLE I. GENERAL PROVISIONS

### **Section 1. Purpose of the Chapter**

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. (Nothing in this policy creates an employment contract or term between the Town and its employees.) 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 Boiling Springs 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 Principles**

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

### **Section 4. Responsibilities of the Town Board**

The Town Board shall be responsible for establishing and approving personnel policies, the position classification and pay plan, and it may change the policies and benefits as necessary. The Board 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 Board 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 ensure that all appointments, dismissals and suspensions are made in accordance with the Town Charter and other policies and procedures spelled out in other Articles in this Chapter.

The Town Manager shall:

- a) Recommend rules and revisions to the personnel system to the Town Board for consideration;
- b) Make changes as necessary to maintain an up to date and accurate position classification system;
- c) Prepare and recommend revisions to the pay plan to the Town Board for approval;
- d) Determine which employees shall be subject to the overtime provisions of Fair Labor Standards Act;
- e) Establish and maintain a roster of all persons and authorized positions in the municipal service, setting forth each position and employee, class title of position, salary, any changes in class title and status, and such data as may be desirable or useful;

- f) Develop and administer such recruiting and retention programs as may be necessary to obtain and retain an adequate supply of competent employees to meet the needs of the Town;
- g) Develop and coordinate training and educational programs for Town employees;
- h) Investigate periodically the operation and effect of the personnel provisions of this chapter; and
- i) Perform such other duties as may be assigned by the Town Board not inconsistent with this Chapter.

#### **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 the Town Board and advisory boards and commissions will be exempted except in sections where specifically included. An employee violating any of the provisions of this policy 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**

Due to the particular personnel and operational requirements of the various departments of the Town, each department is authorized to establish supplemental 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 Chapter. If a conflict arises, the provisions of this Policy shall be followed.

## **Section 8. Definitions**

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

**Full-time employee:** An employee who is in a position for which an average work week equals at least 40 hours, and continuous employment of at least 12 months, is required by the Town.

**Part-time employee:** An employee who is in a position for which an average work week of at least 20 hours and less than 40 hours and continuous employment of at least 12 months is required by the Town.

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

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

**Temporary employee:** An employee appointed to a position for which either the average work week required by the Town over the course of a year is less than 20 hours, or continuous 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.

**Contractual:** Employees hired by means of a contract to accomplish a specific job in a specified time frame. These employees are not entitled to any of the available benefits.

## 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 ensure 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 Board.

### **Section 5. Adoption of the Position Classification Plan**

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

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

Any employee who considers the classification of position which he/she occupies to be improper shall submit a request in writing for reclassification to such employee's immediate supervisor, who shall immediately transmit the request to the Town Manager. Upon receipt of such request, the Town Manager shall study the request, determine the merit of the reclassification, and forward the recommendation to the Town Board for consideration.

## ARTICLE III. THE PAY PLAN

### **Section 1. Definition**

The pay plan includes the basic Salary Schedule and the "Assignment of Classes to Salary Grades and Ranges" adopted by the Town Board. The salary schedule consists of a minimum and maximum salary for each job classification approved by the Town Board. Salary increases within the pay range shall be based on criteria established by the Town Manager and approved by the Town Board.

### **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.

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 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 make comparative studies of all factors affecting the level of salary ranges and may make minor adjustments in the allocation of positions to salary grades. 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 Board. The Town Board shall adopt the "Assignment of Classes to Salary 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. Cost of Living Adjustments**

Annually the Town Board will consider and adjust the Town's pay plan in accordance with the amount of consumer price index, depending on the availability of funds. The salary schedule will be adjusted by the approved cost of living increase. Employees' salaries will be adjusted by the amount of the approved pay plan adjustment for the cost of living.

### **Section 4. Starting Salaries**

All persons employed in positions approved in the position classification plan normally shall be employed at the minimum salary for the classification in which they are employed; however, on the recommendation of the Department Head, and support of the Town Manager, employee salaries may be approved above the minimum. Reasons for hiring above the minimum include education and experience qualifications of the applicant, a shortage of qualified applicants, and the refusal of qualified applicants to accept employment at the minimum. Pay for part-time or temporary status will be paid a prorated amount determined by converting the established salary range to an hourly rate.

### **Section 5. Trainee Designation and Provisions**

Applicants being considered for employment or Town employees who do not meet all of the requirements for the position for which they are being considered may be hired, promoted, demoted, or transferred by the Town Manager to a "trainee" status. In such cases, a plan for training, including a time schedule, must be prepared by the Department Head or Town Manger. An employee shall remain at the trainee salary level until the Department Head certifies that the trainee is qualified to assume full responsibilities of the position and the Town Manager approves the certifications. The Department Head shall review the progress of each employee in a trainee status every six months or more frequently as necessary to determine when the trainee is qualified to assume full responsibilities of the position. "Trainee" salaries may be no more than two

grades below the minimum salary established for the position for which the person is being trained. A new employee designated as "trainee" shall be regarded as a probationary employee.

If the training is not successfully completed as planned, the trainee shall be transferred, demoted, or dismissed. If the training is successfully completed, the employee shall be paid at least at the minimum rate established for the position for which the employee was trained.

### **Section 6. Probationary Pay Increases**

Employees hired or promoted into the Minimum Rate of the pay range shall receive a salary increase within the salary range upon successful completion of the probationary period. Employees serving a twelve month probationary period are eligible for consideration for this pay increase after six months of successful employment.

### **Section 7. Merit Pay**

Annually the Town Board will consider funding a system of Merit Pay proposed by the Town Manager. Upward movement within the established salary range for an employee is not automatic but rather based on specific performance related reasons. Employees may be considered for advancement within the established salary range based on the quality of their overall performance on an annual basis. Procedures for determining performance levels and performance pay increases shall be established in procedures approved by the Town Manager.

## **Section 8. Merit Pay Bonus**

When funded by the Town Board, 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 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. Merit bonuses do not become part of the base pay and shall be awarded in a lump sum payment.

## **Section 9. 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 approximately 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 the smallest decrease in pay if action is not for cause. If the current salary is within the new range, the employee's salary may be retained at the previous rate. If the demotion is for cause, the salary shall be decreased at least approximately 5%, or to 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 grade 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 5% or an increase to the minimum of the new pay range, whichever is higher. 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 10. 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 to the corresponding level of the new salary grade. When a class of positions is assigned to a lower salary range, the salaries of employees in that class will remain unchanged. If this assignment to a lower salary range results in an employee being paid at a rate above the maximum step established for the new class, the salary of that employee shall be maintained at that level until such time as the employee's salary range is increased above the employee's current salary.

### **Section 11. 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 employees' salary range is increased above the employees' current salary.

### **Section 12. 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 13. 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. The Town Manager must approve all overtime.

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). Employees in public safety job classes earn overtime based on a 28 day time period; overtime does not occur for personnel in law enforcement until 171 hours are worked

In determining eligibility for overtime in a work period, only hours actually worked shall be considered; in no event will annual, sick leave, or holidays be included in the computation of hours worked for FLSA purposes.

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

Compensatory time off will be scheduled for the employee as soon as possible whenever feasible and within 30 days as determined by the Manager. No employee shall be paid for overtime work except upon recommendation of the Manager.

In emergency situations, where employees are required to work long and continuous hours, the Town Manager may approve compensation at time and one half (1 1/2) for those hours worked and/or grant time off with pay for rest and recuperation to ensure safe working conditions.

Department Heads are "exempt" for the FLSA and shall work the number of hours necessary to assure the satisfactory performance of their normal duties; compensatory time may be tracked for management purposes but they are not eligible to earn overtime pay or compensatory time.

#### **Section 14. 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 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 shall be subject to disciplinary action up to and including dismissal.

**Call-back.** Non-exempt employees will be guaranteed a minimum payment of one hour 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 (scheduled one or more days in advance).

**Stand-by.** Non-exempt employees required to be on "stand-by" duty will be paid for four and one half hours of work for each week (approximately 128 hours, excluding work time, based on twenty four hour on-call, minus 40 hours normal work time) 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 must remain near an established telephone or otherwise substantially restrict personal activities in order to be ready to respond when called.

### **Section 15. Payroll Deduction**

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

Required deductions include: Federal Income Tax; State Income Tax; Social Security (FICA); and Local Government Retirement.

### Section 16. Direct Deposit Required

In accordance with State Law, the Town Manager may dictate that the Town compensates employees by direct deposit, ACH, or other electronic means.

### Section 17. 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 working 40 hours per week.

### Section 18. Longevity Pay

Full-time regular employees of the Town are compensated for years of service by payment of a longevity supplement based on the following table. The longevity pay system is approved annually by the Board as a part of the budget process. Longevity increases shall be based upon a percentage of annual wages or salary depending upon the number of consecutive years of employment with the Town, and are granted as part of the last payroll in November.

<u>Years of Service</u>	<u>Longevity Pay</u>
1-5	\$200
6-10	\$400
11-15	\$600
16-20	\$800
More than 20	\$1000

Longevity pay is based on **continuous** years of service to the Town. Normal payroll deductions will be made from longevity pay in accordance with federal and State regulations on compensation. An employee must have worked a full year to be eligible to receive longevity pay. Years of service are calculated on a calendar year basis as of November 30 of each year.

## **Section 18. Travel and Subsistence Reimbursements**

When it is necessary or desirable for a Town employee to travel to participate in a meeting, conference, workshop, seminar, or to otherwise conduct the Town's business, the Town will bear necessary and reasonable expenses relating to these activities.

The Town will pay all registration costs, including charges for any meals that are included as part of a registration fee for a meeting, conference, workshop or seminar.

The Town will pay round trip tourist air fare to destination and cab fare between airports, hotels, and activity sites. The use of economically priced rental cars may be considered.

The Town will pay employees on the basis of mileage for the use of their private automobile on Town business. When traveling mileage for one's personal car will be paid when this cost does not exceed the cost of air travel. The Town will determine the mileage reimbursement based on the most recent rate set by the IRS. Travel by Town vehicles is required whenever available. Parking fees will be reimbursed.

The Town will pay the actual cost of moderately priced out of town lodging, including local taxes and fee charges, for the employee only. If a meeting, conference, etc. is being held at a hotel, the employee may select that hotel for lodging. The Town will pay expenses for extended overnight stay when significant savings may be realized. Such extended stay must be specifically approved by the Town Manager.

The Town will pay for actual cost of meals and gratuities which are deemed reasonable by the Town Manager. Meals or banquets that are included in a meeting, conference, etc. activity or meals where the employee has no practical control over the site or food selection that exceeds these amounts are exempt. The Town will pay reasonable extra costs for these meals and gratuities only when a receipt is furnished and the expense justified. For day activities, the Town will pay for lunch only. Breakfast and dinner costs are not allowable expenses if the activity does not extend overnight. An exception to this rule may be allowed by the Town Manager when an exceptionally early departure or late return is an alternative to an overnight stay.

All tickets and receipts for meals, lodging and other approved expenses shall to be turned in the Finance Officer upon return from travel. The Town Manager shall review and approved travel expenses before payment can be dispensed. There shall be no maximum set for the cost of meals and lodging. However, an employee traveling at Town expense shall use the most economical motel available while traveling.

When submitting mileage for payment the employee shall fill out a Request Mileage Payment form. This form shall include an accurate recording of mileage traveled, purpose of the travel and travel destination, etc. This form shall be given to the Finance Officer for payment.

The Town will not pay for personal expenses that are unrelated to the purpose of the travel activity. Expenses such as, but not limited to, alcoholic beverages, personal telephone calls, newspapers, magazines, room service, movies, premium TV channels and other entertainment will not be reimbursed.

The Department Head or Town Manager shall approve, in advance, all requests to travel on Town business made by those in his or her department and all expenses to be incurred and/or relative to this travel. Because of his/her familiarity with the purpose of the travel and the personnel involved, the Department Head shall closely monitor expenses and question any unreasonable charges incurred and make recommendations to the Town Manager.

The Finance Officer shall also review all travel related transactions and advise the Department Head and Town Manager of any apparent deviations from this policy.

## 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, non-job related handicap, political affiliation, or marital status. Applicants with physical handicaps shall be given equal consideration with other applicants for positions in which their physical handicaps do not represent an unreasonable barrier to satisfactory performance of 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 job 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, non-job related handicap, national origin, political affiliation, or marital status. Notices with regard to equal employment matters shall be posted in conspicuous places on Town premises in places where notices are customarily posted.

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

**Recruitment Sources.** When position vacancies occur, supervisors shall notify the Town Manager concerning the number and classification of positions which are to be filled. The Town Manager shall publicize these opportunities for employment, including applicable salary information and employment qualifications. Information on job

openings and hiring practices shall be provided to recruitment sources, including organizations and news media available to minority applicants. In addition, notice of vacancies shall be posted at designated conspicuous sites within departments. Individuals shall be recruited from a geographic area as wide as necessary to ensure that well-qualified applicants are obtained for Town service.

**Job Advertisements.** 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 vacant.

**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 and approved in the Position Classification Plan.

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

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

An employee appointed or promoted to a permanent position shall serve a probationary period. Employees shall serve a six month probationary period, except that sworn law enforcement personnel shall serve a probationary period defined by Departmental Policy not to exceed twelve months.. 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 determine whether or not the employee is performing satisfactory work and meeting job expectations. The employee's progress (accomplishments, strengths, and weaknesses) will be discussed with the employee and a summary of this discussion should be documented in the employee's personnel file. The supervisor shall recommend in writing whether the probationary period should be completed, extended, or the employee transferred, demoted, or dismissed. Probationary periods may be extended for a maximum of six additional months. Except that the probationary period for sworn police personnel shall not exceed twelve months.

Disciplinary action, including demotion and dismissal, may be taken at any time during the probationary period of a new hire without following the steps outlined in this Policy for disciplinary action. A 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 the grievance procedures.

Probationary employees are eligible for but not entitled to benefits cited in this policy; however, annual leave may not be taken within this period unless approved by the Department Head.

## **Section 5. Promotion**

Promotion is the movement of an employee from one position to another 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 promoted 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. Candidates for promotion shall be chosen on the basis of their qualifications and their work records. Candidates shall apply for promotions using the same application process as external candidates.

## **Section 6. Demotion**

Demotion is the movement of an employee from one position to a position in a class assigned to a lower salary range. 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 demotion shall follow the disciplinary procedures outlined in this chapter. Demoted employees may appeal this decision based on the Grievance Process outlined in this Personnel Policy.

## **Section 7. Transfer**

Transfer is the movement of an employee from one position to another position in a class at 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. Any employee transferred without requesting the action may appeal the

action in accordance with the grievance procedure outlined in this chapter. An employee who has successfully completed a probationary period may be transferred into the same classification without serving another probationary period. It is the policy of the Town to transfer employees temporarily or permanently from one department to another when doing so will serve the Town's best interest, to permit maximum utilization of personnel during unanticipated emergency situation, during peak workloads, and for shifting help to where it is most needed.

## 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.

Normally a full-time employee, except in police services, works an eight hour day for five days per week for a total of forty hours during a work week. Police may work up to 171 hours within a twenty eight day cycle.

### 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 of 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;
- f) Be a candidate for nomination or election to office under the Town Charter.

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

### **Section 3. Outside Employment**

The work of the Town shall have precedence over other occupational interests of employees. All outside employment for salaries, wages, or commission and all self-employment must be reported in advance to the employee's Department Head, who in turn will report it to the Town Manager. The Town Manager will review such employment for possible conflict of interest and then approve or disapprove the secondary employment. If subsequent questions or issues arise the employee must provide full disclosure regarding all aspects of secondary employment. Conflicting or unreported outside employment is grounds for disciplinary action up to and including dismissal.

### **Section 4. Employment of Relatives**

The Town prohibits the hiring and employment of immediate family in regular 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 regular position who is an immediate family member of individuals holding the following positions: Town Manager or Town Clerk. Otherwise, the Town will consider employing family members or related persons in the service of the Town, provided that such employment does not result in relatives supervising relatives.

## **Section 5. Harassment**

Harassment on the basis of race, color, religion, gender, national origin, age or disability constitutes discrimination. The Town opposes harassment by supervisors and employees of the Town 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, 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 file the complaint directly with the Town Manager. If the complaint is against the Town Manager, then the complaint shall be submitted in writing to the Town Clerk for Transmission to the Town Board. The Town Manager or Town Board will conduct an investigation into any allegation of sexual 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 6. Acceptance of Gifts and Favors**

All employees will comply with any state law relating to the acceptance of gifts and favors. No official or employee of the Town shall accept any gift, favor, or thing of value 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. The prohibition of unsolicited gifts is limited to circumstances of improper influence. In *de minimus* situations, such as meal checks or promotional key chains and the like, some modest maximum dollar value should be determined by the Town. This Section is not intended to isolate employees from normal social practices where gifts among friends, associates, and relatives are appropriate.

## **Section 7. Performance Evaluation**

Department Heads shall conduct performance evaluation conferences with each employee at least once a year. These performance evaluations shall be documented in writing and placed in the employee's personnel file. Procedures for the performance evaluation program shall be determined by the Town Manager.

## **Section 8. 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 in compliance with the provisions of the Occupational Safety and Health Act. 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. Employees who violate such policies and procedures shall be subject to disciplinary action up to and including dismissal. As a part of its safety program, the Town Board will approve a detailed drug and alcohol abuse policy with accompanying processes and procedures.

### **Section 9. Reporting Personal Injuries**

Any employee who is injured in the course of employment (on the job) with the Town or sustains any injury that may affect their ability to perform their job shall report all injuries to their Department Head. All pertinent information shall be reported to the Town Manager so that appropriate action may be taken.

### **Section 10. Reporting Accidents Involving Town Property/Equipment**

All accidents involving Town property and equipment shall be reported immediately to a Department Head. Department Heads will report this information to the Town Manager. All accidents involving Town property and equipment will be subject to investigation by the Town Manager. In consultation with the Town Manager, Department Heads shall take appropriate action in regard to insurance claims as soon as possible following the reported accident.

### **Section 11. Immigration Law Requirements**

All employees are required to furnish proof of citizenship or other required documents indicating a legal right to work in the United States. Copies of the completed I-9 form shall be a permanent part of their personnel file. The Town must comply with all Federal and State laws relating to the verification of citizenship.

## **Section 10. Use of Town Owned Vehicles**

All Town employees, who are assigned or authorized to use Town vehicles, are required to use these vehicles only in the course of driving these vehicles to and from work, only in the course of the employee's assigned duties and responsibilities as an employee of the Town, and only relating to the specific position for which that employee is employed. Employees who operate Town vehicles must report to their Department Head if they are charged with any moving violation while at work or otherwise. An employee who violates these requirements and privileges will be subject to disciplinary action, loss of vehicle use privileges, and possible termination of employment. "Take home" vehicles must be approved by the Town Manager.

## **Section 11. Uniforms**

The Town may require certain employees to wear uniforms or dress in a manner that conveys an appropriate public image while in the service of the Town

## ARTICLE VI. EMPLOYEE BENEFITS

### **Section 1. Eligibility**

All full-time employees of the Town are eligible for employee benefits as provided for in this Article which are subject to change at the Town's discretion. Part-time and temporary employees are eligible only for Workers' Compensation.

### **Section 2. Group Health, Hospitalization and Dental Insurance**

The Town provides group health and hospitalization insurance programs for full-time employees after thirty days of employment. Employees may elect to include coverage for qualified dependents. This coverage is paid for by the employee.

Information concerning cost and benefits shall be available to all employees through the Town Finance Office.

### **Section 3. Life and Disability Insurance**

The Town may elect to provide life insurance for each employee subject to the stipulations of the insurance contract. Life insurance will be provided by the Town in the amount of \$10,000, subject to appropriation.

### **Section 4. Other Optional Group Insurance Plans**

The Town may make other group insurance plans available to employees upon funding by the Town Board and approval of the Town Manager

### **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 when eligible under Section 1 of this Article. New employees will be enrolled in the System after six (6) months of employment. This waiting period may be waived upon written justification and approval by the Town Manager.

### **Section 6. Supplemental Retirement Benefits (401-K)**

The Town provides contributions of 5% of salary to a 401(K) plan for employees when eligible under Section 1 of this Article. New employees will be enrolled in the System after six (6) months of employment. This waiting period may be waived upon written justification and approval by the Town Manager.

Employees may also make additional contributions under the guidelines set down by the 401(K) plan. A monthly separation allowance is paid to retired law enforcement officers as required by the General Statutes.

### **Section 7. Social Security**

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

Social Security is Federal Government insurance to provide an employee with income in his senior years. Disability and death benefits are also provided by social security.

The cost for Social Security is paid through an automatic payroll tax. The Town matches the money that is deducted from the employee's payroll check for payment into the Social Security Trust Fund.

## **Section 8. Workers' Compensation**

All employees of the (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.

Responsibility for claiming compensation under the Workers' Compensation Act is on the injured employee and the supervisor and such claims must be filed by the employee with the North Carolina Industrial Commission within two years from date of injury. The Town Manager or designee will assist the employee in filing the claim.

An employee having an adverse reaction to a smallpox vaccination received as an employee of the Town of Boiling Springs will be covered under the Town's Workers' Compensation policy.

## **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. Education Assistance Program**

All employees who wish to further their education are encouraged to do so by the Town. Courses taken which are required or determined to be necessary to meet the qualifications of the position held, will be paid for by the Town. Courses which may not be required, but felt to be beneficial to the Town and its employees, may or may not be approved, but will be reviewed on an individual basis by the Town Manager. The Town Manager will also review each situation to determine if such courses will be paid for by the Town, by the employee, or shared by both. The Town Manager will make a determination as to whether absence for work as a result of these courses can be justified at the particular time. The Town will support training courses, seminars and conferences to maintain current job knowledge to the extent funds are available.

**Conditions and Agreement.** Because the Town expends resources in helping employees with tuition costs, employees should use their newly acquired training in service to the Town. Thus, an employee must agree to remain employed by the Town for two years following the date of reimbursement or repay the Town on a pro-rated schedule for the amount of the reimbursement. Employees reduced in force are exempt from this repayment. The amount owed will be deducted from the employee's last pay check, including cost of tuition, books and fees.

## **Section 11. Flexible Benefits Plan (125 Plan)**

The Town may upon authorization by the Town Board provide for the availability of a flexible benefits plan under IRS Code Section 125 which would allow pre tax deductions from payroll checks for certain eligible benefit programs as specified by Section 125.

## **Section 12. Health Insurance for Retired Employees**

The Town will pay one half of the current cost or no more than one hundred (\$ 100.00) dollars per month, whichever is less, toward the group medical insurance coverage for employees who have retired from permanent town employment, hereinafter referred to as “retired employees”, under the eligibility standards of the NC Local Government Employees Retirement System after serving the Town as a full time permanent employee for a minimum of twenty five (25) consecutive years and upon reaching fifty five (55) years of age.

Retired employees are no longer eligible to receive this benefit or remain covered by the town’s group medical insurance coverage 1) upon reaching sixty five (65) years of age, or 2) upon becoming fully covered by Medicare, or 3) upon the death of the retired employee or 4) upon the discontinuance of the benefit by the Town and/or the insurance carrier.

Employees retiring after January 1, 1997 are eligible to participate under this policy.

Should, the Town, at anytime decide to discontinue this benefit to retired employees it must provide a minimum ninety (90) day written notice delivered by first class mail to the last known address of the retired employee.

Premium payments for said coverage will be paid directly from the Town to the insurance carrier. A retired employee is required to pay his/her portion of the monthly premium no later than the 15<sup>th</sup> day of the month for the following monthly coverage. Failure to pay the premium within the prescribed time period will result in discontinuance of the benefit provided by the Town.

## ARTICLE VII. HOLIDAYS AND LEAVES OF ABSENCE

### Section 1. Policy

The policy of the Town is to provide annual leave, sick leave, and holiday leave to all full-time employees, and to provide proportionately equivalent amounts to employees having average work weeks of different lengths.

### Section 2. Leave Pro-rated

Holiday, annual, and sick leave earned by full-time employees with fewer or 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.

### **Section 3. Holidays**

The policy of the Town is to follow the holiday schedule listed below: Each holiday is an eight hour period.

New Years Day	Labor Day
Martin Luther King Jr. Day	Veteran's Day
Good Friday	Memorial Day
Independence Day	Thanksgiving (Thurs & Fri)
Christmas (2-3 Days)	

When a holiday other than Christmas Day falls on a Saturday or Sunday, The Town Manager shall determine that Monday or Friday shall be observed as a holiday. Any conflict in the date of the holiday shall be decided by the Town Manager or designee. The Town Manager shall designate the Christmas Holidays each year, depending on which day Christmas actually falls. If Christmas falls on a Wednesday or Thursday, the town may observe a 3 day holiday with approval of the Town Board.

In order to be eligible for holiday pay, an employee must have worked the day before and the day after the holiday(s), or have been granted approved leave.

### **Section 4. Holidays: Effect on Other Types of Leave**

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

## **Section 5. Holidays: Compensation for Shift Personnel**

Employees required to perform work on regularly scheduled holidays may be granted compensatory time off or paid at their hourly rate for proportional hours based on the pro-rated hours outlined in Section 2 above in addition to any holiday pay to which they are entitled. Compensatory time shall be granted whenever feasible and taken within 30 days from the time it is earned.

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. Department Heads are to ensure that this compensatory time is granted within 30 days, and if this is not feasible the Department Head shall discuss the situation with the Town Manager. Normally the employee shall be paid for the holiday compensatory time after 120 days, if time off is not taken. During annual budget preparation, the Town Board may appropriate funds to compensate shift employees with 8 hours of pay for each holiday, such appropriation being dependent on the availability of funds.

## **Section 6. Annual Leave**

Annual leave shall be used for rest and relaxation, and may be used for medical appointments or sickness when sick leave is exhausted. Any compensatory time earned by the employee must be used prior to using annual leave.

## **Section 7. Annual Leave: Use by Probationary Employees**

Employees serving a probationary period following initial employment may accumulate annual leave but shall not be permitted to take annual leave during the probationary period without special approval by the Town Manager. Employees shall be allowed to take accumulated annual leave after six months of service.

**Section 8. Annual Leave: Accrual Rate**

Each full-time employee of the Town shall accrue annual leave on the following schedule for each completed month (calendar month) of service, pro-rated by the number of hours in the work week:

Years of Service	Days Earned Annually	Hours Earned Annually
Less than 6	10	80
6	11	88
7	12	96
8	13	104
9	14	112
10-15	15	120
16	16	128
17	17	136
18	18	144
19	19	152
More than 19	20	160

**Section 9. Annual Leave: Maximum Accumulation**

Annual leave may accumulate during the year up to 240 hours. Any employee with more than 240 hours of accumulated leave during the year shall have the excess accumulation converted to the employee's sick leave. Employees are not eligible to receive pay for annual leave time not taken.

### **Section 10. Annual Leave: Manner of Taking**

Annual leave may be taken as earned by the employee with the exception of provisions applying to probationary employees. Annual leave is subject to the approval of the supervisor and the Town Manager.

### **Section 11. Annual Leave: Payment upon Separation**

An employee who has successfully completed six months of the probationary period will normally be paid for accumulated annual leave upon separation not to exceed 240 hours, provided notice is given to the supervisor at least two weeks in advance of the effective date of resignation. Any employee failing to give the notice required by this section shall forfeit payment for accumulated leave. The notice requirement may be waived by the Town Manager when deemed to be in the best interest of the Town. Employees who are involuntarily separated may receive payment for accumulated annual leave subject to the 240 hour limit and based on the individual circumstances as determined and approved by the Town Manager. At the time of separation, any annual leave owed the Town shall be deducted from the employee's final compensation.

### **Section 12. Annual 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 annual leave credited to the employee's account not to exceed the maximums established in Section 8 of this Article.

### **Section 13. Sick Leave**

Sick leave with pay is not a right which an employee may demand, but a privilege granted for the benefit of an employee when sick. Sick leave may be granted to an employee absent from work for any of the following reasons: sickness, bodily injury, required physical or dental examinations or treatment, or exposure to a contagious disease, when continuing work might jeopardize the health of others. Sick leave may also be used by either parent for the birth of a child during the mother's period of disability, and for adoption not to exceed a period of six weeks.

Sick leave may be used when an employee must care for a member of his or her immediate family who is ill, but may not be used to care for healthy children when the regular caregiver is sick. Sick leave may also be used for death in the employee's immediate family, but may not exceed three days for any one occurrence, except by special permission of the Department Head 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 salary, except that employees may not exceed their regular salary amount using this provision.

"Immediate family" shall be defined as spouse, parent, guardian, children, sister, brother, grandparents, grandchildren plus the various combinations of half, step, in-law, and adopted relationships that can be derived from those named.

Notification of the desire to take sick leave should be submitted to the employee's supervisor prior to the leave. Failure to do so appropriately may result in disciplinary action.

#### **Section 14. Sick Leave: Accrual Rate and Accumulation**

Sick leave shall accrue at the rate of 8 hours per month for each completed month (calendar month) of service: An employee must work at least 15 days of a month to gain credit for the month.

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.

Any compensatory time earned by an employee shall be taken first prior to using the sick leave account. Sick leave shall be taken in hour units.

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 15. Sick Leave: Medical Certification**

The Department Head or the Town Manager may require a physician's certificate stating the nature of the employee or immediate 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.

### **Section 16. Leave Without Pay**

A full or part-time employee may be granted a leave of absence without pay for a period of up to six months by the Town Manager. The leave shall be used for reasons of personal disability after both sick leave and desired amount of annual leave 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 must pay the full cost of insurance during this period to continue insurance benefits.

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 17. Leave Sharing**

Employees may share accumulated annual leave with other Town employees in cases of extended medical illness or accident which requires continued absence from work. An employee may make application for him/herself or for another employee to be considered for the shared leave program. Approval of the Town Manager is required. An employee may share an unlimited number of annual hours, but must maintain a balance of at least 40 hours. Procedures will be established by the Town Manger for application and approval process. Medical certification may be required according to the medical certification policy. If an employee does not have to use all the hours that are donated, the remaining balance will be credited back, on a pro-rated basis, to those employees who donated leave.

If two employees of the Town qualify under the "immediate family" definition, consideration may be granted for sharing sick leave.

## **Section 18. 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 annual during the first waiting period. The employee may also elect to supplement workers' compensation payments after they begin provided that the combination of leave supplement and workers' compensation payments does not exceed normal compensation. An employee on workers' compensation leave will be permitted to continue to be eligible for benefits under the Town's group insurance plans.

## **Section 19. Military Leave**

Regular employees who are members of an Armed Forces Reserve organization or National Guard shall be granted ten workdays per year for military leave with 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. Any salary payments which the employee receives from the military shall be deducted from the sum paid by the Town. 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 annual leave or be placed in a leave without pay status, and the provisions of that leave shall apply. While taking military leave without pay or with partial pay, 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, including members of the National Guard or a reserve unit.

## **Section 20. 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 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 21. 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 22. Hazardous Weather Conditions**

If an employee cannot make it to work due to hazardous conditions caused by the weather, the employee must notify their supervisor no later than one hour after the current workday has begun. If an employee fails to notify their supervisor he/she will be charged leave without pay. It shall be the Town Manager's responsibility to decide whether or not weather conditions are severe enough to cancel work for the day.

## **Section 23. Funeral Leave**

A maximum of four days paid funeral leave may be allowed should there be a death in the employees' immediate family. Immediate family shall be defined as spouse, children, mother, father, brother, sister, mother-in-law, father-in-law, grandparents and grandchildren. All funeral leave must be approved by the Town Manager in advance.

## **Section 24. Petty Leave**

An employee of the Town will be allowed 16 hours per year of petty leave with pay over and above all leaves. This leave may be used for appointments other than medical, emergencies, etc... The Town Manager shall approve all leaves taken in this manner. An employee may take no more than two (2) hours of petty leave at one time. Any time taken over two (2) hours at a time must be charged to another type of leave.

## **Section 25. Family and Medical Leave**

The Town will grant up to 12 weeks of family and medical leave per twelve months to eligible employees in accordance with the Family and Medical Leave Act of 1993 (FMLA) or subsequent amendments. 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 with Pay policy.

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

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

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

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 skills, effort, responsibility, authority.

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 of 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 a 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 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.

## **Section 26. Medical & Family Leave – Certification**

In order to qualify for leave under this law, the Town requires medical certification. This statement from the employee's or the family member's physician should include the date when the condition began, its expected duration, diagnosis, and brief statement of treatment. For the employee's own health condition, it should state that the employee is unable to perform the essential functions of his/her position. For a seriously ill family member, the certification must include a statement that the patient requires assistance and the employee's presence would be beneficial or desirable.

This certification should be furnished at least 30 days prior to the needed leave unless the employee's or family member's condition is a sudden one. The certification should be furnished as soon as possible (no longer than 15 days from the date of the employee's request). The certification and request must be made to the 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 27. FMLA & Leave Without Pay: Retention & Benefit Continuation**

When an employee is on leave under the FMLA (maximum of 12 weeks in a year), 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 Board of Commissioners and the regulations of the insurance carrier.

## 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. Failure to provide minimum notice shall result in forfeit of payment for accumulated annual leave unless the notice is waived upon recommendation of the supervisor and approval by the Town Manager.

Three consecutive days of absence without contacting the immediate supervisor or Department Head is considered to be a voluntary 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 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 all cases, 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 one year of the date of separation, upon recommendation of the supervisor and approval of the Town Manager. An employee who is reinstated in this manner shall be re-credited with his or her previously accrued sick leave.

## **Section 9. Rehiring**

An employee who resigns while in good standing may be rehired after one year with the approval of the Town Manager, and shall be regarded as a new employee, subject to all of the provisions of rules and regulations of this Chapter. However, the employee shall be credited with his or her previously accrued sick leave if he or she is rehired within five years. 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.

**Section 2. Unsatisfactory Job Performance Defined**

Unsatisfactory job performance includes any aspects of the employee's job which are not performed as required to meet the standards set by the supervisor. 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;
- 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) Insubordination or violation of the organization's hierarchy;
- 9) Failure to complete work within time frames established in work plan or work standards; or
- 10) Failure to meet work standards over a period of time.

### **Section 3. Communication and Warning Procedures**

When an employee's job performance is unsatisfactory, or when incidents or inappropriate actions warrant, the Department Head 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 warnings from the supervisor before disciplinary action resulting in dismissal is taken. This Section will not be interpreted as mandating two warnings prior to dismissal in all instances. 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 disciplinary steps:

- 1) A final written warning from the Department Head 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, the Department Head should initiate a Disciplinary Conference as detailed in Section 6 of this Article.

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

With the approval of the Town Manager, an employee may be placed on disciplinary suspension or dismissed without prior warning or counseling 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 the government may be or have been violated. Examples of detrimental personal conduct include, but are not limited to, the following:

- 1) Fraud;
- 2) Commission 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 servicing a conflicting interest;
- 11) Request or acceptance of gifts in exchange for favors or influence;
- 12) Conduct unbecoming a public officer or employee;
- 13) Engaging in political activity prohibited by this chapter;
- 14) Committing a crime or engaging in financial behavior such as declaring bankruptcy that draws into question the employee ability to be trusted with public funds; or
- 15) Making unsubstantiated allegations against coworkers or the town that have been made maliciously or knowingly falsified.

## **Section 6. Disciplinary Conference.**

Before any disciplinary action is taken, whether for failure in personal conduct or failure in performance of duties, in consultation with the Town Manager, the Department Head shall, when feasible, meet with the employee and, provide the employee with a written notice of disciplinary action, which will include the nature of the action, recommended effective date, and the reasons for the action. The Department Head will consider the employee's response, if any, to the disciplinary action, and will, within three working days following the conference, notify the employee in writing of the final decision to take disciplinary action. The notice of the final disciplinary action shall contain a statement of the reasons for the action and the employee's appeal rights.

## **Section 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, with the approval of the Town Manager, may suspend the employee for the duration 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 in keeping with the new duties and responsibilities.

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

## ARTICLE X. GRIEVANCE & WHISTLE BLOWING PROCEDURE

### Section 1. Policy

It is the policy of the Town to provide a just and prompt procedure for the presentation, consideration, and disposition of employee grievances and for employees to report suspected abuse or wrongdoing "whistle-blowing." 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.

### 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, allegedly caused by misinterpretation, unfair application, or lack of established policy pertaining to employment conditions.

Employees utilizing the grievance procedure shall not be subjected to retaliation or any form of harassment from supervisors or employees for exercising their rights under the grievance procedure. Supervisors or other employees who violate this policy shall be subject to disciplinary action up to and including dismissal.

### **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; and
- 5) Increasing the sense of responsibility exercised by supervisors in dealing with their employees.

### **Section 4. Procedure**

When an employee or group of employees 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 and/or the Town Manager before the decision becomes effective.

**Informal Resolution.** Prior to the submission of a formal grievance, the employee and Department Head should meet to discuss the problem and seek to resolve it informally. This meeting should be requested and held within five working days of the incident or action giving rise to the problem. Ongoing conditions are not subject to this time restriction but a conference should be scheduled and held as quickly as possible.

**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 Department Head in writing. The grievance must be presented within five calendar days of the event or within five calendar days of learning of the event or condition. The Department Head shall respond to the grievance within five calendar days after receipt of the grievance. The Department Head 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 Department Head is required to cooperate to the fullest extent possible.

The response from the Department Head shall be in writing and signed and dated by the Department Head. 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 personnel file.

If the employee is directly supervised by the Town Manager the employee will make this first grievance to the Town Manager.

**Step 2.** If the grievance is not resolved to the satisfaction of the employee by the Department Head, the employee may appeal, in writing, to the Town Manager within five calendar days after receipt of the response from Step 1. The Town Manager shall respond to the appeal, may meet with the employee to discuss the grievance fully, and will make a decision within ten calendar days. The Town Manager's decision is final on all grievances, except dismissal.

**Step 3.** If the grievance is not resolved to the satisfaction of the employee for actions involving dismissal by the Town Manager, the employee may appeal in writing to the Board by submitting their written appeal to the Town Clerk within five calendar days after receipt of the response in Step 2. The Town Manager shall provide documentation and justification to the Board. The Board will make a decision within 30 calendar days. The Board's Decision is final.

## **Section 5. Grievance & Appeal Procedure for Discrimination**

When an employee, former employee, or applicant believes that any employment action discriminates illegally (ie. is based on age, sex, race, color, national origin, religion, creed, political affiliation, or disability) he/she has the right to appeal such action using the grievance procedure outlined in this policy. While such persons are encouraged to use the grievance procedure, they shall have the right to appeal directly to the Town Board. 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.

## **Section 6. Back Pay Awards**

Back pay and benefits may be awarded to reinstated employees in suspension, and discrimination cases.

## **Section 7. Employee Representation**

In consideration of the practice of the Town to provide a just and prompt procedure for the presentation, consideration, and disposition of employee grievances in a non-adversarial atmosphere, no attorneys will be allowed in the grievance process.

## **Section 8. Whistle Blowing Procedure & Protection**

### ***Reporting Misconduct***

As a furtherance of the Town's informal open door policy, this section outlines the process through which employees can report:

- Grievous violations of town policy and procedures
- Violations of federal or state law
- Fraud or theft
- Malfeasance or misfeasance of local, state, or federal resources
- Substantial and specific dangers to public health and safety
- Gross mismanagement, waste, or abuse of authority

Employees are encouraged to attempt a resolution internally prior to seeking an external resolution outside of the Town's authority. Suspected violations committed by other employees may be reported in writing directly to the Town Manager or if the allegations are against the Town Manager or Town Board, directly to the Town Attorney. Receipt of the report will be confirmed in writing within 5 business days.

### ***No Retaliation***

No employee who in good faith reports a violation of policy or alleged dishonest, illegal, or unethical behavior shall suffer harassment, retaliation, or adverse employment consequences. Any employee found to violate this principal shall be subject to disciplinary action including dismissal. Whistleblowers identities will be kept confidential to the greatest extent possible consistent with the need to conduct an adequate investigation. Whistle blowing may be engaged in anonymously; however, this may compromise the good faith nature of the process and the Town's ability effectively substantiate violations.

### ***Resolution***

All reports will be promptly investigated and resolved through an appropriate combination of improving employee education, policy changes, reporting to appropriate professional development agencies, disciplinary action including dismissal, and criminal investigation.

*(Whistle Blowing Policy Adopted December 3, 2013)*

## ARTICLE XI. PERSONNEL 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 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, 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.

An official of an agency of the State or Federal Government, or any political subdivision of the State, may inspect any portion of a personnel file when such inspection is deemed by the Town Manager to be necessary and essential to the pursuit of a proper function of the inspecting agency, but no information shall be divulged for the purpose of assisting in a criminal prosecution of the employee, or for the purpose of assisting in an investigation of the employee's tax liability. However, the official having custody of the personnel records may release the name, address, and telephone number from a personnel file for the purpose of assisting in a criminal investigation.

- 6) An employee may sign a written release to be placed in his/her personnel file that permits the record custodian to provide, either in person, by telephone, or by mail, information specified in the release to prospective employers, educational institutions, or other persons specified in the release.
- 7) The Town Manager, with the concurrence of the Town Board, may inform any person of the employment, non-employment, promotion, demotion, suspension or other disciplinary action, reinstatement, transfer, or dismissal of a Town employee, and the reasons for that action. Before releasing that information, the Town Manager shall determine 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.

The Town Board shall establish procedures for all personnel files containing information other than the public information mentioned above whereby an employee who objects to material may seek to have the material removed from the file or may place in the file a statement relating to the material.

### **Section 3. Personnel Actions**

The Town Manager will prescribe necessary forms and reports for all personnel actions. The Town Clerk will retain records necessary for the proper administration of the personnel system.

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

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

## **Section 7. Examining or Copying Material Without Authorization**

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

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

No public official may destroy, sell, loan, or otherwise dispose of any public record, except in accordance with 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 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 November 5, 2013.