TOWN OF ATLANTIC BEACH

PERSONNEL RESOLUTION

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TOWN OF ATLANTIC BEACH
PERSONNEL POLICY

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

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ARTICLE I. GENERAL PROVISIONS

Section 1. Purpose of the Policy

It is the purpose of this policy and the rules and regulations set forth to establish a fair and uniform system of personnel administration for all employees of the Town under the supervision of the Town Manager. This policy is established under authority of Chapter 160A, Article 7, of the General Statutes of North Carolina.

Section 2. At Will Employment

The Town of Atlantic Beach is an "at will" employer. Nothing in this policy creates an employment contract or term between the Town and its employees. No person has the authority to grant any employee any contractual rights of employment. Town reserves the right to modify the provisions of the Personnel Policy at any time.

Section 3. Merit Principle

All appointments and promotions shall be made solely on the basis of merit. Decisions regarding appointments and promotions are within the Town's discretion. 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, religion, color, sex, national origin, sexual orientation, age, veteran status, marital status, political affiliation, non-disqualifying disability, genetic information, or on the basis of actual or perceived gender as expressed through dress, appearance or behavior.

Section 4. Responsibilities in the Administration of the Human Resource Management Program

Responsibilities of the Town Council

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

Responsibilities of the Town Manager

The Town Manager shall be accountable to the Town Council for the administration and technical direction of the personnel program. The Town Manager shall appoint, suspend, and remove all Town employees except those whose appointment is otherwise provided for by law. The Town Manager shall make appointments, dismissals and suspensions in accordance with the Town Charter and other policies and procedures spelled out in other Articles in this Policy.

The Town Manager shall supervise or perform:

a) recommending rules and revisions to the personnel system to the Town Council for consideration;

b) making changes as necessary to maintain an up-to-date and accurate position classification plan;

c) preparing and recommending necessary revisions to the pay plan;

d) determining which employees shall be subject to the overtime provisions of Fair Labor Standards Act (FLSA);

e) establishing and maintaining a roster of all persons and authorized positions in the municipal service, setting forth each position and employee, class title of position, salary, any changes in class title and status, and such data as may be desirable or useful;

f) developing and administering such recruiting programs as may be necessary to obtain an adequate supply of competent and diverse applicants to meet the needs of the Town;

g) developing and implementing such administrative procedures as are necessary to implement these polices provided the administrative procedures are not in conflict with these policies;

h) performing such other duties as may be required by law or assigned by the Town Council not inconsistent with this Policy; and

i) appointing an employee to the role of Human Resources Officer.

Responsibilities of the Human Resources Officer

The Town Manager shall appoint a Human Resources Officer or perform this role him/herself and delegate any or all of the responsibilities listed below. The responsibilities of the Human Resources Officer, in collaboration with staff designated by the Town Manager, are to make recommendations to the Town Manager on the following*:*

a) policies and revisions to the personnel system for the Town Manager's consideration;

b) changes as necessary to maintain an up-to-date and accurate position classification plan;

c) necessary revisions to the pay plan;

d) which employees shall be subject to the overtime provisions of FLSA;

e) maintenance of a roster of all persons in the municipal service;

f) establishment and maintenance of a list of authorized positions in the municipal service at the beginning of each budget year which identifies each authorized position, class title of position, salary range, any changes in class title and status, position number and other such data as may be desirable or useful;

g) development and administration of such recruiting programs as may be necessary to obtain an adequate supply of competent applicants to meet the needs of the Town;

h) development and/or coordination of training and educational programs for Town employees;

i) development and recommendation of such administrative procedures as are necessary to implement these polices provided the administrative procedures are not in conflict with these policies;

j) periodic evaluations of the operation and effect of the personnel provisions of this Policy;

k) actions that are needed to address barriers to effective employee communication, productivity, engagement, and morale; and

l) such other duties as may be assigned by the Town Manager not inconsistent with this Policy.

Responsibilities of Department Directors and Supervisors

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

a) dealing with all employees in a fair and equitable manner and upholding the principles of equal employment opportunities;

b) developing and motivating employees to reach their fullest potential through continued education and training;

c) making objective evaluations of individual work performance and discussing these evaluations with each employee so as to bring about needed improvements;

d) keeping employees informed of their role in accomplishing the work of their unit and of conditions or changes affecting their work;

e) making every effort to resolve employee problems and grievances and advising employees of their rights and privileges;

f) cooperating and coordinating with other staff members in work flow and distribution of information;

g) making proper performance documentation and maintaining current performance files; and

h) abiding by the provisions of these policies and ensuring employees abide by same.

Section 5. 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. Members of the Town Council and advisory Councils 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 6. Departmental Rules and Regulations

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

Section 7. Definitions

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

Exempt employee. An employee not subject to the Wage and Hour Provisions of the Fair Labor Standards Act meeting the definition of Administrative, Professional and Executive exemption.

Full-time employee. An employee who is in a position for which an average work week equals 37 hours, and continuous employment of at least 12 months are required by the Town.

Limited Service employee. An employee, not in a permanent position, for which either the average work week required by the Town over the course of a year is less than 20 hours, or continuous employment required by the Town is less than 12 months.

Non-exempt employee. An employee in a position that is subject to the Wage and Hour Provisions of the Fair Labor Standards Act.

Part-time employee. An employee who is in a position for which an average work week is at least 20 hours and less than 40 hours.

Permanent position. A position authorized as a regular position by the Town Council. Regular permanent positions are assigned a specific job title, salary grade, salary range, duties and minimum qualifications. Appointments to permanent positions are made through a competitive selection process. All Town positions are subject to budget review and approval each year by the Town Council.

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

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

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.

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

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

New positions shall be established upon recommendation of the Town Manager and approval of the Town Council. New positions shall be recommended to the Town Council with a recommended class title after which the Human Resources Officer, with the approval of the Town Manager, shall either allocate the new position into the appropriate existing class, or revise the position classification plan to establish a new class to which the new position may be allocated. The position classification plan,

along with any new positions or classifications, shall be approved by the Town Council and will be on file with the Human Resources Officer. Copies will be available for review to all Town employees upon request.

Section 6. Request for Reclassification

Any employee who considers the position in which classified to be improper shall submit a request in writing for reclassification to such employee's immediate supervisor, who shall transmit the request through the department director to the Human Resources Officer. Upon receipt of such request, the Human Resources Officer shall study the request, determine the merit of the reclassification, and recommend to the Town Manager a revision to the classification and pay plan where necessary and such revision shall be approved by the Town Council.

Section 7. Maintenance of the Classification and Pay Plan

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

ARTICLE III. THE PAY PLAN

Section 1. Definition

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

Section 2. Administration and Maintenance

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

The pay plan is intended to provide equitable compensation for all positions, reflecting differences in the duties and responsibilities, the comparable rates of pay for positions in private and public employment in the area, changes in the cost of living, the financial conditions of the Town, and other factors. To this end, each budget year Human Resources may make comparative studies of all factors affecting the level of salary ranges including the consumer price index, anticipated changes in surrounding employer plans, and other relevant factors, and recommend to the Town Manager such changes in salary ranges as appear to be pertinent. Such changes shall be made in the salary ranges such that the hiring rate, minimum, midpoint, and maximum rates change according to the market subject to approval by the Town Council.

Section 3. Starting Salaries

All persons employed in positions approved in the position classification plan shall be employed at the hiring rate for the classification in which they are employed; however, exceptionally well qualified applicants may be employed above the hiring rate of the established salary range upon recommendation of the department director and Human Resources Officer and approval of the Town Manager.

Section 4. Trainee Designation and Provisions

Applicants being considered for employment or Town employees who do not meet all of the requirements for the position for which they are being considered may be hired, promoted, demoted, or transferred by the Town Manager to a "trainee" status. In such cases, a plan for training, including a time schedule, must be prepared by the department director.

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

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

Section 5. Probationary Pay Increases

Employees hired or promoted into the hiring rate of the pay range shall receive a salary increase upon successful completion of probation of approximately 5%.

Employees serving a twelve-month probationary period are eligible for consideration based on performance for this pay increase after six months of successful employment. Employees with a twelve-month probationary period who receive an increase at the six-month review will not be eligible for an increase at the end of the twelve-month probationary period.

Section 6. Performance Pay

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

Section 7. Performance Pay Bonus

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

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

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

Demotions. Demotion is the movement of an employee from one position to a position in a class assigned to a lower salary range. When an employee is demoted to a position for which qualified, the salary shall be set at the rate in the lower pay range which provides a salary commensurate with the employee's qualifications to perform the job and consistent with the placement of other employees within the same classification in that salary range. If the current salary is within the new range, the employee's salary may be retained at the previous rate if appropriate. If the demotion is the result of discipline, the salary shall be decreased at least 5%**.** Salaries of demoted employees may be no greater than the maximum of the new range.

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

Reclassifications. An employee whose position is reclassified to a class having a higher salary range shall receive a pay increase consistent with the implementation strategy or an increase to the hiring rate of the new pay range, whichever is higher. If the employee has completed probation, the employee's salary shall be advanced to at least the probation completion amount in the new range.

If the position is reclassified to a lower pay range, the employee's salary shall remain the same. If the employee's salary is above the maximum established for the new range, the salary of that employee shall be maintained at the current level with no increases to base pay until the range is increased above the employee's salary.

Section 9. Salary Effect of Salary Range Revisions

When an individual class of positions is assigned to a higher salary range, employees in that class shall normally receive a pay increase consistent with the implementation strategy or to the minimum rate of the new range, whichever is higher. If the employee has passed probation, the employee's salary shall be advanced at least to the probation completion amount in the new range.

When a class of positions is assigned to a lower salary range, the salaries of employees in that class will remain unchanged. If this assignment to a lower salary range results in an employee being paid at a rate above the maximum rate established for the class, the salary of that employee shall be maintained at that level with no increases in base pay until such time as the employee's salary range is increased above the employee's current salary.

Section 10. Transition to a New Salary Plan

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

a) no employee shall receive a salary reduction as a result of the transition to a new salary plan;

b) all employees being paid at a rate lower than the minimum rate established for their respective classes shall have their salaries raised at least to the new minimum rate for their classes;

c) all employees being paid at a rate below the maximum rate established for their respective classes shall be paid at a rate within the salary schedule; and

d) all employees being paid at a rate above the maximum rate established for their respective classes shall have their salaries maintained at that salary level with no increases until such time as the employees' salary range is increased above the employees' current salary.

Section 11. Effective Date of Salary Changes

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

Section 12. Payroll Deductions

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

Section 13. Fair Labor Standards Act and Overtime Pay Provisions

Employees of the Town can be requested and may be required to work in excess of their regularly scheduled hours as necessitated by the needs of the Town and determined by the department director. Overtime work should normally be approved in advance by the department director, Town Manager or other designee.

To the extent that local government jurisdictions are so required, the Town will comply with the Fair Labor Standards Act (FLSA). The Town Manager or his/her designee 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

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

Department directors are responsible for ensuring that overtime hours are authorized, recorded, and properly documented for compensatory time off or overtime pay in accordance with the established record keeping forms and instructions.

Non-exempt employees will be paid at a straight time rate for hours up to the FLSA established limit for their position (usually 40 hours in a 7-day period; 171 hours for sworn police and 212 for fire staff in a 28 day cycle). Hours worked beyond the FLSA established limit will be compensated in either compensatory time or pay at the appropriate overtime rate.

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

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

If compensatory time is accrued, it may be taken in 15-minute increments, not to exceed scheduled hours per day. *Compensatory time must be taken before any vacation or sick leave.* Compensatory time is available for use once it has been earned. All compensatory leave must be used or paid effective March 31 of each year.

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

In emergency conditions, when long and continuous work is required over multiple days, the Town Manager shall approve special overtime compensation for hours worked including time on weekends and holidays.

Exempt Employees

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

In declared disaster or emergency situations or other situations as determined by the Town Manager or Council requiring long and continuous hours of work, exempt employees will be compensated at an overtime rate and granted time off with pay for rest and recuperation to ensure safe working conditions for the duration of the emergency period.

Section 14. Stand-by and Call-back Pay

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

Stand-by. Stand-by (“on-call”) time is defined as that time when an employee must carry a pager or other communication device and must respond immediately to calls for service. Non-exempt employees required to be on "stand-by" duty will be paid for five hours of work for each week of on-call time they serve. Hours actually worked while on standby are calculated beginning when the employee is enroute to the work site and are added to the regular total of hours worked for the week. The Town Manager will approve the standby rotation for each department.

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

Call-back. Non-exempt employees will be guaranteed a minimum payment of two hours of wages for being called back to work outside of normal working hours. Non-exempt employees will be paid at the established hourly rate of pay for hours worked outside their normal schedule if they are actually required to return to work and will receive overtime compensation for eligible overtime hours. The minimum of two hours pay is guaranteed for non-exempt employees who are called back or for the actual hours worked, whichever is greater. “Call-back" provisions do not apply to previously scheduled overtime work (scheduled one or more days in advance). If more than one callback occurs within a given shift, total callback time cannot exceed two hours unless the work time exceeds two hours.

Section 15. Hourly Rate of Pay

Employees working in a part-time or Limited Service capacity with the same duties as full-time employees will normally work at a rate in the same salary range as the full-time employees. Special exceptions may apply for intermittent work as part of recreational events.

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

Section 16. Pay for Interim Assignments in a Higher-Level Classification

An employee who is formally designated, for a period of at least 30 days or more, to perform the duties of a job that is assigned to a higher salary grade than that of the employee's regular classification shall normally receive an increase for the duration of the interim assignment. The employee shall receive a salary adjustment to the minimum rate of the job in which the employee is acting or an increase of 5%, whichever is greater. Criteria involved in determining the amount of the compensation will include:

a) the difference between the existing job and that being filled on a temporary basis, and

b) the degree to which the employee is expected to fulfill all the duties of the temporary assignment.

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

Section 17. Certification and Educational Increases

The Town Manager will establish a schedule of salary increases to reward employees for attaining and maintaining certifications and obtaining degrees that increase the employee's value to the Town. These increases should reflect certifications and/or degrees that exceed the requirements on the position classification specification.

Section 18. Longevity Pay

Full-time employees of the Town may be compensated for years of service by payment of a longevity supplement based on continuous years of service as of December 31st of each year. This compensation is typically paid between Thanksgiving and the first week in December or at a time designated by the Town Manager. Continuous service is continuous employment including any approved leave or involuntary reduction in force.

Longevity amounts shall be as follows:

Years of Service	Amount
0 - 1 years	$ 100
1 - 4 years	$ 300
5 - 9 years	$ 450
10 - 14 years	$ 600
15 - 19 years	$ 800
20 + years	$ 1,000

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 race, religion, color, sex, national origin, sexual orientation, age, veteran status, marital status, political affiliation, disability, genetic information, or on the basis of actual or perceived gender as expressed through dress, appearance or behavior. Applicants with physical disabilities shall be given equal consideration with other applicants for positions in which their disabilities do not represent an unreasonable barrier to satisfactory performance of essential duties with or without reasonable accommodation.

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

Section 2. Implementation of Equal Employment Opportunity Policy

The Human Resources Officer and all personnel responsible for recruitment and employment will continue to review regularly the implementation of this Personnel Policy and relevant practices to assure that equal employment opportunity based on reasonable, job-related requirements is being actively observed to the end that no employee or applicant for employment shall suffer discrimination because of race, religion, color, sex, national origin, sexual orientation, age, veteran status, marital status, political affiliation, disability, genetic information, or on the basis of actual or perceived gender as expressed through dress, appearance or behavior. Notices with regard to equal employment matters shall be posted in conspicuous places on Town premises in places where notices are customarily posted.

Section 3. Recruitment, Selection and Appointment

Recruitment Sources. When position vacancies occur, the Human Resources Office shall publicize these opportunities for employment, including applicable salary information and employment qualifications. Information on job openings and hiring practices will be provided to recruitment sources, including organizations and news media available to minority applicants. In addition, notice of vacancies shall be posted at designated conspicuous Town sites. Individuals shall be recruited from a geographic area as wide as necessary and for a period of time sufficient to ensure that well-qualified applicants are obtained for Town service. In rare situations because of emergency conditions, high turnover, etc., the Town may hire or promote without advertising jobs upon approval of the Town Manager.

Job Advertisements. Jobs will be advertised in local area newspapers, professional publications, and other relevant publications, as needed, in order to establish a diverse and qualified applicant pool. Vacancy notices should be posted in all Town employment locations. Employment advertisements shall contain assurances of equal employment opportunity and shall comply with Federal and State statutes.

Application for Employment. All persons expressing interest in employment with the Town shall be given the opportunity to file an application for employment for positions which are being recruited. The Town accepts applications and resumes only for vacant advertised positions.

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

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

Appointment. Before any commitment is made to an applicant either internal or external, the department director shall make recommendations to the Human Resources Officer including the position to be filled and the salary to be paid. The Human Resources Officer and department director shall recommend approval of appointments and the starting salary for all applicants to the Town Manager. The Town Manager or his/her designee shall approve appointments and the starting salary for all applicants. The Manager may determine terms of employment to include crediting service time for employees within the retirement system for the purposes of leave accrual and longevity.

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 employees in police and fire shift staff and department directors shall serve a twelve-month probationary period. Employees hired as "trainees" shall remain on probation until the provisions of their traineeship are satisfied. During the probationary period, supervisors shall monitor an employee's performance and communicate with the employee concerning performance progress**.** Employees serving a twelve-month probation shall have a probationary review at the end of six months as well as before the end of twelve months.

An important purpose of the probationary period is to serve as a trial period during which the employee demonstrates his or her ability to perform the work, demonstrates good work habits and the ability to work effectively with the public and coworkers. Before the end of the probationary period, the supervisor shall conduct a performance evaluation conference with the employee and discuss accomplishments, strengths, and needed improvements. A summary of this discussion shall be documented in the employee's personnel file. The supervisor shall recommend in writing whether the probationary period should be completed, extended, or the employee transferred, demoted, or dismissed. With approval of the Town Manager probationary periods may be extended for a maximum of six additional months.

Disciplinary action, including demotion and dismissal, may be taken at any time during the probationary period of a new hire without following the steps outlined in this policy for disciplinary action. A new hire probationary employee who separates from Town employment, either voluntarily or involuntarily, during the probationary period is not eligible for terminal pay for accrued annual leave and not eligible to file an appeal.
A promoted employee who does not successfully complete the probationary period may be

transferred or demoted to a position in which the employee shows promise of success. If no such position is available, the employee shall be dismissed. Promoted and demoted employees who are on probation retain all other rights and benefits.

Section 5. Promotion

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

a) the benefits to employees and the organization of promotion from within;

b) providing equal employment opportunity and a diversified workforce to the community; and

c) obtaining the best possible employee who will provide the most productivity in that position.

Therefore, except in rare situations where previous Town experience is essential (such as promotions to Police Shift Leader or Fire Captain), or exceptional qualifications of an internal candidate so indicate, the Town will conduct an open recruitment and consider external and internal candidates simultaneously rather than automatically promote from within. Candidates for promotion shall be chosen on the basis of their qualifications and their work records. Internal candidates shall apply for promotions using the same application process as external candidates.

Section 6. Demotion

Demotion is the movement of an employee from one position to a position in a class assigned to a lower salary range. Demotion may be voluntary or involuntary. An employee whose work or conduct in the current position is unsatisfactory may be demoted provided that the employee shows promise of becoming a satisfactory employee in the lower position. Such disciplinary demotion shall follow the disciplinary procedures outlined in this Policy.

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

Section 7. Transfer

Transfer is the movement of an employee from one position to a position in a class in the same salary range. If a vacancy occurs and an employee in another department is eligible for a transfer, the employee shall apply for the transfer using the usual application process. A department director wishing to transfer an employee to a different department or classification shall make a recommendation through the Human Resources Officer to the Town Manager with the consent of the receiving department director. Any employee transferred without requesting the action may appeal the action in accordance with the grievance procedure outlined in this Policy. Notwithstanding the employee’s right to file a grievance, the Town reserves the right to transfer employees either temporarily or permanently when doing so will serve the Town’s best interest.

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

ARTICLE V. CONDITIONS OF EMPLOYMENT

Section 1. Work Schedule

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

Section 2. Political Activity

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

a) engage in any political or partisan activity while on duty;

b) use official authority or influence for the purpose of interfering with or affecting the result of a nomination or an election for office;

c) be required as a duty of employment or as condition for employment, promotion or tenure of office to contribute funds for political or partisan purposes;

d) coerce or compel contributions from another employee of the Town for political or partisan purposes;

e) use any supplies or equipment of the Town for political or partisan purposes;

f) display any political advertisement in or on Town property; or

g) be a candidate for nomination or election to office under the Town Charter.

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

Section 3. Outside Employment

The work of the Town shall have precedence over other occupational interests of employees. All outside employment for salaries, wages, or commissions and all self-employment must be reported in writing in advance to the employee's supervisor, who in turn will report it to the department director. The department director will review such employment for possible conflict of interest and then submit a record of the employment to the Town Manager for review and approval. Conflicting and/or unreported outside employment are grounds for disciplinary action up to and including dismissal. Documentation of the approval of outside employment will be placed in the employee’s personnel file.

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

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

b) employment with organizations or in capacities that negatively impact the employee's perceived integrity, neutrality, or reputation related to performance of the employee's Town duties.

Section 4. Dual Employment

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

Section 5. Employment of Relatives

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

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

The Town also prohibits the employment of any person into a permanent position who is an immediate family member of individuals holding the following positions: Mayor, Town Council Member, Town Manager, Finance Director, Human Resources Officer, Town Clerk, or Town Attorney. Should a family member of a current employee be elected to the Town Council, the employee must resign within six months of the relative taking office.

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

a) result in a relative supervising relatives;

b) result in a relative auditing the work of a relative;

c) create a conflict of interest with either relative and the Town; or

d) create the potential or perception of favoritism.

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

Section 6. Harassment Prohibited

The Town prohibits harassment in any form that is based on race, religion, color, sex, national origin, sexual orientation, age, veteran status, marital status, political affiliation, disability, genetic information, or on the basis of actual or perceived gender as expressed through dress, appearance

or behavior. Harassment is defined as conduct that culminates in tangible employment action or is sufficiently severe or pervasive as to create a hostile work environment.

A particular form of harassment, sexual harassment, is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

a) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;

b) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or

c) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Sexual harassment includes repeated offensive sexual remarks, continual or repeated comments about an individual's body and offensive sexual language.

Any employee who believes that he or she may have a complaint of harassment may follow the Grievance Procedure described in this Policy or may file the complaint directly with the Human Resources Officer, department director, or the Town Manager. The Human Resources Officer will ensure that an investigation is conducted into any allegation of harassment and advise the employee and appropriate management officials of the outcome of the investigation.

Employees who are found to be engaged in harassment are subject to disciplinary action up to and including dismissal. Employees making complaints of harassment are protected against retaliation from alleged harassers or other employees. Employees witnessing harassment shall also report such conduct to an appropriate Town management official.

All claims of harassment will be thoroughly investigated. Employees are expected to report claims of harassment in good faith and the information provided to be truthful to the best of their knowledge. The Town will endeavor to keep complaints, investigations and resolutions confidential to the extent possible, but the Town cannot compromise its obligation to investigate complaints.

Section 7. Gifts and Favors – Expectation of Ethical Conduct

The proper operation of Town government requires that public officials and employees be independent, impartial, and responsible to the people; that governmental decisions and policy be made in the proper channels of the governmental structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government. Therefore, no official or employee of the Town may willfully receive or accept gifts or favors of any value, at any time, on or off the work premises, from vendors. This no-gift policy includes vendor or potential vendor provided food, beverages, meals or entertainment such as sporting events. This no-gift policy includes any business courtesy offered such as a product discount or any other benefit if the benefit is not extended to all employees.

Exceptions to this policy include receipt of a gift or honorarium for participation in meetings, receipt of advertising items or souvenirs of nominal value, or receipt of meals furnished at conferences and banquets. Full participation by officials or employees of the Town in activities of professional organizations in which they are a member is permitted even though the organization may receive

donations from a contractor, subcontractor, or supplier. Exceptions to this policy also include food/lodging/travel/events attended in an employee's official capacity, or gifts from family members, friends, or co-workers where it is clear that it is that relationship which is the motivating factor for the gift.

Gifts of food that may arrive during the holidays, and at other times of the year when gift giving is traditional, belong to the entire staff even if addressed to a single employee. Food gifts must be shared with and distributed to all staff during work hours, in central, worksite locations. Gifts of plants or flowers shall be displayed in the lobby or at another central location where all employees may enjoy their presence.

If an employee receives a gift, if feasible, return the gift to the vendor. If not feasible to return the gift, the gift must be raffled off to all employees. Proceeds from the raffle will be deposited into the Town's General Fund budget.

Section 8. Performance Evaluation

Supervisors and/or department directors shall normally conduct performance evaluation conferences with each employee upon completion of their probationary period and at least once a year thereafter on their anniversary date. These performance evaluations are intended to be comprehensive discussions of the accomplishments and successes as well as how employees can be more successful in their jobs. The performance evaluations shall be documented in writing and placed in the employee's personnel file in a timely manner. Procedures for the performance evaluation program shall be published by the Human Resources Officer with the approval of the Town Manager.

Section 9. Safety

Safety is the responsibility of both the Town and employees. It is the policy of the Town to establish a safe work environment for employees. The Town shall establish a safety program including policies and procedures regarding safety practices and precautions and training in safety methods. Department directors and supervisors are responsible for ensuring safe work procedures, including the use of all required personal protective equipment and providing necessary safety training programs.

Section 10. Use of Town Property and Equipment

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

Section 11. Substance Abuse Policy

The Town is committed to a drug-free workplace to maintain a safe and healthy working environment for employees and a productive, effective work force for the Town's citizens. The Town prohibits employees reporting to work with their ability to perform impaired by alcohol, illegal drugs, intentionally and inappropriately used prescriptions, over-the-counter drugs, or other chemicals and substances. Please refer to the "Drug and Alcohol Policy" located in the administrative policies manual for specific procedural requirements.

Section 12. Driver's License

All employees who are in positions required on the class specification to maintain an active driver's license are required to do so as a condition of employment. Each year, upon completion of the employee's performance review, the Human Resources office will verify the status of the employee's driver's license. If the driver's license is not in good standing, the employee may be suspended, demoted or dismissed. Please refer to the "Driving Policy" located in the administrative policies manual for specific procedural requirements.

Section 13. Technology/Social Media Policy

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

Section 14. Weapons Prohibited

No person employed by the Town, either paid or volunteer, is permitted to possess any firearm or other dangerous weapon while performing duties, including while on Town property or any Town-owned vehicle or in any personal vehicle used by the employee to perform duties. (Law enforcement officers are exempt from this section while performing their law enforcement tasks.)

Violation of this policy will result in disciplinary action, up to and including dismissal for the first offense.

Section 15. Whistle Blower Protection

The Town prohibits discrimination or retaliatory action against an employee because the employee, in good faith, files or threatens to file a claim or complaint, initiate an investigation, testify or provide information to any person with respect to the Workers' Compensation Act, the North Carolina Wage and Hour Act, the Occupational Safety and Health Act, or the Mine Safety and Health Act. In addition, this policy covers NC General Statute 95-28.1 which prohibits discrimination against any person in possession of sickle cell trait or hemoglobin C train, the Nation a Guard Reemployment Rights Act, the Pesticide Council, or Chap 90, Article 5F relating to Control of Potential Drug Paraphernalia Products.

Section 16. Use of Tobacco Products

The use of any and all tobacco products, either in Town owned or leased buildings or in Town owned or leased vehicles or equipment is prohibited. Tobacco use is permitted outside of buildings in areas defined by the Town for such use at least 50 feet from Town buildings.

Section 17. Direct Deposit

Employees will be paid by electronic transfer of funds to their designated back account(s). Employees will receive written or electronic documentation of their wages, deductions and leave balances each pay period.

ARTICLE VI. EMPLOYEE BENEFITS

Section 1. Eligibility

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

Section 2. Employee Group Health

The Town provides group health insurance programs for full-and part-time employees and their families as specified under the terms of the group insurance contract.

The Town will comply with the Affordable Care Act by providing health insurance for all employees expected to work 30 or more hours per week for three or more months. Employees budgeted at 20 or more hours per week but fewer than 30 hours per week are eligible for health insurance but must pay a pro-rated amount based on the average number of hours per week they are budgeted to work.

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

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

Health and Other Insurance Benefits for Retirees

In order for retirees to receive any health insurance benefits from the Town, he or she must qualify for "full", "reduced" or "disability" benefits through the North Carolina Local Government Employees Retirement System. For the Town to contribute 100% of the employer's contribution toward health care and dental premiums, the retiree must have completed at least 20 or more years of service as a full-time employee with the Town. The Town will offer, on the condition that the retiree meets the qualifications established in this section, health and dental insurance coverage from the effective date of retirement until the date the retiree receives Medicare coverage through the Social Security Administration, or ninety (90) days after becoming eligible for Medicare, whichever comes first, or becoming gainfully employed by another employer and thus covered by other group insurance.

Section 3. Other Optional Insurance Plans

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

Section 4. Retirement

Each employee who is expected to work for the Town more than 1,000 hours annually shall join the North Carolina Local Governmental Employees' Retirement System upon hire date as a condition of

employment and contribute the amount determined by the system.

Section 5. Supplemental Retirement Benefits

The Town may provide supplemental retirement benefits for its full-time employees as determined in the budget each year. As prescribed by North Carolina State Law, the Town will contribute a percentage of salary to the State 401(k) Plan for each sworn law enforcement officer (currently 5%).

All full-time employees may make voluntary contributions to the 401(k) Plan up to the limits established by law and the 401(k) provider. The Town may contribute a percentage of salary to the State 401(k) Plan for each non-sworn employee, subject to availability of funds and approval by the Town Council.

Section 6. Social Security

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

Section 7. Workers' Compensation

All employees of the Town (full-time, part-time, and 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 such claims must be filed by the employee with the North Carolina Industrial Commission within two years from date of injury. The department director and the Human Resources Officer will assist the employee in filing the claim.

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

Section 8. Unemployment Compensation

Local governments are covered by unemployment insurance. Town employees may apply for benefits upon separation from their employment with the Town through the local Division of Employment Security office where a determination of eligibility and benefits will be made.

Section 9. Law Enforcement Separation Allowance

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

Currently the law enforcement separation allowance is "equal to eighty-five hundredths percent (0.85%) of the annual equivalent of the base rate of compensation most recently applicable to the officer for each year of creditable service". The Town will pay this benefit on a monthly basis.

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

a) the officer shall have completed 30 or more years of creditable service, or have attained 55 years of age at the time of retirement from the Town and completed five or more years of creditable service as a sworn law enforcement officer (as defined in General Statute 143-166.42); and

b) the officer shall not have attained 62 years of age;

c) the officer shall have completed at least five years of continuous service as a law enforcement officer immediately preceding a service retirement, as defined by N.C. Gen. Statute 143-166.41(a)(3) and 143-166.41(b);

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

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

a) the death of the officer;

b) the last day of the month in which the officer attains 62 years of age; or

c) the first day of re-employment in any position in any local government in North Carolina requiring retirement system participation.

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

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

Section 10. Credit Union Membership

Employees of the Town of Atlantic Beach are eligible for membership in the North Carolina Local Employees' Federal Credit Union.

Section 11. Tuition Assistance Program

Full-time employees who have completed initial probation may apply for tuition reimbursement for courses taken on their own time which will improve their skills for their current job or prepare them for promotional opportunities with the Town. Tuition, registration, fees, laboratory fees, and student fees are eligible expenses. Each year, as part of the budget, a maximum amount of tuition assistance per employee will be established. Satisfactory completion of the courses will be required for reimbursement. Requests for tuition assistance shall be submitted to the Human Resources Office prior to course registration and are subject to the review and approval of Department Director and Town Manager, subject to availability of funds.

ARTICLE VII. HOLIDAYS AND LEAVES OF ABSENCE

Section 1. Policy

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

Section 2. Holidays

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

Employees wishing to schedule time off for religious observances, other than those observed by the Town, may request vacation leave from their respective department director. The department director will attempt to arrange the work schedule so that an employee may be granted vacation leave for the religious observance. Vacation leave for religious observances may be denied only when granting leave would create an undue hardship for the Town.

Section 3. Holidays: Effect on Other Types of Leave

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

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

Employees required to perform work on regularly scheduled holidays shall be paid at the regular rate for hours actually worked and receive pay at the regular rate for the holiday hours they did not take off. Holiday time will be pro-rated based on the average work week according to the formula in Section 16 of this article.

Section 5. Vacation Leave

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

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

Section 6. Vacation Leave: Accrual Rate

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

Years of Service	Days Accrued per Year
0 - 5	12
5 - 10	15
10 - 15	18
15 plus	20

A "day" is defined by the formula ratio determined in Section 16 of this article.

Section 7. Vacation Leave: Use by Probationary Employees

Employees serving a probationary period following initial employment may accumulate vacation leave but shall not be permitted to take vacation leave during the first six months of the probationary period. Employees shall be allowed to take accumulated vacation leave after six months of service.

Section 8. Vacation Leave: Maximum Accumulation

Vacation leave may be accumulated without any applicable maximum until the pay period containing December 31 of each fiscal year. During the pay period containing December 31, any employee with a balance exceeding 30 days shall have the excess accumulation transferred to sick leave so that only a balance of 30 days is carried forward to January 1.

Employees are cautioned not to retain excess accumulated vacation leave until late in the calendar year. Because of the necessity to keep all functions in operation, large numbers of employees cannot be granted vacation leave at any one time. If an employee has excess leave accumulation during the latter part of the year and is unable to take such leave because of staffing demands, the employee shall receive no special consideration either in having vacation leave scheduled or in receiving any exception to the maximum accumulation.

Section 9. Vacation Leave: Manner of Taking

Employees shall be granted the use of accrued vacation leave upon request in advance at those times designated by the department director which will least obstruct normal operations of the Town. Department directors are responsible for ensuring that approved vacation leave does not hinder the effectiveness of service delivery. Vacation may be taken in quarter hour increments. Failure to request or take vacation leave without prior approval may result in disciplinary action. *Notwithstanding the procedures described in this Article, employees will use accrued compensatory time before using accrued vacation leave.*

Section 10. Vacation Leave: Payment upon Separation

An employee who has successfully completed the established probationary period for his/her position will normally be paid for accumulated vacation leave upon separation not to exceed 30 days provided notice is given to the supervisor at least two weeks in advance of the effective date of

resignation, thirty days for department directors.

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.

Section 11. Vacation Leave: Payment upon Death

The estate of an employee who dies while employed by the Town shall be entitled to payment of all the accumulated vacation leave credited to the employee's account not to exceed the maximums established in Section 8 of this Article.

Section 12. Sick Leave

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

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

Sick leave also may be used when an employee must care for a member of his or her immediate family who is ill. For the purposes of this benefit, immediate family is defined as spouse, child, parent, sibling, grandparent, and grandchild, to include in-law, step and half relationships. The definition for this Article also includes individuals living in the same household who share a relationship comparable to immediate family members. Sick leave may not be used to care for a healthy infant or child.

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

Section 13. Sick Leave: Accrual Rate and Accumulation

Sick leave shall accrue at a rate of one day per month of service or twelve days per year. Sick leave for full-time employees working other than the basic forty-hour work schedule (for example police and fire shift staff) shall be prorated as described in Section 16 of this Article. Sick leave will be cumulative for an indefinite period of time and may be converted upon retirement for service credit consistent with the provisions of the North Carolina Local Governmental Employees' Retirement System.

All sick leave accumulated by an employee shall end and terminate without compensation when the employee resigns or is separated from the Town, except as stated above for retirement or upon reinstatement within one year of separation.

Section 14. Transfer of Sick Leave from Previous Employer

The Town will accept sick leave balances when documented by a previous employer when the employee worked for a previous employer covered by the North Carolina State or Local Government Retirement Systems and the employee did not withdraw accumulated retirement contributions from

that employer when leaving employment.

The sick leave will be treated as though it were earned with the Town of Atlantic Beach and may be used as any other accrued sick leave by the employee. The sick leave amount must be certified by the previous employer and it is the employee's responsibility to provide documentation from his or her previous employer. The employee shall request credit for his/her eligible sick leave balance within 90 days of hire with the Town or run the risk of forfeiting the balance transfer. Transferred sick leave will be credited to the employee upon successful completion of the six months of employment.

Section 15. Sick Leave: Medical Certification

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

a) employees shall not be on duty when they might endanger their health or the health of other employees; and

b) there will be no abuse of leave privileges.

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

Section 16. Leave Pro-rated

Holiday, annual, and sick leave earned by full-time employees with more or fewer hours than the basic work week (40 hours) shall be determined by the following formula:

a) the average number of hours scheduled for work per week by such employees shall be divided by the number of hours in the basic work week (usually 40 hours);

b) 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 (40 hours);

c) the number of hours in step 2 divided by 12 shall be the number of hours of leave earned monthly by the employees concerned, or divided by 26 shall be the number of hours of leave earned biweekly, and divided by 52 would be the amount of leave earned weekly.

For example, a police officer working 12 hour shifts is scheduled to work 2184 hours per year, or 42 hours per week. Forty two divided by 40 equals 1.05. The 1.05 becomes the ratio by which all leave for a 40 hours per week person is multiplied. So if a 40 hours per week person earns 8 hours per month sick leave, a 42 hours per week person earns 8.4 hours (8 X 1.05).

Section 17. Bereavement Leave

An employee may have up to five days per year, at full pay, granted in case of death in the immediate

family. For the purposes of this benefit, immediate family is defined as spouse, child, parent, sibling, grandparent, and grandchild, to include in-law, step and half relationships. The definition for this Article also includes individuals living in the same household who share a relationship comparable to immediate family members. Additional time or time to attend funerals of other family members may be charged to vacation leave, compensatory time or Leave Without Pay. Bereavement Leave does not accrue from year to year.

Section 18. 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). 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 must be used first, followed by any holiday, sick or vacation time, once compensatory has been exhausted. Unpaid leave will be granted only when the employee has exhausted all appropriate types of paid leave. Additional time away from the job beyond the 12-week period may be approved in accordance with the Town's Leave Without Pay policy.

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

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

a) the birth of a child and in order to care for that child;

b) the placement of a child for adoption or foster care;

c) to care for a spouse, child, or parent with a serious health condition;

d) the serious health condition of the employee; or

e) military exigency.

A serious health condition is defined as a condition which requires inpatient care at a hospital, hospice, or residential medical care facility, or a condition which requires continuing care by a licensed health care provider. This policy covers illness of a serious and long-term nature resulting in recurring intermittent or lengthy absences. Generally, a chronic or long-term health condition which results in a period of incapacity for more than three days would be considered a serious health condition.

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

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

"Military Exigency" is a qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is a military service member (reserve or national guard) under a call or order to federal active duty in support of a contingency operation. Qualifying events are:

a) deployment of service member with seven or fewer days' notice;

b) military ceremonies and events such as family-assistance or informational programs related to the family member's active duty or call to active duty;

c) urgent, immediate childcare or arranging for alternative childcare for the children of service members;

d) attending school or daycare meetings relating to the child of service member;

e) making financial or legal arrangements related to a family member's active duty status or call to active duty;

f) taking up to five days leave to spend with a covered military member who is on short-term temporary rest and recuperation leave during deployment;

g) attending counseling provided by someone other than a health provider for oneself, the covered military member, or the child of the military member, the need for which arises from the active duty service or call to active duty status or the covered military member; or

h) post-deployment activities for a period of ninety days after the termination of the service member's active duty status.

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

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

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

Section 19. Family Medical Leave – Certification

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

This certification should be furnished at least 30 days prior to the needed leave unless the employee's or family member's condition is a sudden one. The certification should be furnished as soon as possible (no longer than 15 days from the date of the employee's request). The certification and request must be made to the department director and filed with the Human Resources Officer.

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

Section 20. Family Medical Leave: Retention and Continuation of Benefits

When an employee is on leave under FMLA, the Town will continue the employee's health benefits during the leave period at the same level and under the same conditions as if the employee had continued to work. If an employee chooses not to return to work for reasons other than a continued serious health condition, the Town will require the reimbursement of the amount paid for the employee's health insurance premium during the FMLA leave period.

Other insurance and payroll deductions are the responsibility of the employee and the employee must make those payments for continued coverage of that benefit by the first of each month.

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

Section 21. Leave Without Pay

A full-time or part-time employee may be granted a leave of absence without pay for a period of up to twelve months by the Town Manager. Leave Without Pay may be granted by the Town Manager upon the recommendation of the Department Director and Human Resources Officer. The leave may be used for reasons of personal disability, sickness or disability of immediate family members, continuation of education, specific 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. An employee must exhaust all compensatory time before being placed on Leave Without Pay status.

The employee is obligated to return to duty within or at the end of the time determined appropriate by the Town Manager. Upon returning to duty after being on Leave Without Pay, the employee shall be entitled to return to the same position held at the time leave was granted or to one of like classification, seniority, and pay.

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

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

Section 22. Workers' Compensation Leave

An employee absent from duty because of sickness or disability covered by the North Carolina Workers' Compensation Act may receive a weekly salary. Limited Service employees will be placed on Leave Without Pay effective with the date of injury. Once the waiting period is over, workers' compensation covers two thirds of regular pay.

Any workers' compensation disability that qualifies under the requirements of FMLA shall run concurrently with FMLA. An employee on workers' compensation Leave Without Pay will be permitted to continue to be eligible for benefits under the Town's group insurance plans during the period of workers' compensation leave that is concurrent with FMLA.

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

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

Upon reinstatement, an employee's salary will be computed on the basis of the last salary earned plus any increment or other salary increase to which the employee would have been entitled during the disability covered by workers' compensation.

An employee on workers' compensation leave may return to work on light or restricted duty after obtaining a physician's statement stating the employee's ability to do so. The decision to allow an employee back on light duty and to determine the location of the light duty rests with the Town.

Section 23. Military and other USERRA Leave

The Town will fully comply with the requirements of the 1994 Uniformed Services Employment and Re-Employment Rights Act (USERRA) and related federal regulations. For the purposes of USERRA covered employees are the following:

a) Armed Forces Active and Reserve (Army, Navy, Marine Corps, Air Force, Coast Guard)

b) Army National Guard and Air National Guard

c) FEMA's Disaster Assistance Teams

d) Commissioned Corps of the Public Health Service

e) Military Service Academies

f) Reserve Officer's Training Corps (ROTC)

Employee taking leave under USERRA shall be eligible to take accumulated vacation leave, accrued compensatory time or be placed in a Leave Without Pay status, and the provisions of that leave shall

apply. While taking USERRA leave, the employee's unused leave balances will be retained and any seniority-based benefits such as leave accrual rates will continue to accrue.

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

Military Training

In addition to complying with the requirements of USERRA, the Town provides additional benefits for military training. Full and part-time employees who are members of an Armed Forces Reserve organization or National Guard shall be granted fifteen (15) calendar days per year for military leave with pay. Regular employees choosing to use military leave may claim up to ten (10) days of differential pay per calendar year provided the days are recorded as military leave and the military basic pay is less than the employee's regular Town pay. To claim differential pay, the employee must submit a copy of his/her military orders, pay vouchers, leave and earnings statement and/or other appropriate documentation evidencing performance and compensation pertinent to the military duty.

If such duty is required beyond the fifteen calendar days, the employee shall be eligible to take accumulated vacation leave or be placed in a Leave Without Pay status, and the provisions of that leave shall apply. While on military leave, seniority-based benefits such as leave accrual rates shall continue to accrue as if the employee was actively at work. Employees on extended military leave will remain eligible for health benefits on a voluntary basis, at the employee's expense for a period of 24 months.

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

Section 24. Reinstatement Following Military and other USERRA Service

An employee who volunteers or is called to active duty with the United States military forces, and who returns to work in less than five years will be returned to the same or like position he or she occupied prior to the active duty enlistment with full seniority, status, leave accrual rates and pay as if there had been no break in employment. A military discharge form "DD214" with an honorable discharge must be submitted with the notification of intent to return to work.

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

a) less than 31 days absence - employee must report to employer by the next business day.

b) 31 days-180 days absence - notification to the supervisor must be submitted within 14 days.

c) more than 180 days absence - notification to the supervisor must be submitted within 90 days.

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

Section 25. Civil Leave

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

Section 26. Parental School/Volunteer Leave

A Town employee who is a parent, guardian, or person standing in loco parentis (in place of the parent) or member of a civic, religious or community service group is granted up to 4 hours of paid leave annually to involve him or herself in school activities of his or her child(ren) or volunteer and community service activities. This leave is subject to the three following conditions:

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

b) the Town requires the employee to request the leave in writing prior to the time of the desired leave; and

c) the Town may require written verification from the school or organization that the employee was involved with during the leave time.

Section 27. Voluntary Shared Leave

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

Section 28. Inclement Weather/Hazardous Conditions

(A) Overview

The Town Manager shall be authorized to close Town Hall and suspend town services during normal business hours for any reason for a period not exceeding two days. The Town Manager shall obtain approval from the Mayor to close Town Hall and suspend town services during normal business hours for a period exceeding two days and shall obtain approval from a majority of the Town Council for a period exceeding five days.

(B) Critical Operations

The Town must provide emergency services and critical operations during and following inclement weather and natural disasters. Emergency services and critical operations include but may not be limited to the following:

1. Upholding of law and order;
2. Fire suppression;
3. Medical and water rescue;
4. Water supply and security;
5. Emergency accessibility to citizens;

All staff shall be designated as critical or non-critical. Staff that shall be deemed critical include, but are not limited to the following:

- Administration
  (1) Town Manager
  (2) Other staff designated by the Town Manager
- Public Services
  (1) Public Services Director
  (2) Water Supervisor(s)
  (3) Public Works Supervisor(s)
  (4) Other staff designated by the Public Services Director
- Police Department
  (1) Police Chief
  (2) All sworn officers
  (3) Other staff designated by the Police Chief
- Fire Department
  (1) Fire Chief
  (2) All full-time firefighters
  (3) Other staff designated by the Fire Chief

The Town Manager, Public Services Director, Police Chief, and Fire Chief shall ensure that the town has a sufficient number of critical staff available to provide emergency services and critical operations at all times including during and after inclement weather and natural disasters. Nothing in this section requires staff to perform duties in circumstances where death or major injury is likely, such as during the peak of a hurricane or similar event.

(C) Adverse Weather Leave

Employees shall have 16 hours of Adverse Weather Leave each fiscal year that shall not accumulate. Adverse Weather Leave may be used only during and immediately after major weather events deemed adverse by the Town Manager. Adverse Weather Leave may be used only after an employee demonstrates safety hazards in traveling or a hardship occurring directly from adverse weather, including functioning utility systems at their dwelling, childcare availability, and non-habitable conditions at their dwelling. All Adverse Weather Leave must be approved by the Town Manager and on the recommendation of the employee's department head.

(D) Town Hall Closure

Whenever the Town Manager has closed Town Hall and suspended town services during normal business hours, non-critical staff shall be compensated at their normal salary and one of the following scenarios shall apply:

1. The Town Manager or department head may allow non-critical staff to perform normal or alternate duties at their home; or
2. The Town Manager may waive performing duties at home when the ability to perform is unreasonable.

The Town Manager shall extend these privileges to critical staff upon the recommendation of the employee's department head when critical staff has encountered a unique circumstance inhibiting their ability to perform their duties in person.
Nothing in this section shall prohibit staff from utilizing accrued leave if desired by the employee.

Section 29. Break Time for Nursing Mothers

Pursuant to the Fair Labor Standards Act, the Town will provide a break time for any employee to express fresh milk for her nursing child for one year after the child's birth each time such employee has the need to express milk. The Town will provide an employee with a place other than a bathroom that is shielded from co-workers and the public which may be used by an employee to express breast milk.

Section 30. Administrative Leave

Employees whose duties require them to collect and post money from customers are required to take five (5) consecutive days of paid administrative leave each calendar year for internal control monitoring.

Administrative leave with pay shall be granted for circumstances not covered within this policy on a case-by-case basis as deemed appropriate by the Town Manager.

ARTICLE VIII. SEPARATION AND REINSTATEMENT

Section 1. Types of Separations

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

Section 2. Resignation

An employee may resign by submitting the reasons for resignation and the effective date in writing to the immediate supervisor as far in advance as possible. In all instances, the minimum notice requirement is two calendar weeks. Failure to provide minimum notice shall result in forfeit of payment for accumulated vacation unless the notification requirement is waived upon recommendation of the department director and approval by the Town Manager. Thirty days' notice is expected of department directors and the Town Manager.

Three consecutive days of absence without contacting the immediate supervisor or department director may be considered to be a voluntary resignation. Sick leave will only be approved during the final two weeks of a notice with a physician's certification or comparable documentation.

Section 3. Reduction in Force

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

Section 4. Disability

The Town will comply with the Americans with Disabilities act and will make all responsible efforts to provide reasonable accommodation to employees who may be or become disabled. An employee who cannot perform the essential duties of a position because of a physical or mental impairment may be separated for disability. Action may be initiated by the employee or the Town. In cases initiated by the employee, such action must be accompanied by medical evidence acceptable to the Town Manager. The Town may require an examination, at the Town's expense, performed by a physician of the Town's choice.

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

Section 5. Voluntary Retirement

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

Section 6. Death

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

Section 7. Dismissal

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

Section 8. Reinstatement

An employee who is separated because of a reduction in force or who resigns while in good standing may be reinstated within one year of the date of separation, upon recommendation of the department director, and upon approval of the Town Manager. An employee who is reinstated in this manner shall be re-credited with his or her previously accrued sick leave.

Section 9. Rehiring

An employee who resigns while in good standing may be rehired with the approval of the Town Manager, and may be regarded as a new employee, subject to all of the provisions of rules and regulations of this Policy. An employee in good standing who is separated due to a reduction in force shall be given the first opportunity to be rehired in the same or a similar position.

Section 10. Pay and Deductions Upon Separation of Employment

Upon termination of employment, the Town will deduct and withhold from the final paycheck of the employee any amount owed to the Town for group insurance premiums, unreturned equipment/property, uniforms, or any other indebtedness to the Town. To the fullest extent of the law, the final paycheck will not be issued until all indebtedness to the Town has been determined and resolved.

The final paycheck generally includes payment for accumulated vacation leave (not to exceed 30 days) and overtime pay or accrued compensatory time to which the employee is entitled, subject to deduction for indebtedness to the Town as outlined above.

ARTICLE IX. UNSATISFACTORY JOB PERFORMANCE AND DETRIMENTAL PERSONAL CONDUCT

Section 1. Disciplinary Action for Unsatisfactory Job Performance

A regular employee may be placed on disciplinary suspension, demoted, or dismissed for unsatisfactory job performance, if after following the procedure outlined below, the employee's job performance is still deemed to be unsatisfactory. The Human Resources Officer will be available to assist all parties with the procedures in taking or responding to disciplinary actions. All cases of disciplinary suspension, demotion, or dismissal must be approved by the Town Manager prior to giving final notice to the employee.

Section 2. Unsatisfactory Job Performance Defined

Unsatisfactory job performance includes any aspects of the employee's job which are not performed as required to meet the standards set by the department director or Town Manager.

Examples of unsatisfactory job performance include, but are not limited to, the following:

a) demonstrated inefficiency, negligence, or incompetence in the performance of duties;

b) careless, negligent or improper use of Town property or equipment;

c) physical or mental incapacity to perform duties after reasonable accommodation;

d) discourteous treatment of the public or other employees;

e) absence without approved leave;

f) improper use of leave privileges;

g) failure to report for duty at the assigned time and place;

h) failure to complete work within time frames established in work plan or work standards;

i) failure to meet work standards over a period of time;

j) failure to follow the chain of command to address work-related issues; or

k) failure to maintain certifications required by the job.

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

When an employee's job performance is unsatisfactory, or when incidents or inappropriate actions warrant, the supervisor shall meet with the employee as soon as possible in one or more counseling sessions to discuss specific performance problems. A brief summary of these counseling sessions shall be noted in the employee's file by the supervisor.

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

at least two documented warnings, one of which may be in the final written warning, from the supervisor before disciplinary action resulting in dismissal is taken by the Town Manager. In each case, the supervisor should record the dates of discussions with the employee, the performance deficiencies discussed, the corrective actions recommended, and the time limits set. If the employee's performance continues to be unsatisfactory, then the supervisor should use the following steps:

a) a final written warning from the supervisor serving notice upon the employee that corrected performance must take place immediately in order to avoid suspension, demotion, or dismissal.

b) if performance does not improve, a written recommendation should be sent to the department director and Town Manager for disciplinary action such as suspension, demotion, or dismissal.

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

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

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

Section 4. Disciplinary Action for Detrimental Personal Conduct

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

With the approval of the Town Manager, an employee may be placed on disciplinary suspension, demoted, or dismissed without prior warning for causes relating to personal conduct detrimental to Town service in order to:

a) avoid undue disruption of work;

b) to protect the safety of persons or property; or

c) for other serious reasons.

Disciplinary suspensions should not normally exceed three work days for nonexempt employees. Suspensions of exempt employees shall be for one full work week in accordance with FLSA requirements to maintain exempt status.

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

Section 5. Detrimental Personal Conduct Defined

Detrimental personal conduct includes behavior of such a serious detrimental nature that the functioning of the Town may be or has been impaired; the safety of persons or property may be or have been threatened; or the laws of any government may be or have been violated.

Examples of detrimental personal conduct include, but are not limited to, the following:

a) demonstrated dishonesty, fraud or theft;

b) conviction of a felony or the entry of a plea of nolo contendere thereto;

c) falsification of records for personal profit, to grant special privileges, or to obtain employment;

d) willful misuse or gross negligence in the handling of Town funds or personal use of equipment or supplies;

e) willful or wanton damage or destruction to property;

f) willful or wanton acts that endanger the lives and property of others;

g) possession of unauthorized firearms or other lethal weapons on the job;

h) brutality in the performance of duties;

i) reporting to work under the influence of alcohol or drugs or partaking of such while on duty. Prescribed medication may be taken within the limits set by a physician as long as medically necessary;

j) engaging in incompatible employment or serving a conflicting interest;

k) request or acceptance of gifts in exchange for favors or influence;

l) engaging in political activity prohibited by this Policy;

m) harassment of an employee and/or the public on the basis of sex or any other protected class status;

n) harassment of an employee or the public with threatening or obscene language and/or gestures or any incidence of workplace violence; or

o) stated refusal to perform assigned duties, flagrant violation of work rules and regulations, or serious malfeasance of work.

Section 6. Pre-Dismissal Conference

Before dismissal action is taken, whether for failure in personal conduct or failure in performance of duties, the department director or Town Manager (in the case of disciplinary action of a department director) will conduct a pre-dismissal conference. At this conference, the employee may present any response to the proposed dismissal to department director. The department director will consider the employee's response, if any, to the proposed dismissal, and will, within three working days following the pre-dismissal conference, notify the employee in writing of the final decision after obtaining approval of the decision from the Town Manager. If the employee is dismissed, the notice shall contain a statement of the reasons for the action and the employee's appeal rights.

Section 7. Non-Disciplinary Suspension

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

a) temporarily relieve the employee of all duties and responsibilities and place the employee on paid or unpaid leave for the duration of the suspension, or

b) assign the employee new duties and responsibilities and allow the employee to receive such compensation as is in keeping with the new duties and responsibilities.

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

Section 8. Name Clearing Hearing

Following the Town's decision to dismiss or demote an employee, including a probationary employee, the employee shall be afforded an opportunity for a name-clearing hearing. The employee must request the hearing within a time frame established by the Town. If requested by the employee, a time and date for the hearing will be established such that the hearing takes place prior to the release of any negative or stigmatizing information about the employee that could inhibit future employment. The employee may invite anyone the employee wishes to invite (including the media) to the hearing. At this name-clearing hearing, the employee may present any response to information that the employee believes to be false and/or stigmatizing to the employee's reputation with respect to his or her work performance or the reasons for the dismissal or demotion.

Any written comments submitted by the demoted or dismissed employee will be placed in the employee's personnel file, and a copy will be provided to anyone who requests the termination letter on that employee. In lieu of actually attending the hearing, the employee may submit written comments and they will be placed in the file just as if the employee had presented them at the scheduled hearing. If the employee speaks at the hearing but does not provide written comments, the person conducting the hearing shall take notes and place a copy of the notes in the employee's personnel file, and a copy will be provided to anyone who requests the termination letter on that

employee. There is no requirement for the Town or the hearing officer to respond in any way to the comments of the demoted or dismissed employee at the hearing. The name clearing hearing is not a substitute for, or a second opportunity for, a pre-termination hearing at which the employee may contest the proposed disciplinary action. Information presented at the name clearing hearing will not be used by the County to reconsider the disciplinary action.

ARTICLE X. GRIEVANCE PROCEDURE AND ADVERSE ACTION APPEAL

Section 1. Policy

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

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

Section 2. Grievance Defined

A grievance is a claim or complaint by a current or a former employee based upon an event or condition, which affects the circumstances under which an employee works, allegedly caused by misinterpretation, unfair application, or lack of established policy pertaining to employment conditions.

Section 3. Purposes of the Grievance Procedure

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

a) providing employees with a procedure by which their complaints can be considered promptly, fairly, and without reprisal;

b) encouraging employees to express themselves about the conditions of work which affect them as employees;

c) promoting better understanding of policies, practices, and procedures which affect employees;

d) increasing employees' confidence that personnel actions taken are in accordance with established, fair, and uniform policies and procedures;

e) increasing the sense of responsibility exercised by supervisors in dealing with their employees;

f) encouraging conflicts to be resolved between employees and supervisors who must maintain an effective future working relationship, and therefore, encouraging conflicts to be resolved at the lowest level possible of the chain of command; and

g) creating a work environment free of continuing conflicts, disagreements, and negative feelings about the Town or its leaders, thus freeing up employee motivation, productivity, and creativity.

Section 4. Grievance Procedure

When an employee has a grievance, the following successive steps are to be taken unless otherwise provided. The number of calendar days indicated for each step should be considered the maximum, unless otherwise provided. 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 or demotion must be approved by the department director or Town Manager and rescinding a dismissal must be approved by the Town Manager before the decision becomes effective.

Informal Resolution. Prior to the submission of a formal grievance, the employee and supervisor should meet to discuss the problem and seek to resolve it informally. Either the employee or the supervisor may involve the respective department director or the Human Resources Officer as a resource to help resolve the grievance.

In some instances, if both parties agree, and with the approval of the Town Manager, the parties may request mediation. Mediation is the use of a neutral party agreed upon by all parties to the conflict to facilitate the parties in seeking win/win outcomes and identifying mutually agreeable solutions or understandings, thus preserving or enhancing the relationships between employees and supervisors. Mediation differs from arbitration in that no solution is mandated. Mediators my be any party who is perceived as neutral and who has facilitation and/or conflict resolution skills. Mediation may be used at any step in the process. The deadlines contained in this section are intended to be used as guidelines.

Step 1. If no resolution to the grievance is reached informally, the employee who wishes to pursue a grievance shall present the grievance to the appropriate supervisor in writing. The grievance must be presented within fifteen calendar days of the event or within fifteen calendar days of learning of the event or condition. The supervisor shall generally respond to the grievance within fifteen calendar days after receipt of the grievance. The supervisor should, and is encouraged to, consult with any employee of the Town in order to reach a correct, impartial, fair and equitable determination or decision concerning the grievance. Any employee consulted by the supervisor is required to cooperate to the fullest extent possible.

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

Step 2. If the grievance is not resolved to the satisfaction of the employee by the supervisor, the employee may appeal, in writing, to the appropriate department director within ten calendar days after receipt of the response from Step 1. The department director shall respond to the appeal, stating the determination of decision within ten calendar days after receipt of the appeal.

Step 3. If the grievance is not resolved to the satisfaction of the employee at the end of Step 2, the employee may appeal, in writing, to the Town Manager within ten calendar days after receipt of the response from Step 3. The Town Manager may, at his/her discretion, schedule a formal or informal grievance hearing to consider the issue(s) presented or schedule mediation. The Town Manager shall respond to the appeal, stating the determination of decision in a timely manner, generally within ten calendar days after receipt of the appeal. The Town Manager's decision shall be the final

decision. The Town Manager will notify the Town Council of any impending legal action.

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

a) provide mediation between the grieving department director and the Town Manager (see definition of mediation in "informal resolution" above); or

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

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

Section 5. Role of the Human Resources Officer

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

a) to advise parties (including employee, supervisors, and Town Manager) of their rights and responsibilities under this policy, including interpreting the grievance and other policies for consistency of application;

b) to be a clearinghouse for information, applicable forms and decisions in the matter including maintaining files of all grievance documents;

c) to give notices to parties concerning timetables of the process, etc.;

d) to assist employees and supervisors in drafting statements;

e) to facilitate the resolution of conflicts in the procedures or of the grievance at any step in the process; and

f) to help locate mediation or other resources as needed.

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

If the Human Resource Officer has direct involvement with the situation surrounding the grievance in a manner that diminishes perceived neutrality, the Town Manager or another person appointed by the Town Manager may assume the role described in this section.

Section 6. Grievance and Adverse Action Appeal Procedure for Discrimination

When an employee, former employee, or applicant, believes that any employment action discriminates illegally (i.e. is based on an individual's race, religion, color, sex, national origin, sexual orientation, age, veteran status, marital status, political affiliation, non-disqualifying disability, genetic information, or on the basis of actual or perceived gender as expressed through dress, appearance or behavior), he or she has the right to appeal such action using the grievance procedure outlined in

this Article. While such persons are encouraged to use the grievance procedure, they shall also have the right to go directly to the Human Resources Officer or to appeal directly to the Town Manager.

Employment actions subject to appeal because of discrimination include promotion, training, classification, pay, disciplinary action, transfer, layoff, failure to hire, or termination of employment. An employee or applicant should appeal an alleged act of discrimination within thirty calendar days of the alleged discriminatory action.

ARTICLE XI. RECORDS AND REPORTS

Section 1. Public Information

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

a) name;

b) age;

c) date of original employment or appointment to the service;

d) the terms of any contract by which the employee is employed whether written or oral, past and current, to the extent that the Town has the written contract or a record of the oral contract in its possession;

e) current position title;

f) current salary;

g) date and amount of each increase or decrease in salary with the Town;

h) date and type of each promotion, demotion, transfer, suspension, separation, or other change in position classification with the Town;

i) date and general description of the reasons for each promotion with the Town;

j) date and type of each dismissal, suspension, or demotion for disciplinary reasons taken by the Town. If the disciplinary action was a dismissal, a copy of the written notice of the final decision of the Town setting forth the specific acts or omissions that are the basis of the dismissal; and

k) the office to which the employee is currently assigned.

Any person may have access to this information for the purpose of inspection, examination, and copying, during regular business hours, subject only to such rules and regulations for the safekeeping of public records as the Town may adopt. An individual examining a personnel record may copy the information. The cost of photocopying may be assessed to the individual who requests the copies.

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

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

Section 2. Access to Confidential Records

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

a) the employee or his/her duly authorized agent may examine all portions of his/her personnel file except letters of reference solicited prior to employment, and information concerning a medical disability, mental or physical, that a prudent physician would not divulge to the patient;

b) a licensed physician designated in writing by the employee may examine the employee's medical record;

c) a Town employee having supervisory authority over the employee may examine all material in the employee's personnel file;

d) by order of a court of competent jurisdiction, any person may examine all material in the employee's personnel file;

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

f) an employee may sign a written release to be placed in his/her personnel file that permits the record custodian to provide, either in person, by telephone, or by mail, information specified in the release to prospective employers, educational institutions, or other persons specified in the release;

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

Each individual requesting access to confidential information will be required to submit satisfactory proof of identity.

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

Section 3. Personnel Actions

The Human Resources Officer, with the approval of the Town Manager, will prescribe necessary forms and reports for all personnel actions and will retain records necessary for the proper administration of the personnel system. There shall be one set of official personnel files, centrally located as designated by the Town Manager, normally in the Human Resources Office. Any document not located there is not an official part of that employee's personnel record. These files shall contain documents such as employment applications and related materials, records of personnel actions, documentation of employee warnings, disciplinary actions, performance evaluations, retirement, letters of recommendation, and other personnel-related documents.

Section 4. Records of Former Employees

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

Section 5. Remedies of Employees Objecting to Material in File

An employee who objects to material in his/her file may place a statement in the file relating to the material considered to be inaccurate or misleading. In accordance with established grievance procedures, the employee may seek to have a record of upheld grievances relating to personnel records placed in the file and/or may seek removal of material in the file contingent upon approval of the North Carolina Department of Cultural Resources.

Section 6. Penalties for Permitting Access to Confidential Records

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

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

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

Section 8. Destruction of Records Regulated

No public official may destroy, sell, loan, or otherwise dispose of any public record, except in accordance with NC General Statute 121.5, without the consent of the North Carolina Department of Cultural Resources. Whoever unlawfully removes a public record from the office where it is usually kept, or whoever, alters, defaces, mutilates or destroys it will be guilty of a misdemeanor and upon conviction will be fined in an amount provided in NC General Statute 132.3.

ARTICLE XII. IMPLEMENTATION OF POLICIES

Section 1. Conflicting Policies Repealed

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

Section 2. Separability

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

Section 3. Amendments

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

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