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# TOWN OF BUTNER

## PERSONNEL POLICY

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**TOWN OF BUTNER  
PERSONNEL POLICY**

BE IT RESOLVED by the Town Council of the Town of Butner 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 Butner.

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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. To the extent this policy conflicts with the requirements of State or Federal law, the Town will follow State or Federal law.

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

The Town of Butner 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.

All Town positions, benefits, and funding for salary advancement are subject to budget review and approval each year by the Town Council.

### **Section 3. Merit Principle**

All appointments and promotions shall be made solely based on merit. All positions requiring the performance of the same duties and fulfillment of the same responsibilities shall be assigned to the same class and the same salary range. No applicant for employment or employee shall be deprived of employment opportunities or otherwise adversely affected as an employee because of such individual's race, color, religion, sex, national origin, political affiliation, non-disqualifying disability, age, veteran status, marital status, sexual orientation, gender identify, genetic information, or other personal characteristic protected by law.

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

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

### **Section 5. Responsibilities of the Town Manager**

The Town Manager shall be 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 participate in:

- a) recommending policies 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 FLSA;
- e) establishing and maintaining a roster of all persons and authorized positions in the municipal service, setting forth each position and employee, class title of position, salary, any changes in class title and status, and such data as may be desirable or useful;
- f) developing and administering such recruiting programs as may be necessary to obtain an adequate supply of competent applicants to meet the needs of the Town;
- g) performing such other duties as may be assigned by the Town Council not inconsistent with this Policy; and,
- h) appointing an employee to the role of Human Resources Officer. In the absence of a Human Resources Officer, the Town Manager shall assume the role.

**Section 6. Responsibilities of the Human Resources Officer**

The responsibilities of the Human Resources Officer are to make recommendations to the Town Manager on the following:

- a) recommending policies and revisions to the personnel system to the Town Manager for consideration;
- b) recommending changes as necessary to maintain an up to date and accurate position classification plan;
- c) recommending necessary revisions to the pay plan;
- d) recommending which employees shall be subject to the overtime provisions of FLSA;
- e) maintaining a roster of all persons in the municipal service;
- f) establishing and maintaining 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) developing and administering such recruiting programs as may be necessary to obtain an adequate supply of competent applicants to meet the needs of the Town;
- h) developing and coordinating training and educational programs for Town employees;
- i) developing and recommending such administrative procedures as are necessary to implement these policies;
- j) identifying and addressing barriers to effective employee communication, productivity, engagement and morale;
- k) periodically investigating the operation and effect of the personnel provisions of this Policy; and,
- l) performing such other duties as may be assigned by the Town Manager not inconsistent with this Policy.

**Section 7. Responsibilities of Supervisors and Directors:**

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

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

- b) developing and motivating employees to reach their fullest potential through continued education and training;
- c) making objective evaluations of individual work performance and discussing these evaluations with each employee 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 documentation and maintaining current files.

### **Section 8. Application of Policies, Plan, Rules, and Regulations**

The personnel policy and all rules and regulations adopted pursuant thereto shall be binding on all Town employees. The Town Manager, Town Attorney, members of the Town Council, and advisory boards and commissions will be exempted except in sections where specifically included. An employee violating any of the provisions of this policy shall be subject to appropriate disciplinary action, as well as prosecution under any civil or criminal laws which have been violated.

### **Section 9. Departmental Rules and Regulations**

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

### **Section 10. Definitions**

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

**Full-time employee.** An employee who is in a position for which an average work week equals at least 35 hours and continuous employment of at least 12 months are required by the Town.

**Part-time employee.** An employee who is in a position for which an average work week of at least 20 hours and less than 35 hours and continuous employment of at least 12 months are required by the Town.

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

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

**Temporary 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 25 hours or continuous employment required by the Town is less than 12 months.

**Trainee.** An employee's status when an applicant is hired (or employee promoted), who does not meet all the requirements for the position. During the duration of a trainee appointment, the employee is on probationary status.

**Permanent position.** A position authorized for the budget year for a full twelve months and budgeted for twenty or more hours per week. All Town positions are subject to budget review and approval each year by the Town Council and all employees' work and conduct must meet Town standards. Therefore, reference to "permanent" positions or employment should not be construed as a contract or right to perpetual funding or employment.

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

### **Section 1. Purpose**

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

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

The classification plan shall consist of:

- a) a grouping of positions in classes which are approximately equal in difficulty and responsibility, which call for the same general qualifications, and which can be equitably compensated within the same range of pay under similar working conditions;
- b) class titles descriptive of the work of the class;
- c) written specifications for each class of positions; and,
- d) an allocation list showing the class title of each position in the classified service.

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

The classification plan is to be used:

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

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

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

### **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 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 on file with the Human Resources Officer. Copies will be available to all Town employees for review upon request.

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

Any employee who considers the position in which classified to be improper shall submit a request for reclassification in writing to such employee's immediate supervisor, who shall immediately transmit the request through the Department Head to the Human Resources Officer. Upon receipt of such request, the Human Resources Officer shall study the request, determine the merit of the reclassification, and recommend any necessary revisions to the classification and pay plan to the Town Manager.

#### **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, reviews are recommended approximately every five years. When there is significant growth and/or change in the organization, comprehensive reviews may be needed more/less frequently. There is no obligation for the Town Council to conduct a compensation review.

## ARTICLE III. THE PAY PLAN

### Section 1. Definition

The pay plan includes the basic salary schedule and the "Assignment of Classes to Grades" adopted by the Town Council. The salary schedule consists of hiring rate, minimum, midpoint, and maximum rates of pay for all classes of positions, and a designation of the standard hours in the work week for each position.

### 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 trainee status or employees whose existing salaries are above the established maximum rate following transition to a new pay plan.

The pay plan is intended to provide equitable compensation for all positions, reflecting differences in the duties and responsibilities, the comparable rates of pay for positions in private and public employment in the area, changes in the cost of living, the financial conditions of the Town, and other factors. To this end, each budget year the Human Resources Officer shall make comparative studies of all factors affecting the level of salary ranges including the consumer price index, anticipated changes in surrounding employer plans, and other relevant factors, and will recommend to the Town Manager such changes in salary ranges as appear to be pertinent. Such changes shall be made in the salary ranges such that the hiring rate, all intervening rates, and the maximum rate change according to the market. Periodically, the Town Manager shall recommend that individual salary ranges be studied and adjusted as necessary to maintain market competitiveness. Such adjustments will be made by increasing or decreasing the assigned salary grade for the class and adjusting the rate of pay for employees in the class when the action is approved 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 approval of the Town Manager.

### Section 4. Trainee Designation and Provisions

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

"Trainee" salaries shall be no more than two grades below the minimum salary 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 from three to eighteen months. A trainee shall remain a probationary employee until the trainee period is satisfactorily completed.

If the training is not successfully completed to the satisfaction of the Town 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 within the pay range of approximately 5% upon successful completion of the probationary period. Employees serving a twelve-month probationary period may be considered for this increase after six months of employment.

#### **Section 6. Performance Pay**

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

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

Employees who are at the maximum amount of the salary range for their position classification are eligible to be considered for a Merit Bonus at their regular performance evaluation time. Merit bonuses shall be awarded based upon the performance of the employee as described in the performance evaluation and in the same amounts as employees who are within the salary range. Merit 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 approximately 5% over the employee's salary before the promotion, whichever is greater. The new salary may not exceed the maximum of the range.

In the event of a) highly skilled and qualified employees, b) shortage of qualified applicants, c) the promotion exceeds an increase of two pay grades, or d) 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 this case, the Town Manager shall consult with the Human Resources Officer and consider internal equity comparisons with other employees in the same or similar jobs. 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 involuntary 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 decreased at least 5% and established based on the employee's qualifications relative to other employees in the new classification and other relevant considerations related to equity. Salaries of demoted

employees may be no greater than the maximum of the new range.

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

**Reclassifications.** An employee whose position is reclassified to a class having a higher salary range shall receive a pay increase of approximately 5% or an increase to the hiring rate of the new pay range, whichever is higher. If the employee has completed probation, the employee's salary shall be advanced to at least the probation completion amount in the new range.

If the position is reclassified to a lower pay range, the employee's salary shall remain the same. If the employee's salary is above the maximum established for the new range, the salary of that employee shall be maintained at the current level until the range is increased above the employee's salary. The employee is not eligible for merit pay, cost of living or market adjustment, or any other adjustment until the employee's salary comes back within the established salary range. However, the employee is eligible for longevity pay if it is provided to other employees by the Town.

### **Section 9. Salary Effect of Salary Range Revisions**

When a class of positions is assigned to a higher salary range, employees in that class shall receive a pay increase of at least approximately 5%, or to the hiring rate of the new range, whichever is higher. If the employee has passed probation, the employee's salary shall be advanced at least to the probation completion amount (minimum) 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 new class, the salary of that employee shall be maintained at that level until such time as the employee's salary range is increased above the employee's current salary.

### **Section 10. Transition to a New Salary Plan**

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

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

### **Section 11. Effective Date of Salary Changes**

Salary changes approved after the first working day of a pay period shall become effective at the beginning

of the next pay period or at such specific date as may be provided by procedures approved by the Town Manager.

## **Section 12. Fair Labor Standards and Overtime Compensation Provisions**

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

To the extent that local government jurisdictions are so required, the Town will comply with the Fair Labor Standards Act (FLSA). The Human Resources Officer shall determine 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 not to perform work at any time they are not scheduled to work unless they receive approval from their department head or supervisor, except in cases of emergency.

Non-exempt employees will be paid at a straight time rate for hours up to the FLSA established limit for their position (usually 40 hours in a 7-day period or 168 in a 28-day cycle for sworn public safety employees). Hours worked beyond the FLSA established limit will be compensated in either time or pay at the appropriate overtime rate. All hours worked over 171 in a 28-day cycle for sworn public safety staff are subject to the overtime rate. Hours worked between 168 and 171 may be compensated in time or pay at straight time.

In determining eligibility for overtime in a work period, only hours worked shall be considered; in no event will vacation, sick leave, or holidays be included in the computation of hours worked for FLSA purposes. Compensatory leave balances may not exceed 240 hours, or 480 for public safety employees. Any overtime worked after such maximum balances must be compensated in pay. The Town Manager will be notified when an employee's balance exceeds 75 hours of compensatory time.

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

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

## **Section 13. Disaster Overtime Pay Personnel Policy Provisions**

### **Emergency Situations – non-exempt employees**

In emergency situations, non-exempt employees will be compensated at their usual overtime rate of time and one half for hours worked in excess of (40) forty hours per week and double time for hours worked on

weekends and holidays. Police Officers are paid regular pay for hours worked up to 171 in a 28-day cycle and any hours over 171 are paid at time and one half.

**Emergency Situations – exempt employees**

For exempt employees (including Department Heads) required to work extended hours during an emergency, the Town Council shall compensate for hours worked over and above the regular workweek at their regular hourly rate.

**Section 14. Call-back and Stand-by Pay**

The Town provides a continuous twenty-four hour a day, seven day a week service to its customers. Therefore, it is necessary for certain employees to respond to any reasonable 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 by the Town Manager.

**Call-back.** Non-exempt employees will be guaranteed a minimum compensation of two hours in time or pay for being called back to work outside of normal working hours. "Call-back" provisions do not apply to previously scheduled overtime work (scheduled one or more days in advance).

**Stand-by.** Stand-by time is defined as that time when an employee must carry a pager or other communication device and must respond immediately to calls for service. Non-exempt employees required to be on "stand-by" duty will be paid for eight hours of work for each week of stand-by time they serve. Hours worked while on stand-by are calculated beginning when the employee reports to the work site and are added to the regular total of hours worked for the week.

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.

**Section 15. Payroll Deduction**

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

**Section 16. Hourly Rate of Pay**

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

The hourly rate for employees working other than 40 hours per week will be determined by dividing the average number of hours scheduled per year into the annual salary for the position. For example, for Public Safety employees assigned to shift work 2,184 hours are scheduled per year.



## Section 17. Longevity Pay

Full-time and part-time employees of the Town are compensated for years of continuous service by payment of a longevity supplement based on the following table. Employees shall receive longevity pay in the payroll that contains their anniversary date. Longevity pay shall reflect their continuous years of service as of their anniversary date according to the following schedule:

<u>Years of Service</u>	<u>Longevity Amount</u>
2 but less than 10	1.00%
10 - 14	1.50%
15 - 19	2.25%
20 - 24	3.25%
25 plus	4.50%

Longevity pay may be approved each fiscal year depending upon the financial conditions of the Town and would not be considered a part of the annual base pay. Appropriate federal, state, retirement, etc. deductions will be made.

Employees who were employed by the State of North Carolina on December 31, 2007 and those public safety employees employed by the state on June 30, 2013 and hired by the Town on the days immediately following those dates will accrue longevity pay based on their hire date with the State. All other employees will accrue longevity pay based on their hire date with the Town unless other agreements are made.

## Section 18. Pay for Interim Assignments in a Higher-Level Classification

An employee who is formally designated by the Town Manager to perform the duties of a job that is assigned to a higher salary grade than that of the employee's regular classification shall receive an increase for the duration of the Interim assignment. The employee shall receive a salary adjustment to the minimum level of the job in which the employee is acting or an increase of 5%, whichever is greater. 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, considering any increases the employee would have received if they had not been placed in the Interim role.

## Section 19. Certification and Educational Increases

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

## ARTICLE IV. RECRUITMENT AND EMPLOYMENT

### Section 1. Equal Employment Opportunity Policy

It is the policy of the Town to foster, maintain, and promote equal employment opportunity. The Town shall select employees on the basis of the applicant's qualifications for the job and award them with respect to compensation and opportunity for training and advancement, including upgrading and promotion, without regard to age, sex, race, color, religion, national origin, disability, veteran status, political affiliation, marital status, sexual orientation, gender identity, genetic information, or any other personal characteristic protected by law. 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 complaint under this policy or who participates or assists in any EEOC, OSHA, USERRA, or other internal or external processes protected by law.

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

All personnel responsible for recruitment and employment will continue to review regularly the implementation of this personnel policy and relevant practices to assure that equal employment opportunity based on reasonable, job-related requirements is being actively observed to the end that no employee or applicant for employment shall suffer discrimination because of age, sex, race, color, religion, disability, national origin, political affiliation, marital status, veteran status, sexual orientation, gender identity, genetic information, or any other personal characteristic protected by law. Notices regarding 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 Officer 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 sites within departments if practical. Individuals shall be recruited from a geographic area as wide as necessary and for a period sufficient to ensure that well-qualified applicants are obtained for Town service. The North Carolina Division of Employment Security may be used as a recruitment source. In rare situations because of emergency conditions, high turnover, etc., the Town may hire or promote without advertising jobs, upon approval of the Town Manager.

**Job Advertisements.** Jobs will normally be advertised on the Town's website, and in local newspapers, professional publications and websites, and other relevant publications in order to establish a diverse and qualified applicant pool. Employment advertisements shall contain assurances of equal employment opportunity and shall comply with Federal and State statutes.

**Application for Employment.** All persons expressing interest in employment with the Town shall be given the opportunity to file an application for employment for positions which are vacant during the time the

Town recruits for the vacancy. Resumes and applications will be taken only when the Town specifies recruitment and only for the positions being recruited. All applications should come to the Human Resources Officer for official tracking and for maintaining necessary files.

**Applicant Interest Card.** Persons interested in employment with the Town may complete an applicant interest card concerning each position for which they wish to apply. These cards will be maintained for a period of six months. When a vacancy occurs in positions of interest, the card will be sent, notifying the person and requesting that the person complete an application before the designated deadline.

**Application Reserve File.** Applications shall be kept in an inactive reserve file for a period of two years, in accordance with Equal Employment Opportunity Commission guidelines.

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

**References and Background Investigations.** Before an offer is made to an applicant, the Town may conduct criminal background investigations and/or reference checks regarding the employee's qualifications and work performance. Once a conditional offer has been accepted, physical examinations and drug screening may be performed. All employees hired within the same job classification will be subject to the same hiring process; the hiring process for any position(s) may change over time to reflect perceived improvements to the hiring process. Conviction of a crime is not automatically disqualifying. The Town will consider the severity of the crime, degree to which the crime is job related to the job for which the applicant is being considered, and length of time since the conviction to determine the degree to which there is a business necessity for choosing not to hire the applicant.

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

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

An employee appointed or promoted to a permanent position shall serve a probationary period. Employees shall serve a six-month probationary period, except that employees in sworn public safety positions and Department Head positions 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.

Before the end of the probationary period, the supervisor shall conduct a performance evaluation conference with the employee and discuss accomplishments, strengths, and needed improvements. A summary of this discussion shall be documented in the employee's personnel file. The supervisor shall recommend in writing

whether the probationary period should be completed, extended, or the employee transferred, demoted, or dismissed. Probationary periods may be extended for a maximum of *six* additional months. The foregoing notwithstanding, a Public Safety employee's probationary period may be extended for a maximum of twelve (12) additional months so that the total probationary period shall not exceed a total of twenty-four (24) 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. 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, such as the right to use of the grievance procedures.

### **Section 5. Promotion**

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

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

Therefore, except in rare situations where previous Town experience is essential (such as promotions to Police Sergeant), or exceptional qualifications of an internal candidate so indicate, the Town will consider external and internal candidates rather than automatically promote from within. Candidates for promotion shall be chosen based on 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. A voluntary demotion may be called a reassignment. 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.

### **Section 7. Transfer**

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

## ARTICLE V. CONDITIONS OF EMPLOYMENT

### Section 1. Work Schedule

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

### Section 2. Political Activity

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

- a) engage in any political or partisan activity while on duty;
- b) use official authority of influence for the purpose of interfering with or affecting the result of a nomination or an election for office;
- c) be required as a duty of employment or as condition for employment, promotion, or tenure of office to contribute funds for political or partisan purposes;
- d) coerce or compel contributions from another employee of the Town for political or partisan purposes;
- e) use any supplies or equipment of the Town for political or partisan purposes; or,
- f) be a candidate for nomination or election to office under the Town Charter.

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

### Section 3. Outside Employment

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

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

- a) employment with organizations or in capacities that are regulated by the employee or 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 FLSA regulations in all dual employment cases to ensure that the regulations are followed.

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

The Town prohibits the hiring and employment of immediate family in permanent positions within the same work unit. "Immediate family" shall be defined as spouse, child, parent, brother, sister, grandparent, grandchild, son-in-law, daughter-in-law, parent-in-law, brother or sister-in-law, aunt, uncle, or the employee or spouse or guardian of the employee. This also includes various combinations of step, half, and adopted relationships.

The Town also prohibits the employment of any person into a permanent position who is an immediate family member of individuals holding the following positions: Mayor, Mayor Pro Tem, Town Council Member, Town Manager, Finance Director, Human Resources Officer, Town Clerk, or Town Attorney. Otherwise, the Town may consider employing family members or related persons in the service of the Town, provided that such employment does not:

1. Result in a relative supervising a relative.
2. Result in a relative auditing the work of a relative.
3. Create a conflict of interest with either relative and the Town.
4. Create the potential or perception of favoritism.

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

#### **Section 6. Harassment Prohibited**

The Town prohibits harassment in any form that is based on sex, race, color, religion, national origin, age, veteran status, disability, political affiliation, marital status, sexual orientation, sexual identify, genetic information, or any other personal characteristic protected by law. Such harassment may be characterized as unlawful discrimination or harassment.

The Town prohibits unlawful harassment by supervisors and/or co-workers in any form. Harassment is defined as conduct that culminates in tangible employment action or is sufficiently severe or pervasive to create a hostile work environment.

Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when 1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, 2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or 3) such conduct has the

purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment. Sexual harassment includes repeated offensive sexual remarks, continual or repeated comments about an individual's body, and offensive sexual language.

Any employee who believes that he or she may have a complaint of harassment may follow the Grievance Procedure described in this Policy or may file the complaint directly with the Human Resources Officer or Department Head who will immediately notify the Town Manager. The employee may file the complaint directly with the Town Manager if it involves a Department Head. The Human Resources Officer will insure that an investigation is conducted into any allegation of harassment and will advise the employee and appropriate management officials of the outcome of the investigation.

Employees who are found to be engaged in harassment are subject to disciplinary action up to and including dismissal. Employees making complaints of harassment are protected against retaliation from alleged harassers or other employees.

### **Section 7. Expectation of Ethical Conduct**

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

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

Supervisors and/or Department Heads shall conduct Performance Evaluation conferences with each employee at least once a year. Employees that are out of work for more than 30 days (short-term disability, FMLA, workers' comp, etc.) shall have their performance evaluation due date moved equal to the number of missed days. These performance evaluations shall be documented in writing and placed in the employee's personnel file. Procedures for the performance evaluation program shall be published by the Town Manager.

### **Section 9. Safety**

Safety is the responsibility of both the Town and its employees. It is the policy of the Town to establish a safe work environment for employees. The Town shall establish a safety program including policies and procedures regarding safety practices and precautions and training in safety methods. Department Heads and supervisors are responsible for insuring the safe work procedures of all employees and providing necessary safety training programs. Employees shall follow the safety policies and procedures and attend safety training programs as a condition of employment. Employees who violate such policies and procedures shall be subject to disciplinary action up to and including dismissal.

### **Section 10. Substance Abuse Policy**

The Town may establish policies and procedures related to employee substance abuse in order to insure the safety and well-being of citizens and employees, and to comply with any state, federal, or other laws and regulations. The Town provides a drug free workplace for all employees.

### **Section 11. Disruption of the Work Place**

The Town has a responsibility to maintain a productive and professional work environment conducive to conducting the Town's business. To that end, employees are expected to keep any work place disruptions and distractions to a minimum. This includes personal visits and phone calls, receiving personal mail or packages, charitable solicitations, or other activities that distract an employee or coworkers from the work of the Town. Supervisors will provide feedback to employees on any actions that are becoming distracting.

### **Section 12. Electronic Communications**

The Town will maintain an electronic communication, social media, technology, and internet access policy that guides employees. This policy will be a separate standalone policy allowing for updates as necessary as technology continues to evolve.

### **Section 13. 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 photocopy the employee's driver's license. The human resources office will send copies of the driver's licenses of all employees required to maintain an active driver's license to Butner Public Safety. Butner Public Safety will check the driving record of all such drivers. Further, all such drivers must report infractions, charges or other vehicle-related charges to the employee's supervisor within 5 days of receiving the infraction or other vehicle-related charge. The driver must also report the disposition of the charge upon resolution of the case. If an employee's driver's license has been suspended, revoked, or otherwise restricted or if the record causes significant concern regarding safety, the employee may be suspended, demoted or dismissed. The Town Manager may implement additional administrative policies related to supplement this Section.

### **Section 14. 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 Worker's 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 trait, the National Guard Reemployment Rights Act, the Pesticide Council, or Chap 90, Article 5F relating to Control of Potential Drug Paraphernalia Products.

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

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



## **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. Temporary employees are eligible only for workers' compensation and FICA.

Part-time employees may choose additional compensation in lieu of group health and hospitalization and other insurance.

The Town Manager has the authority to negotiate benefits packages with new employees as necessary to recruit qualified staff (for example, vacation accrual, longevity, etc.) keeping in mind internal equity comparisons with existing employees.

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

The Town may provide group health and hospitalization insurance programs for full-time employees and their families subject to appropriations. If the Town provides insurance, the Town will also comply with the provisions of the Affordable Care Act requiring that employees who work 30 or more hours per week for three or more months are eligible for health insurance coverage by the Town.

Employees who are scheduled to work 30 hours or more per week on a continuous year-round basis may, if they so desire, choose available group health through the Town for themselves and their qualified dependents. A prorated amount of the cost of coverage paid for a full-time employee shall be paid by the Town with the remainder of the cost being paid by the employee. This prorated amount shall be based on regularly scheduled hours.

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

### **Section 3. Short-Term Disability**

Subject to appropriation, the Town may provide Short-Term Disability to eligible employees who become continuously unable to perform the duties of their usual occupation due to a mental or physical incapacity while actively employed. If Short-term disability insurance is provided, all permanent full-time employees who work 30 or more hours per week will automatically be enrolled in the plan.

Details of the plan shall be available to all employees from the Human Resources Officer. Employees who are receiving short-term disability payments may use sick leave, vacation leave, or compensatory time to supplement the short-term disability payments up to 100% of the employee's salary.

### **Section 4. Group Life Insurance**

Subject to appropriation and the requirements of the Local Government Retirement System (LGRS), the Town may provide group life insurance for each employee through the LGRS Death Benefit, subject to the stipulations of the insurance contract.

## **Section 5. Other Optional Group Insurance Plans**

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

## **Section 6. Retirement**

Each employee who is expected to work for the Town more than 1,000 hours annually shall join the North Carolina Local Governmental Employees' Retirement System on the first day of employment as a condition of employment. New hires who are current members of the NC Local or State Government Employees' Retirement Systems shall be covered under the retirement system by the Town on their first day of employment.

## **Section 7. Supplemental Retirement Benefits**

The Town provides 401-K benefits for its full and part-time employees as a percentage of salary as designated by the Town Council beginning on the first day of employment, subject to appropriation by the Town Council. Each law enforcement officer shall receive 401-K benefits as prescribed by North Carolina State Law and beginning on the first day of employment.

## **Section 8. Social Security**

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

## **Section 9. 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 Head and the Human Resources Officer will assist the employee in filing the claim.

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

Before returning to work, a statement from the attending physician should be submitted to the Human Resources Officer giving permission for the employee to resume regular duties.

Upon return to work, the employee's salary will be computed on the basis of the last salary, plus any salary increase to which the employee would have been entitled based upon performance and other compensation policies.

During the disability covered by Workers' Compensation benefits, an employee continues to earn vacation leave and sick leave, and will retain all accumulated sick or vacation leave.

Employees may use sick leave and/or vacation both during the waiting period before Workers' compensation benefits begin, and afterward, to supplement the remaining one-third of salary, except that employee may not exceed the regular salary amount using this provision.

### **Section 10. Unemployment Compensation**

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

### **Section 11. Tuition Assistance Program**

Full-time employees who have completed their initial probation may apply for tuition reimbursement for courses taken on their own time, which will improve their skills for their current job or prepare them for promotional opportunities within the Town service.

Requests for tuition assistance shall be submitted to the Department Head prior to course registration, and then to the Human Resources Officer for review before final review and approval by the Town Manager. All such applications shall be reviewed to determine whether the proposed coursework is specific to the employee's current job or will prepare the employee for promotional opportunities within the Town's service and to determine if adequate funds exist to pay for the request. Tuition, registration fees, laboratory fees, student fees, and books are eligible expenses. Employees may be reimbursed for up to \$1,000 of eligible expenses per fiscal year subject to the availability of funds. Satisfactory completion of the courses (C or better) will be required for reimbursement.

Any employee who accepts tuition assistance must execute an agreement with the Town each time tuition assistance is provided agreeing to repay the Town within one hundred fifty (150) days if the Employee is terminated for cause or voluntarily leaves employment with the Town for any reason within twenty-four months of the execution of the agreement pro-rated as set out below. The Employee shall repay the Town the tuition assistance advanced pursuant to the agreement pro-rated as follows: Tuition Assistance Advanced minus [(Tuition Assistance Advanced divided by 24 months) times (months Employee has worked for the Town since the agreement was executed)]. The agreement shall state that any amount owed to the Town under the Agreement may be deducted from any payments owed by the Town to the Employee including from Employee's last pay check or other payments due the Employee from the Town after the Employee's termination or separation from employment.

### **Section 12. Law Enforcement Separation Allowance**

Every sworn law enforcement officer, as defined by N.C. Gen. Stat. § 128-21(11d) or N.C. Gen. Stat. § 143-166.50, shall be eligible for a separation allowance, as provided by N.C. Gen. Stat. § 143-166.42(a).

Creditable service for the law enforcement separation allowance for public safety employees employed by the state on June 30, 2013 and hired by the Town immediately following this date shall include creditable service the employee has in the Teachers' and State Employees' Retirement System and in the Local Governmental Employees' Retirement System, provided the employee is not already being paid a separation allowance for that creditable service from another agency. Should an employee subsequently receive a separation allowance from another agency, the separation allowance from the Town shall cease.

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

**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 and part-time employees, and to provide proportionately equivalent amounts to employees having average work weeks of different lengths. Employees shall accrue leave proportionately with each payroll.

The Town Manager has the authority to negotiate benefits packages with new employees as necessary to recruit qualified staff (for example, vacation accrual, longevity, etc.) keeping in mind internal equity comparisons with existing employees.

**Section 2. Holidays**

The following paid holidays, and such others as the Town Council may designate, shall be observed by Town offices. Holidays begin at 12 a.m. on the observed day and end at 11:59 p.m. for purposes of record keeping. If a holiday falls on Saturday, the holiday will be observed on the preceding Friday. If a holiday falls on Sunday, the following Monday will be observed as the holiday.

- New Year’s Day - (January 1)
- Martin Luther King, Jr.’s Birthday - (third Monday in January)
- Good Friday - (Friday before Easter)
- Memorial Day - (last Monday in May)
- Independence Day - (July 4)
- Labor Day - (first Monday in September)
- Veterans’ Day - (November 11)
- Thanksgiving Day and the day after - (fourth Thursday in November and fourth Friday in November)
- 3 days at Christmas, according to the following schedule:

<b><i>When Christmas Falls On:</i></b>	<b><i>Town Employees Observe:</i></b>	<b><i>On These Days:</i></b>
Sunday	December 22, 23, and 26	Thursday, Friday, Monday
Monday	December 25, 26, and 27	Monday, Tuesday, Wednesday
Tuesday	December 24, 25, and 26	Monday, Tuesday, Wednesday
Wednesday	December 24, 25, and 26	Tuesday, Wednesday, Thursday
Thursday	December 24, 25, and 26	Wednesday, Thursday, Friday
Friday	December 24, 25, and 26	Thursday, Friday, Monday
Saturday	December 23, 24, and 27	Thursday, Friday, Monday

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

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

Regular holidays which occur during an employee's vacation, sick, or other leave shall not be considered as vacation, sick, or other leave.

### Section 4. Compensation for Working on Holidays

An employee required to work on a holiday will be paid for the holiday in addition to being paid for the hours worked on the holiday. Holiday time will be calculated based on the formula in Section 16 of this Article.

Shift employees who are regularly scheduled off in their shift cycle are still due compensation for the holiday.

### Section 5. Vacation Leave

Vacation leave is a privilege granted by the Town and is intended to be used for rest and relaxation, school appointments, and other personal needs. Employees must request vacation leave from their respective supervisor and shall be granted vacation leave based upon the continued effective functioning of the Town.

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

### Section 6. Vacation Leave: Use by Probationary Employees

Employees serving a probationary period following initial employment may accumulate vacation leave but shall not be permitted to take vacation leave during the first six months of employment, unless approved in a pre-employment agreement.

### Section 7. Vacation Leave: Accrual Rate

Each full and part-time employee of the Town shall earn vacation at the following schedule, prorated by the average number of hours in the workweek (see Section 16):

Years of Service	Days Accrued Per Year	Hours Per Pay Period for 40-hour week (biweekly pay)	Hours Per Pay Period for LEO on 28 day cycle (biweekly pay)
0-1	11.375	3.50	3.68
2-4	13.8125	4.25	4.46
5-9	17.0625	5.25	5.51
10-14	19.5	6.00	6.30
15-19	22.75	7.00	7.35
20+	26	8.00	8.40

One day for a 40 hour per week employee is 8 hours. One day for a 28-day LEO employee is 8.4 hours.

Employees who work other than the hours described in the preceding sentences 40 hours per week shall have leave accrual pro-rated as described in Section 16 of this Article.

All employees will accrue vacation based on their hire date with the Town unless other agreements are made. Employees that have previous service with the State or other municipalities can have a letter of verification submitted in order to count that service for purposes of vacation accrual.

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

Vacation leave may be accumulated without any applicable maximum until December 31 of each year. However, if the employee departs from service, payment for accumulated vacation leave shall not exceed 240 hours prorated as shown in Section 16. Effective the first payroll in the calendar year, any employee with more than 240 hours of accumulated leave shall have the excess accumulation removed so that only 240 hours are carried forward to January 1 of the next calendar year. Employees are not eligible to receive pay for vacation time not taken.

Employees shall have the excess vacation leave (over 240 hours prorated as shown in Section 16) converted to sick leave.

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

#### **Section 9. Vacation Leave: Manner of Taking**

Employees shall be granted the use of earned vacation leave upon request in advance at those times designated by the Department Head which will least obstruct normal operations of the Town. Department Heads are responsible for insuring that approved vacation leave does not hinder the effectiveness of service delivery. Vacation may be taken in quarter--hour (15 minute) increments.

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

An employee who has successfully completed six months of the probationary period will normally be paid for accumulated vacation leave upon separation not to exceed 240 hours prorated as shown in Section 16, provided notice is given to the supervisor at least two weeks in advance of the effective date of resignation.

Any employee failing to give the notice required by this section shall forfeit payment for accumulated leave. The notice requirement may be waived by the Town Manager when deemed to be in the best interest of the Town. Employees who are involuntarily separated shall receive payment for accumulated vacation leave, subject to the 240 hours maximum prorated as shown in Section 16. Employees dismissed for criminal conduct may be determined ineligible to receive vacation pay.

### **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 may be granted to a probationary or regular employee absent from work for any of the following reasons: sickness, bodily injury, required physical or dental examinations or treatment, or exposure to a contagious disease, when continuing work might jeopardize the health of others.

Sick leave may be used when an employee must care for a member of his or her immediate family who is ill. "Immediate Family" is defined in Article V, Section 5.

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

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

### **Section 13. Sick Leave: Accrual Rate and Accumulation**

Sick leave is accrued on the first day of the month. Sick leave shall accrue at a rate of one 8-hour day per month of service or twelve days (96 hours) per year. LEOs on 28-day work schedules accrue sick leave at a rate of 8.4 hours per month of service or 100.8 hours per year. Sick leave for full-time and part-time employees working other than the basic work schedule shall be prorated as described in this Article. Sick leave will be cumulative for an indefinite period of time and may be converted upon retirement for service credit consistent with the provisions of the North Carolina Local Government Employees' Retirement System.

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

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

The Town will accept sick leave balances when documented by a previous employer when the employee worked for a previous employer covered by the State or Local Government Retirement System and the employee did not withdraw accumulated contributions from that employer when leaving employment. The sick leave will be treated as though it were earned with the Town of Butner. The sick leave amount must be certified by the previous employer and it is the employee's responsibility to provide documentation from his or her previous employer within three (3) months of employment. Transferred sick leave will be credited to the employee upon completion of the probationary period.

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

The employee's supervisor or Department Head may require a physician's certificate stating the employee's capacity to resume duties for each occasion on which an employee uses sick leave or whenever the supervisor



observes a "pattern of absenteeism." The employee may be required to submit to such medical examination or inquiry as the Department Head deems desirable. The Department Head shall be responsible for the application of this provision to the end that:

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

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

### **Section 16. Leave Pro-rated**

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

1. The number of hours worked by such employees shall be divided by the number of hours in the basic work week (usually 40 hours).
2. The proportion obtained in step 1 shall be multiplied by the number of hours of leave earned annually by employees working the basic work week.
3. The number of hours in step 2 divided by 12 shall be the number of hours of leave earned monthly by the employees concerned, or divided by 26 for the number of hours of leave earned biweekly.

### **Section 17. Funeral Leave**

An employee who has a death in the Immediate Family (as defined in Article V, Section 5) is eligible for up to 3 days of paid funeral leave. Any additional time needed or for deaths that are not covered by the Immediate Family designation, vacation leave or accrued compensatory time may be taken. Funeral leave pay cannot duplicate any other compensation of the same time period. The Town may request documentation for this leave whenever there is a pattern of absenteeism demonstrated by the employee or for other reasons as needed.

### **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 Short-term Disability, Vacation, Compensatory Time and Sick Leave policies), unpaid, or a combination of paid and unpaid. 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.

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.

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

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

An employee that wishes to take leave for the birth of a child may use paid sick, vacation, or compensatory leave for the duration of the 12-week FMLA period, based on medical certification.

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

1. Deployment of service member with notice of seven or fewer days.
2. Military ceremonies and events such as family-assistance or informational programs related to the family member’s active duty or call to active duty.
3. Urgent, immediate childcare or arranging for alternative childcare for the children of service members.
4. Attending school or daycare meetings relating to the child of service member.
5. Making financial or legal arrangements related to a family member’s active duty status or call to active duty.
6. Post-deployment activities for a period of ninety days after the termination of the service member’s active duty status.

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

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

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

### **Section 19. Medical and Family Leave - Certification**

In order to qualify for leave under FMLA, 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 and its expected duration. For the employee's own health condition, it should state that the employee is unable to perform the essential functions of his/her position. For a seriously ill family member, the certification must include a statement that the patient requires assistance and the employee's presence would be beneficial or desirable.

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

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

The Town may also designate that sick leave taken counts toward an employee's FMLA leave. Department heads should notify the Human Resources Officers whenever an employee is out on sick leave three or more days for administration of this provision.

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

A full or part-time employee may be granted a leave of absence without pay for a period of up to twelve months by the Town Manager. The leave may be used for reasons of personal disability, sickness or disability of immediate family members, parental leave, continuation of education, special work that will permit the Town to benefit by the experience gained or the work performed, or for other reasons deemed justified by the Town Manager.

The employee shall apply in writing to the supervisor for leave. The employee is obligated to return to duty within or at the end of the time determined appropriate by the Town Manager. Upon returning to duty after being on leave without pay, the employee shall be entitled to return to the same position held at the time leave was granted or to one of like classification, seniority, and pay. If the employee decides not to return to work, the supervisor shall be notified immediately. Failure to report at the expiration of a leave of absence, unless an extension has been requested, shall be considered a resignation.

### **Section 21. Family Medical Leave and Leave without Pay: Retention and Continuation of Benefits**

When an employee is on leave under FMLA (maximum of 12 weeks in a year), the Town will continue the employee's health benefits during the leave period at the same level and under the same conditions as if the

employee had continued to work. If an employee chooses not to return to work for reasons other than a continued serious health condition, the Town will require the reimbursement of the amount paid for the employee's health insurance premium during the FMLA leave period.

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

An employee shall retain all unused vacation and sick leave while on Leave Without Pay. An employee ceases to earn leave credits on the date leave without pay begins. The employee may continue to be eligible for benefits under the Town's group insurance plans at his or her own expense, subject to any regulation adopted by the Town Council and the regulations of the insurance carrier.

### **Section 22. Workers' Compensation Leave**

An employee absent from duty because of sickness or disability covered by the North Carolina Workers' Compensation Act may elect to use accrued sick leave, vacation, or compensatory time during the first waiting period. The employee may also elect to supplement workers' compensation payments after they begin with sick leave, vacation, or compensatory time, provided that the combination of leave supplement and workers' compensation payments does not exceed normal compensation.

An employee on workers' compensation leave may be permitted to continue to be eligible for benefits under the Town's group insurance plans. Other insurance and payroll deductions are the responsibility of the employee and the employee must make those payments for continued coverage of that benefit.

When workers' compensation leave extends long enough for the waiting period to be reimbursed, the employee shall return the reimbursement check to the Town and have leave hours reinstated for all time covered by paid leave. In such cases, the Town will pay the employee for any unpaid time that is owed the employee.

### **Section 23. Military Leave**

The Town complies with the guidelines of the Uniform Services Employment and Reemployment Rights Act of 1994 (USERRA) and related federal regulations. Employees who are eligible for USERRA leave as defined in this section have all job rights specified by the Uniform Services Employment and Reemployment Rights Act.

For the purposes of USERRA, covered employees are the following:

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

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

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

### **Military Training**

In addition to complying with the requirements of USERRA, the Town provides additional benefits for Military training. Regular employees who are members of an Armed Forces Reserve organization or National Guard shall be granted ten workdays per year for military leave with pay. On rare occasions due to annual training being scheduled on a federal fiscal year basis, an employee may be required to attend two periods of training in one calendar year. For this purpose only, an employee shall be granted an additional ten days of military leave during the same calendar year. If such duty is required beyond the additional ten workdays, the employee will 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 military training leave, the employee's leave credits and other benefits shall continue to accrue as if the employee physically remained with the Town during this period. Employees who are eligible for military leave have all job rights specified by the Uniform Services Employment and Reemployment Rights Act.

Employees performing military 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 military duty is less than 31 days will have their health insurance coverage paid as if they were at work with the Town.

### **Section 24. Reinstatement Following Military Service**

An employee who volunteers or is called to USERRA duty 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. For military leaves, a military discharge form "DD 214" with an honorable or general discharge must be submitted with the notification of intent to return to work.

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

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

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

The Human Resources Officer will check Department of Labor Regulations for individual issues related to reinstatement of veterans.

## **Section 25. Civil Leave**

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

## **Section 26. Parental School Leave**

A Town employee who is a parent, guardian, or person standing in loco parentis (in place of the parent) may take up to four hours of unpaid leave annually to involve him or herself in school activities of his or her child(ren). The leave covers children in day care through high school. 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 may require the employee to request the leave in writing at least 48 hours prior to the time of the desired leave; and,
- c) the Town may require written verification from the child's school that the employee was involved at the school during the leave time.

Paid leave (vacation time) taken by an employee to attend to school activities of his or her child shall count toward the fulfillment of this provision by the Town.

## **Section 27. Adverse Weather and Emergency Conditions Policy**

The Town has responsibility for providing emergency services. Adequate staff are required to operate these critical services seven days per week and 24 hours per day in all weather. The Town Manager, upon recommendation of department heads, should designate which staff are in critical positions required to report to work regardless of weather or other hazardous conditions.

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

- a) always maintain adequate staffing of emergency services;
- b) provide for as much safety as possible for all employees in traveling to and from work in hazardous conditions.

Town offices and departments shall remain open for the full scheduled working day unless authorization for closing or other deviation is received from the Town Manager's office. The Town Manager will consider the hazard of driving conditions and other relevant factors in determining whether to close Town offices. If Town offices are closed due to adverse weather, non-critical personnel will receive paid time off for work hours missed due to the closing, for a maximum of 2 workdays per year. If town offices are closed for more than 2 workdays per year, non-critical staff may use vacation, earned compensatory time, or time without pay for the un-worked hours. They may also make up the lost hours if it is within the same pay period.

Employees in non-critical positions who leave work before an official early closing time, as well as employees who report for work late or do not report for work at all because of hazardous conditions when the Town offices are open may use earned vacation or compensatory leave for days or hours not worked. Employees in designated critical positions may be subject to disciplinary action for failure to report to work as required.

## **Section 28. Shared Leave**

Employees can share their personal vacation or sick time with fellow employees under situations in which the receiver is on Family and Medical Leave (FMLA) and has exhausted all their comp time, sick time and vacation time and is still not able to return to work.

As active, permanent employees are out of work due to approved FMLA, and other employees wish to share from their personal account of vacation or sick time, they may do it under the following conditions:

1. The donor must have 40 hours left in each of their accounts after the gift.
2. The beneficiary must not be on leave for a Worker's Compensation injury.
3. The beneficiary must not solicit fellow employees but may make Human Resources aware of their need. Human Resources will make the employee's need known in as discreet a manner as possible and such notification will not name the employee.
4. The rate will be paid at the rate of the beneficiary.
5. Leave must be donated in 4-hour increments.

As any active, permanent employee has exhausted their entire balance of comp time, sick time, and vacation time, they may make their need known to Human Resources. The gifts will be anonymous to the beneficiary.

An employee out on concurrent Short-Term Disability and FMLA, can receive shared leave donations for pay that is not covered by STD.

The number of hours of leave an employee can receive is equal to the projected recovery or treatment period, less the employee's combined leave balances as of the beginning of the recovery or treatment period.

An employee may retain up to 40 hours (pro-rated for part-time employees) of unused donated leave. These hours shall be moved from the employee's shared leave bank and placed in the employee's vacation leave bank. Any additional unused donated leave shall be returned to the donors on a pro-rata basis and placed in the leave banks from which they had been taken originally. Fractions of one hour will not be returned to donors and will be retained in a pooled leave bank.

## 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 notice is waived upon recommendation of the Department Head and approval by the Town Manager.

Three consecutive days of absence without contacting the immediate supervisor or Department Head may be considered to be a voluntary resignation. Sick leave will only be approved during the final two weeks of a notice with a physician's certification or comparable documentation. Vacation may be granted during the final two weeks if business needs allow; however, the employee must be present on their last day of work.

### Section 3. Reduction in Force

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

### Section 4. Disability

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 provision of the North Carolina Local Government Employee's Retirement System may elect to retire and receive all benefits earned under the retirement plan.



**Section 6. Death**

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

**Section 7. Dismissal**

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

**Section 8. Reinstatement**

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

**Section 9. Rehiring**

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

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

### **Section 1. Disciplinary Action for Unsatisfactory Job Performance**

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

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

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

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

1. Demonstrated inefficiency, negligence, or incompetence in the performance of duties.
2. Careless, negligent, or improper use of Town property or equipment.
3. Physical or mental incapacity to perform duties after reasonable accommodation.
4. Discourteous treatment of the public or other employees.
5. Absence without approved leave.
6. Improper use of leave privileges.
7. Failure to report for duty at the assigned time and place.
8. Failure to complete work within time frames established in work plan or work standards.
9. Failure to meet work standards over a period of time.
10. Failure to follow the chain of command to address work-related issues.
11. Failure to maintain certifications as 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. The warnings given should include notice to the employee that failure to make timely corrections may result in disciplinary action including suspension, demotion or dismissal from employment. If the employee's performance continues to be unsatisfactory, then the supervisor should use the following steps:

1. A final written warning from the supervisor serving notice upon the employee that corrected performance must take place immediately in order to avoid suspension, demotion, or dismissal.
2. If performance does not improve, a written recommendation should be sent to the 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 nonexempt employees. Suspensions for exempt employees shall be for one full work week in accordance with FLSA requirements to maintain exempt status.

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

If after suspension or demotion, the employee's performance does not reach an acceptable level, the employee may be dismissed.

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

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

With the approval of the Town Manager, an employee may be placed on disciplinary suspension, demoted, or dismissed without prior warning for causes relating to personal conduct detrimental to Town service in order to 1) avoid undue disruption of work, 2) to protect the safety of persons or property, or 3) for other serious reasons.

#### **Section 5. Detrimental Personal Conduct Defined**

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

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

1. Fraud or theft.
2. Conviction of a felony or the entry of a plea of nolo contendere thereto.

3. Falsification of records for personal profit, to grant special privileges, or to obtain employment.
4. Willful misuse or gross negligence in the handling of Town funds or personal use of equipment or supplies.
5. Willful or wanton damage or destruction to property.
6. Willful or wanton acts that endanger the lives and property of others.
7. Possession of unauthorized firearms or other lethal weapons on the job.
8. Brutality in the performance of duties.
9. Reporting to work under the influence of alcohol or drugs or partaking of such while on duty. Prescribed medication may be taken within the limits set by a physician as long as medically necessary.
10. Engaging in incompatible employment or serving a conflicting interest.
11. Request or acceptance of gifts in exchange for favors or influence.
12. Engaging in political activity prohibited by this Policy.
13. Harassment of an employee(s) and/or the public on the basis of sex or any other protected class status;
14. Harassment of an employee or the public with threatening or obscene language and/or gestures; or
15. Stated refusal to perform assigned duties, flagrant violation of work rules and regulations, or serious malfeasance of work.

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

Before dismissal action is taken, whether for failure in personal conduct or failure in performance of duties, the Town Manager, Human Resources Officer, or Department Head will conduct a pre-dismissal conference. At this conference, the employee may present any response to the proposed dismissal to the Town Manager or Department Head. The Town Manager or Department Head will consider the employee's response, if any, to the proposed dismissal, and will, within three working days following the pre-dismissal conference, notify the employee in writing of the final decision. If the employee is dismissed, the notice shall contain a statement of the reasons for the action and the employee's appeal rights.

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

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

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

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

#### **Section 8. Report of Convictions/Charges**

Employees failing to report convictions/charges within 3 days may be subject to disciplinary action up to and including termination. Convictions/charges reported shall be evaluated in terms of the nature of the essential job functions as compared to the convictions/charges so to determine the possibility of continued employment, suspension, or 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.

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

### **Section 2. Grievance Defined**

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

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

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

1. providing employees with a procedure by which their complaints can be considered promptly, fairly, and without reprisal;
2. encouraging employees to express themselves about the conditions of work which affect them as employees;
3. promoting better understanding of policies, practices, and procedures which affect employees;
4. increasing employees' confidence that personnel actions taken are in accordance with established, fair, and uniform policies and procedures;
5. increasing the sense of responsibility exercised by supervisors in dealing with their employees;
6. encouraging conflicts to be resolved between employees and supervisors who must maintain an effective future working relationship, and therefore, encouraging conflicts to be resolved at the lowest level possible of the chain of command; and,
7. creating a work environment free of continuing conflicts, disagreements, and negative feelings about the Town or its leaders, thus freeing up employee motivation, productivity, and creativity.

### **Section 4. Procedure**

When an employee has a grievance, the following successive steps are to be taken, unless otherwise provided. The number of calendar days indicated for each step should be considered the maximum, unless otherwise provided, and every effort should be made to expedite the process. However, the time limits set forth may be extended by mutual consent. The last step initiated by an employee shall be considered to be the step at which the grievance is resolved. A Department Head's decision to rescind a disciplinary suspension or demotion 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 Human Resources Officer or the respective Department Head as a resource to help resolve the grievance. In addition, the employee or supervisor may request mediation from a local mediation services or other qualified parties to resolve the conflict, upon approval of the Human Resources Officer. Mediation may be used at any step in the process when mutually agreed upon by the employee and relevant Town supervisor or Manager. Mediation is the process where a neutral party assists the parties in conflict with identifying mutually agreeable solutions or understandings.

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

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

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

**Step 3.** If the grievance is not resolved to the satisfaction of the employee at the end of Step 2, the employee may appeal, in writing, to the Town Manager within ten calendar days after receipt of the response from Step 3. The Town Manager shall respond to the appeal, stating the determination of decision within ten calendar days after receipt of the appeal. The Town Manager's decision shall be the final decision. The Town Manager would notify the Town Board of any impending legal action.

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

1. provide mediation between the grieving department head and the Town Manager (see definition of mediation in "informal resolution" above); or,
2. consider an appeal and make recommendations back to the Town Manager concerning the appeal. Such parties might consist of human resource professionals, attorneys trained in mediation, professional mediators, or other parties appropriate to the situation.

The Town Manager's decision shall be the final decision. The Town Manager would 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:

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

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

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

When an employee, former employee, or applicant, believes that any employment action discriminates illegally (i.e. is based on age, sex, race, color, national origin, religion, creed, political affiliation, marital status, sexual orientation, gender identity, or genetic information, any other personal characteristic protected by law or non-job related handicap), he or she has the right to appeal such action using the grievance procedure outlined in this Article (Section 4 above). While such persons are encouraged to use the grievance procedure, they shall also have the right to appeal directly to the Human Resources Officer or Town Manager. Employment actions subject to appeal because of discrimination include promotion, training, classification, pay, disciplinary action, transfer, layoff, failure to hire, or termination of employment. An employee or applicant should appeal an alleged act of discrimination within thirty calendar days of the alleged discriminatory action, but may appeal for up to six months following the action.



## ARTICLE XI. RECORDS AND REPORTS

### Section 1. Public Information

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

1. Name.
2. Age.
3. Date of original employment or appointment to the service.
4. The terms of any contract by which the employee is employed whether written or oral, past and current, to the extent that the Town has the written contract or a record of the oral contract in its possession.
5. Current position title.
6. Current salary.
7. Date and amount of each increase or decrease in salary with the Town.
8. Date and type of each promotion, demotion, transfer, suspension, separation, or other change in position classification with the Town.
9. Date and general description of the reasons for each promotion with the Town.
10. Date and type of each dismissal, suspension, or demotion for disciplinary reasons taken by the municipality. If the disciplinary action was a dismissal, a copy of the written notice of the final decision of the municipality setting forth the specific acts or omissions that are the basis of the dismissal.
11. The office to which the employee is currently assigned.

Any person may have access to this information for the purpose of inspection, examination, and copying, during regular business hours, subject only to such rules and regulations for the safekeeping of public records as the Town may adopt.

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

### Section 2. Access to Confidential Records

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

1. The employee or his/her duly authorized agent may examine all portions of his/her personnel file, except letters of reference solicited prior to employment, and information concerning a medical disability, mental or physical, that a prudent physician would not divulge to the patient.
2. A licensed physician designated in writing by the employee may examine the employee's medical record.
3. A Town employee having supervisory authority over the employee may examine all material in the employee's personnel file.
4. By order of a court of competent jurisdiction, any person may examine all material in the employee's personnel file.

5. An official of an agency of the State or Federal Government, or any political subdivision of the State, may inspect any portion of a personnel file when such inspection is deemed by the Town Manager to be necessary and essential to the pursuit of a proper function of the inspecting agency, but no information shall be divulged for the purpose of assisting in a criminal prosecution of the employee or for the purpose of assisting in an investigation of the employee's tax liability. However, the official having custody of the personnel records may release the name, address, and telephone number from a personnel file for the purpose of assisting in a criminal investigation.
6. An employee may sign a written release to be placed in his/her personnel file that permits the record custodian to provide, either in person, by telephone, or by mail, information specified in the release to prospective employers, educational institutions, or other persons specified in the release.
7. The Town Manager, with the concurrence of the Town 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.

### **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 and insurance records, 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. The employee may seek removal of such material in accordance with established grievance procedures.

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

Section 160A-168 of the General Statutes provides that any public official or employee who knowingly and willfully permits any person to have access to any confidential information contained in an employee

personnel file, except as expressly authorized by the designated custodian, is guilty of a misdemeanor and upon conviction shall be fined in an amount consistent with the General Statutes.

#### **Section 7. Examining 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 GS 121.5, without the consent of the State Department of Cultural Resources. Whoever unlawfully removes a public record from the office where it is usually kept, or whoever, alters, defaces, mutilates, or destroys it will be guilty of a misdemeanor and upon conviction will be fined in an amount provided in Policy 132.3 of the General Statutes.