

**TOWN OF NASHVILLE
PERSONNEL POLICY**

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

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This Personnel Policy is effective May 5, 2020.

ARTICLE I. GENERAL PROVISIONS

Section 1. Purpose of the Policy

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

Section 2. At Will Employment

The employment relationship between the Town and the employee is terminable at the will of either at any time, with or without cause, and with or without notice. No employee, officer or representative of the Town has any authority to enter into any agreement or representation, verbally or in writing, which alters, amends or contradicts this provision or the provisions in these policies.

None of the benefits or policies set forth in these policies are intended, because of their publication, to confer any rights or privileges upon employees or to entitle them to be or remain employed by the Town. The contents of this document are presented as a matter of information only.

This personnel policy is not a binding contract, but merely a set of guidelines for the implementation of personnel policies. The Town explicitly reserves the right to modify any of the provisions of these policies at any time and without any notice to employees.

Notwithstanding any of the provisions within these policies, employment may be terminated at any time, either by the employee or by the Town, with or without cause, and without advance notice.

Section 3. Merit Principle

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

Section 4. Responsibilities of the Town Council

The Town Council shall be responsible for establishing and approving personnel policies, the position classification and pay plan, and may change the policies and benefits as necessary. They also shall make and confirm appointments when so specified by the 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 rules and revisions to the personnel system to the Town Council for consideration;
- b) Making changes as necessary to maintain an up to date and accurate position classification plan;
- c) Preparing and recommending necessary revisions to the pay plan;
- d) Determining which employees shall be subject to the overtime provisions of 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 Director.

Section 6. Responsibilities of the Human Resources Director

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

- a) Recommending rules 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) Periodically investigating the operation and effect of the personnel provisions of this Policy; and
- j) Performing such other duties as may be assigned by the Town Manager not inconsistent with this Policy.

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

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 8. Departmental Rules and Regulations

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

Section 9. 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 30 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 30 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 20 hours, or continuous employment required by the Town is less than 12 months.

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

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 is intended to provide a complete inventory of all authorized and permanent positions in the Town, an accurate description of each class of employment, and standardized job titles.

Section 2. Composition of the Position Classification Plan

The classification plan shall consist of:

- 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) Descriptions 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 as a guide in:

- a) Recruiting and examining applicants for employment;
- b) Determining lines of promotion and in developing employee training programs;
- c) Determining salaries for various types of work;
- d) Determining personnel costs in departmental budgets; and
- e) Providing uniform job terminology.

Section 4. Administration of the Position Classification Plan

The Human Resources Director 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 Director 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 Director. Copies will be available to all Town employees for review upon request.

Section 6. Request for Position Reevaluation/Reclassification

Small changes in job duties do not necessitate reevaluation of a position. However, significant shifts in the work or how the work is performed do indicate a need for a position review and possible reclassification of a position.

Any employee who believes his/her job has changed or considers the position in which he/she is classified to be incorrect shall submit a request in writing for review to his/her immediate supervisor, who shall immediately transmit the request through the Department Head to the Human Resources Director. Upon receipt of such request, the Human Resources Director shall study the request, determine if a reclassification change may be in order, and recommend any necessary revisions to the classification and pay plan to the Town Manager. The decision of the Town Manager shall be final.

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 or beginning, 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 Director, shall be responsible for the administration and maintenance of the pay plan. All employees covered by the pay plan shall be paid at a rate listed within the salary range established for their 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 designed and intended to provide equitable compensation for all positions, reflecting differences in duties and responsibilities, changes in the cost of living, the financial condition of the Town, and other factors. The Town Manager, or the Human Resources Director, as directed by the Town Manager, may study the Pay Plan and recommend to the Town Council such changes as may be appropriate. Those changes may increase or decrease salary ranges or grades for a class and the rate of pay for employees in the class.

Section 3. Starting Salaries

A new employee shall normally be paid the Hiring Rate salary for their position classification; however, exceptionally qualified applicants may be employed at a starting salary above the Hiring Rate salary of the established salary range, but only with written justification from the Department Head and approval by the Town Manager.

Section 4. Salaries of Supervisory Personnel and Department Heads

Nothing herein shall limit the authority of the Town Manager to extend such employment benefits, including salary, to supervisory personnel and Department Heads, as the Town Manager may deem necessary for the recruitment and retention of qualified personnel to supervisory and leadership positions.

Section 5. Trainee Designation and Provisions

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

"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, "trainee" status will be discontinued, and the employee shall be paid at least at the hiring rate established for the position for which the employee was trained.

Section 6. 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 and upon six months of successfully completed service if the employee is not on probation. Employees serving a twelve-month probationary period may be considered for this increase after six months of employment. Employees hired or promoted at or above the minimum of the salary range are not eligible for a probationary increase.

Section 7. Merit Pay and Performance Evaluations

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.

Supervisors or department heads shall conduct performance evaluation conferences with every employee at least once a year. Each employee shall be evaluated in all areas designated by the Human Resources Director, as well as in any areas established by the Department Head or Town Manager. Performance evaluations shall be documented in writing and placed in the employee's personnel file.

Section 8. Merit 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 9. Salary Effect of Promotions, Demotions, Transfers, and Reclassifications

- a) **Interim Promotion.** Interim promotional increases may be approved by the Town Manager when an employee is anticipated to be in an "acting" capacity assuming the majority of the position's responsibilities for greater than 60 days. 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. Upon completion of the interim assignment, the employee's salary will revert to the salary that it would have been had the acting increase not occurred.
- b) **Promotion.** Promotion is the movement of an employee from one position in a class assigned to one salary range to a vacant position in a class assigned to a higher salary range. The purpose of the promotional 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. In the event of highly skilled and qualified employees, shortage of qualified applicants, or other reasons related to the merit principle of employment, the Town Manager may set the salary at an appropriate rate in the range of the position to which the employee is promoted that best reflects the employee's qualifications for the job and relative worth to the Town, taking into account the range of the position and relative qualifications of other employees in the same classification. In no event, however, shall the new salary exceed the maximum rate of the new salary range. In setting the promotion salary, the Town shall consider internal comparisons with other employees in the same or similar jobs.

- c) **Demotion.** Demotion is the movement of an employee from one position to a position in a class assigned to a lower salary range. When an employee is demoted to a position for which qualified, the salary shall be set at the rate in the lower pay range which provides a salary commensurate with the employees' qualifications to perform the job and consistent with the placement of other employees within the same classification in that salary range. If the current salary is within the new range, the employee's salary may be retained at the previous rate if appropriate. If the demotion is the result of discipline, the salary shall be decreased at least 5%. Salaries of demoted employees may be no greater than the maximum of the new range.
- d) **Transfers.** Transfer is the movement of an employee from a position in one salary grade to a position in the same salary grade. The salary of an employee reassigned to a new position in the same salary grade shall not be changed by the reassignment. An employee who has successfully completed a probationary period may be transferred into a position with the same classification without serving another probationary period.
 - 1) **Voluntary Transfer.** If a vacancy occurs and an employee is eligible for a transfer to another position, the employee may apply for the transfer using the usual application process.
 - 2) **Involuntary Transfer.** Should a Department Head wish to transfer an employee, the Department Head shall make a request for such transfer to the Human Resources Director, who must give a preliminary approval for the transfer. If there is preliminary approval, the Department Head then must request approval for the transfer from the Town Manager, and if the Town Manager approves the transfer, the Department Head must obtain the consent of the receiving Department Head to accept the transfer. Any regular employee transferred without having requested the action may appeal the transfer in accordance with the grievance procedure.
- e) **Reclassifications.** An employee whose position is reclassified to a class having a higher salary range shall receive a pay increase of at least to the minimum of the new pay range if that minimum is higher than the employee's current salary. If the employee has completed probation, the employee's salary shall be advanced to at least the probation completion amount in the new range. If the position is reclassified to a lower pay range, the employee's salary shall remain the same. If the employee's salary is above the maximum established for the new range, the salary of that employee shall be maintained at the current level until the range is increased above the employee's salary.

Section 10. Salary Effect of Salary Range Revisions

When a class of positions is assigned to a higher salary range, employees in that class shall receive a pay increase of at least to the minimum of the hiring rate of the new range. 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 11. Transition to a New Salary Plan

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

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

Section 12. Effective Date of Salary Changes

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

Section 13. Overtime Pay Provisions

Employees of the Town can be requested and may be required to work in excess of their regularly scheduled hours as necessitated by the needs of the Town and determined by the Department Head. Overtime work should be approved in advance by the Department Head, Town Manager, or other designee. If the departmental budget for overtime has been exhausted, before requiring an employee to work overtime, except in an emergency situation, the Department Head shall obtain the prior approval of the Town Manager.

To the extent that local government jurisdictions are so required, the Town will comply with the Fair Labor Standards Act (FLSA). The Human Resources Director shall determine which jobs are "non-exempt" and are therefore subject to the Act in areas such as hours of work and work periods, rates of overtime compensation, and other provisions.

Non-exempt employees will be paid at a straight time rate for hours up to the FLSA established limit for their position (usually 40 hours in a 7-day period; 171 hours for police and 212 hours for fire personnel in a 28 day cycle). Hours worked beyond the FLSA established limit will be compensated in either time or pay at the appropriate overtime rate. In determining eligibility for overtime in a work period, only hours actually worked shall be considered; in no event will vacation, sick leave, holiday, compensatory, or other category of leave be included in the computation of hours worked for FLSA purposes. Compensatory leave balances may not exceed 240 hours except for public safety employees (sworn police and firefighting employees) who may not accrue more than 480 hours. Any overtime worked after such maximum balances must be compensated in pay. The Manager

will be notified whenever a compensatory balance exceeds 100 hours.

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. Compensatory time balances may be carried by employees not to exceed 240 hours for regular employees and 480 hours for police and fire employees.

In emergency situations, where employees are required to work long and continuous hours, the Town Manager may approve compensation at time and one half for those hours worked and/or grant time off with pay for rest and recuperation to ensure safe working conditions. In a FEMA declared emergency when extended long hours are required, exempt and nonexempt employees may be determined to be eligible for overtime compensation at a rate not to exceed double time at the authorization of the Town Manager.

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

Compensatory time must be taken before any vacation leave except for employees needing to exhaust vacation leave prior to retirement. If a non-exempt individual's employment terminates before taking accumulated compensatory time, it will be paid in a lump-sum in the final paycheck.

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 action up to and including dismissal by the Town Manager.

- a) **Call-back.** Non-exempt employees will be guaranteed a minimum payment of two hours of compensation 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).
- b) **Stand-by.** Stand-by time is defined as that time when an employee must carry a communication device and must respond immediately to calls for service. Non-exempt employees required to be on "stand-by" duty will be compensated for this time according to a schedule established by the Town Manager. The schedule will be periodically reviewed and adjusted for inflation and changing conditions. Hours actually worked while on stand-by are calculated beginning when the employee reports to the work site and are added to the regular total of hours worked for the week. Standby time requiring an employee to remain at a designated location is considered work time under the provisions of the FLSA. Stand-by schedules require advance approval by the Town Manager.

Section 15. Payroll Deduction

Deductions shall be made from each employee's salary, as required by law. Employees may also request payroll deductions for voluntary payments of additional taxes, contributions to 401(k), contributions to 457(b), non-employer paid insurance premiums, flex spending accounts, and 401(k) loan payments. 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. Payroll Procedure

Pay periods begin on Tuesday at 12:00 a.m. and end on Monday at 11:59 p.m. two weeks later, unless otherwise designated. Pay checks are issued on the first Friday after the end of each pay period, unless otherwise designated due to a bank holiday. Time sheets shall be completed for each employee, signed by the employee, and approved by their supervisor by payroll cutoff times designated by the Finance Department.

Section 17. Direct Deposit

Employees are required to participate in the Town's direct deposit program.

Section 18. 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, such as police officers working an average 42 hours per week and fire personnel working an average of 56 hours per week, will be determined by dividing the average number of hours scheduled per year into the annual salary for the position.

Section 19. 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. 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>
5 - 9	\$ 300
10 - 14	450
15 - 19	600
20 - 25	750
25 plus	900

Years of service are calculated based on hire date as of November 30th of each year. Longevity pay will be issued on the last regular pay period in November or the first pay period of December. Appropriate federal state, retirement, etc. deductions will be made.

Section 20. Certification Pay

Employees may receive certification pay according to procedures developed by the Town Manager.

Section 21. Final Pay Upon Termination of Employment

When an employee leaves Town employment, final pay includes actual hours worked during the last payroll period, unused annual leave hours (subject to maximum accumulated number of leave hours guidelines), and accumulated compensatory time (for non-exempt employees only) and holiday hours. Final pay will also include reductions made for debts and obligations due the Town, including but not limited to such as payment for keys, work gear, equipment and uniforms signed for and not returned before the end of the final pay period. Final pay is paid out on the next regularly-scheduled pay date following termination.

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 shall give equal opportunity for employment and compensation, including opportunities for training, advancement, and promotion without regard to age, sex, gender identity, sexual orientation, race, color, religion, creed, national origin, disability, political affiliation, veteran status, or marital status. Qualified applicants with disabilities shall be given equal consideration with other applicants for positions unless their disabilities create an unreasonable barrier to their satisfactory performance of essential duties, and cannot be overcome with reasonable accommodation.

Section 2. Implementation of Equal Employment Opportunity Policy

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

Section 3. Recruitment, Selection and Appointment

Recruitment Sources. When a vacancy occurs, the Department Head shall notify the Human Resources Director concerning the position to be filled and shall take no steps to fill the vacancy until authorized by the Human Resources Director. The Human Resources Director may publicize any job opening, including applicable salary information and employment qualifications, by providing the job opening information to recruitment sources, news media, the Town of Nashville website, the North Carolina Employment Security Commission, and any other places which may assist in attracting qualified applicants. Notice of any vacancy shall also be posted at designated sites within each department. Individuals shall be recruited from a geographic area as wide as necessary to ensure the Town receives an adequate number of qualified applicants for each vacancy. In rare situations because of emergency conditions, high turnover, etc., the Town may hire or promote without advertising jobs upon the approval of the Town Manager.

Job Advertisements. Employment advertisements shall contain assurances of equal employment opportunity and shall comply with Federal and State statutes.

Application for Employment. All persons expressing interest in employment with the Town shall be given the opportunity to file an application for employment for positions which are vacant. An applicant for employment must provide all information requested by the Town, including references, or will not be considered for the position.

Application Reserve File. Applications shall be kept in an inactive reserve file for a period of two years, in accordance with the North Carolina Department of Cultural Resources Municipal Records and Retention and Disposition Schedule.

Selection and Appointment. Department Heads, with the assistance of the Human Resources Director, shall make such investigations and conduct such examinations as necessary to assess accurately the knowledge, skills, and experience qualifications required for the position, including criminal history where job-related using the DCI when needed. All selection devices administered by the Town shall be valid measures of job performance. Before any commitment is made to an applicant either internal or external, the Department Head shall make recommendations to the Human Resources Director including the position to be filled, the salary to be paid, and the reasons for selecting the candidate over other candidates. The Human Resources Director and Department Head shall recommend approval of appointments and the starting salary for all applicants to the Town Manager.

The Town Manager shall make the final hiring decision and determine the starting salary. Hiring factors may include but are not limited to the following: the written recommendation of the relevant department head; the requirements and demands of the position, including, where appropriate, the skills needed to interact with the public; and the relevant and comparative qualifications of the applicants, including past work experience and performance, educational background, and suitability for the position. Should the Town Manager, at any time before a position is filled, determine that the position should not be filled at that time, the Town Manager may suspend or discontinue the hiring process. In such event, all applicants shall be notified that the hiring process has been suspended or discontinued. Neither the advertising of a position, the acceptance of applications for a position, nor any steps taken to fill a position, including the extension of an offer of employment to an applicant, shall create any contractual rights between the Town and any applicant, nor shall any action related to the recruitment or selection of employees create in any person a property interest in any position.

All offers of employment are conditional and shall only become final following a successful background investigation, reference check and pre-employment alcohol and controlled substance screening. Failure to submit to a pre-employment alcohol and controlled substance screening shall be considered a withdrawal by the applicant of their application.

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 police, entry level fire, 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.

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.

Although we hope that you will be successful, the Town may terminate your employment at any time, either during the probationary period or afterwards, with or without cause and with or without notice. You are also free to resign at any time and for any reason, either during the probationary period or afterwards, with or without notice. Successful completion of your probationary period does not guarantee you a job for any period of time or in any way change the at-will employment relationship.

Section 5. Promotion

Promotion is the movement of an employee from one position to a vacant position in a class assigned to a higher salary range. It is the Town's policy to create career opportunities for its employees whenever possible. Therefore, when a current employee applying for a vacant position is best suited of all applicants, that applicant shall be appointed to that position. The Town will balance three goals in the employment process: 1) the benefits to employees and the organization of promotion from within; 2) providing equal employment opportunity and a diversified workforce to the community; and 3) obtaining the best possible employee who will provide the most productivity in that position. Therefore, except in rare situations where previous Town experience is essential (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 on the basis of their qualifications and their work records. Internal candidates shall apply for promotions using the same application process as external candidates.

Section 6. Demotion

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

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

Section 7. Transfer

Transfer is the movement of an employee from one position to a position in a class in the same salary range. If a vacancy occurs and an employee in another department is eligible for a transfer, the employee shall apply for the transfer using the usual application process. The Department Head wishing to transfer an employee to a different department or classification shall make a recommendation through the Human Resources Director 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, non-partisan or political nature, may attend political meetings, may advocate and support the principles or policies of civic or political organizations and run for or hold a nonpartisan position 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 political 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) While on duty or in the workplace, solicit contributions from another employee of the Town for political or partisan purposes; or at any time coerce or compel contributions from another employee of the Town for political or partisan purposes;
- e) Use any funds, supplies or equipment of the Town for political or partisan purposes, except where such political uses are otherwise permitted by law; or
- f) Make preparations to be, be a candidate for, or hold any elective office of the Town of Nashville.

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. Before accepting outside employment, each employee must report all outside employment for salaries, wages, or commissions and all self-employment to the employee's supervisor, who in turn will report it to the Department Head. The Department Head will review such employment for possible conflict of interest and decide whether to approve the outside employment. Outside employment will not be approved if it involves an actual conflict of interest, a potential conflict of interest, or the appearance of a conflict of interest. Outside employment will not be approved if it might cast the Town in a negative light. Impermissible conflicts include, but are not limited to:

- a) Working for an employer who is in conflict with the Town or could likely come into conflict with the Town;

- b) Working in a position that creates potential liability against the Town;
- c) Working in a capacity which could affect the decisions of the employee in the normal course of their duties, or the decisions of other Town employees in the conduct of their duties, or which gives the appearance of such influence.

Engaging in conflicting or unreported outside employment may subject the employee to disciplinary action up to and including dismissal. Documentation of the approval of outside employment will be placed in the employee's personnel file.

Section 4. Employment of Relatives

The employment of relatives can cause various problems including but not limited to charges of favoritism, conflict of interest or perceived conflicts of interest, family discord, and scheduling conflicts that may work to the disadvantage of both the employer and employees.

For purposes of this section, a "relative" refers to any of the following: spouse; members of the same household (co-habitants); blood relatives, step-family and in-laws to the second degree of consanguinity by blood or affinity (including half-siblings, immediate step-family, immediate in-laws, grandparents, siblings, nieces and nephews, uncles and aunts, first cousins, parents and grandparents); or a person with whom the individual is in an intimate relationship.

The Town prohibits the hiring and employment of a relative in full or part-time positions within the same work unit. Otherwise, the Town may employ the relative of a current Town employee, provided that the individual meets the appropriate standards for the position to be filled and provided the individual will not be in the chain of supervision of a relative. Employment will be denied under the following circumstances:

- a) Where one family member would have the authority or practical power to supervise, appoint, remove, or discipline another; or
- b) Where one family member would be responsible for auditing the work of another; or
- c) Where other circumstances exist which would place family members in a situation of actual or reasonably foreseeable conflict as between the Town's interest and their own.

Failure to advise the Town of the existence of one of these circumstances may result in a withdrawal of an offer of employment or discharge from employment.

This provision shall not apply retroactively to anyone employed when the provision is adopted by the Town, nor to employees working in a temporary or seasonal position. Should an immediate family member of a Town employee be elected to the Council, the employee shall resign within six months.

Section 5. Harassment Prohibited

The Town will not tolerate any employee engaging in an activity which may serve to create a hostile work environment for others or be unlawful. Further, the Town will not tolerate any form of employment discrimination or harassment in any form, and prohibits conduct which illegally discriminates or harasses on the basis of age, sex, gender identity, sexual orientation, race, color, religion, creed, national origin, disability, political affiliation, veteran status, marital status or any other reason prohibited by law.

Illegal discrimination or harassment may take a variety of forms, and supervisory personnel and Department Heads should, if they have any doubt about whether particular conduct constitutes illegal discrimination or harassment, therefore err in favor of reporting such conduct to the Human Resources Director and/or the Town Manager. Any supervisor who is or becomes aware of any form of workplace harassment must immediately report it to the Human Resources Director or the Town Manager.

By way of example, sexual harassment includes but is not limited to 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. Conduct of a sexual nature or content between a person in a supervisory capacity and a person in a non-supervisory capacity within the same department shall be conclusively presumed to be improper harassment. Conduct of a sexual nature or content between a person in a supervisory capacity and a person in a nonsupervisory capacity within a different department shall be highly suspicious for improper harassment. Conduct of a sexual nature or content between two employees in nonsupervisory capacities or two employees in supervisory capacities will be closely scrutinized for evidence of improper harassment.

Other examples of harassment include displaying or using objects or pictures which adversely reflect on a person's age, sex, gender identity, sexual orientation, race, color, religion, creed, national origin, disability, political affiliation, veteran status, or marital status or use of language which is offensive due to a person's age, sex, gender identity, sexual orientation, race, color, religion, creed, national origin, disability, political affiliation, veteran status, or marital status. Harassment by any employee in any form is considered unsatisfactory job performance and is subject to immediate disciplinary action, up to and including dismissal.

Any employee asserting illegal discrimination or harassment may report it to their supervisor following standard grievance procedures or may file a complaint directly with the Human Resources Director or the Town Manager. It is crucial that employees report any harassment or discrimination to which they are subjected or of which they become aware. While the Town is committed to a workplace free of harassment and discrimination, the Town cannot ensure such a workplace unless employees do their part to report misconduct.

The Town Manager, through the Human Resources Director, shall investigate any allegation of illegal discrimination or harassment and take whatever action the Town Manager deems appropriate and necessary, up to and including dismissal of any employee engaging in illegal harassment and of any supervisor failing to properly report such conduct.

The Town prohibits retaliation of any kind against an employee who reports discrimination or harassment or participates in an investigation of such reports. Violations of this policy are a serious violation and will be subject to disciplinary action, up to and including dismissal.

Section 6. Workplace Violence Prohibited

Acts or threats of violence include, but are not limited to, conduct against persons or property that is sufficiently severe, offensive, or intimidating to alter the employment conditions at the Town, or to create a hostile, abusive, or intimidating work environment for one or more employees. Acts or threats of violence shall constitute conduct subjecting an employee to disciplinary action.

The Town will not tolerate:

- a) Threats or acts of violence occurring on Town property, regardless of the relationship between the Town and the parties involved in the incident;
- b) Threats or acts of violence not occurring on Town property, but committed by one employee of the Town of Nashville against another employee of the Town of Nashville, except in self-defense;
- c) Threats or acts of violence, resulting in the criminal conviction of an employee or of an individual performing services on the Town's behalf on a contract or temporary basis, that adversely affect the legitimate interests and goals of the Town.

Conduct that is considered an act or threat of violence includes but is not limited to, the following:

- a) Hitting or shoving an individual;
- b) Threatening to harm an employee or official of the Town or his/her family, friends, associates, or their property;
- c) The intentional destruction or threat of destruction of property;
- d) Making harassing, intimidating or threatening telephone calls, letters or other forms of written or electronic communications;
- e) Intimidating or attempting to coerce an employee to do wrongful acts;
- f) Harassing surveillance, also known as "stalking," the willful, malicious and repeated following of another person and making a threat with intent to place the other person in reasonable fear for their safety;
- g) Stating or suggesting that an act to injure a person(s) or property is "appropriate;"
- h) Inappropriate possession, brandishing or use of firearms, weapons, and objects whose purpose is violent or threatening, including knives, dangerous chemicals, explosives, chains and other objects, when carried, brandished or used for intimidating another, except as necessary for the proper functioning of the police and fire departments, or for purposes of self-defense.

While employees of the Town may be required as a condition of their work assignment to possess firearms, weapons or other dangerous devices, or permitted to carry them as authorized by law, employees must use them only in accordance with departmental operating procedures and all applicable State and Federal laws.

Each employee of the Town is required to report an incident(s) of a threat(s) or act(s) of violence which violate this policy to their supervisor, Department Head, the Director of Human Resources or the Town Manager. Each supervising employee to whom such report is made shall promptly notify the Department Head. Concurrent with the initiation of any investigation leading to a proposed disciplinary action, the Department Head shall report the incidents of threats or acts of physical violence to the Town Manager, the Director of Human Resources and the Nashville Police Department.

In cases where the offending action(s) is perpetrated by a person who is not a Town employee, the employee shall report such incident to the Department Head, who shall concurrently report the incident to the Town Manager and the Town of Nashville Police Department.

Nothing in this policy alters any other reporting obligation established in Town policies or in state, federal or other applicable law.

Section 7. Solicitation and Acceptance of Gifts and Favors

Employees may not accept gifts, money, services, loans, or any other favors from persons, businesses, or organizations that conduct, or seek to conduct, business with the Town. Gifts of food may be accepted if shared with an employee's entire work group.

Section 8. Performance Evaluation

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

Section 9. Safety

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

Section 10. Substance Abuse Policy

The Town of Nashville seeks to protect its employees and the public and to provide employees with a drug-free, healthy, safe, and secure work environment. The Town is committed to developing and administering a fair and consistent policy to promote and maintain a drug-free work environment. Employees who abuse alcohol and/or controlled substances are encouraged and may be required to use the Town's Employee Assistance Program. Conscientious efforts to seek and use such help will not

jeopardize an employee's job. However, failure to seek and use such help may subject the employee to disciplinary procedure including, but not limited to, termination.

Section 11. Confidential Matters

Town employees often have access to private information regarding Town citizens. This information is not to be given out to non-Town staff or discussed outside of work. Employees who fail to hold private information confidential are subject to immediate dismissal.

Section 12. Meal and Rest Breaks

Employees are allowed a paid fifteen (15) minute rest break once a day, subject to supervisor approval and adequate staffing. In addition to break time, all employees are entitled to take an uninterrupted sixty (60) minute meal break, with the exception of fire and police personnel who are required to remain on standby. Meal breaks are generally unpaid unless an employee is required to work or remain at their station during the meal break in which case the employee will be paid, but only with the approval of the Town Manager. Breaks are an opportunity to rest and eat during the workday. For this reason, employees must take their breaks as scheduled, unless they make other arrangements with their supervisor. Rest breaks are not permitted to be taken as the first or last fifteen minutes of an employee's shift.

Section 13. Lactation Breaks

The Town provides reasonable paid break time for an employee to express breast milk for a child for one year after the child's birth each time such employee has need to express the milk. If the employee does not have a private office, the Town will make reasonable efforts to provide a room or other location, excluding a bathroom, (in close proximity to the work area) where the employee can express her milk in privacy. (See Section 4207 Fair Labor Standards Act)

Section 14. Request for Medical Information

An employee may be requested to provide medical documentation or undergo a medical examination by a physician of the Town's choice whenever a question arises as to the physical or psychiatric ability of the employee to safely perform their job. If it is determined that such a condition limits the employee's ability to safely perform their job, the medical information obtained will be used by the Town to determine whether a reasonable accommodation can be made to the employee to enable the employee to safely perform the job.

Section 15. Uniforms and Gear

The Town furnishes uniforms to employees whose work requires uniformity of appearance and identification. Employees are required to maintain a clean and orderly appearance. Town uniforms are not to be worn except when on duty with the Town. Police Officers, when performing police-related work in off-duty hours, may wear their uniforms when approved by the Chief of Police.

Uniforms and gear will be replaced as needed due to normal wear and at no cost to the employee. However, employees will be charged for replacement of uniforms and/or gear that have been lost or willfully damaged by the employee. All employees who are assigned uniforms and/or gear will be required to sign for them when they are issued and return them when leaving Town employment. The cost of uniforms and/or gear issued and not returned will be deducted from the employee's final pay.

Section 16. Travel Expense and Reimbursement

Town vehicles are to be used only for Town business, unless other options are approved by the Town. Town vehicles may not be used for personal business. Travel on official Town business outside the corporate limits and Extra Territorial Jurisdiction of the Town must be authorized by the Department Head, with approval by the Town Manager. A request for such travel must describe the purpose and destination of the proposed trip, dates of travel and estimated expenses for the period of time for which the employee will be away from the Town. Town employees traveling outside the Town on authorized Town business will be reimbursed for meals, mileage, and other expenses at rates established by the Town Council. Reimbursements may only be paid if accompanied by an approved travel request form that has been approved by the Town Manager and pre-audited by the Finance Director. Itemized receipts must be attached to the reimbursement request form.

Section 17. Use of Town Supplies and Equipment

Town equipment, materials, tools, and supplies are not available for personal use nor are they to be removed from Town property except to conduct official Town business. Town employees are expected to provide reasonable care of any Town equipment as a function of their job and will be held accountable for the proper use of such equipment.

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.

Section 2. Group Health and Hospitalization Insurance

The Town offers group health and hospitalization insurance programs for full-time employees and their eligible dependents, and part-time employees. Eligible employees and dependents must comply with the provisions of the insurance program in order to participate.

Part-time employees who are scheduled to work more than 20 hours but less than 30 hours per week on a continuous year-round basis may, if they so desire, purchase available group health insurance through the Town for themselves or for themselves and qualified dependents, but must pay the full cost of coverage. Information concerning cost and benefits shall be available to all employees from the Human Resources Office.

The Town provides individual hospitalization insurance for all employees who have retired from the Town who have at least 25 years of active service with the Town and who were hired prior to April 7, 1992.

Section 3. Group Life Insurance

The Town provides group life insurance for each employee subject to the stipulations of the insurance contract. Life insurance will be provided by the Town in an amount approved by the Town, subject to appropriation.

Section 4. Other Optional Group Insurance Plans and Benefits

The Town may make other group insurance plans, medical reimbursement accounts and dependent care reimbursement accounts available to employees upon authorization of the Town Manager or Town Council. The Human Resources Director will make available to all employees information concerning the costs and benefits of any other benefit made available to employees.

Section 5. Retirement

Each employee who is expected to work for the Town more than 1,000 hours annually shall join the North Carolina Local Governmental Employees' Retirement System on the first day of employment as a condition of employment. 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 6. Supplemental Retirement Benefits

The Town provides access to two (2) supplemental retirement accounts: 401(k) and 457(b).

The Town provides 401k benefits for its full-time 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.

457b contributions are voluntary and may be contributed by the employee only.

Section 7. Social Security and Medicare Taxes and State and Federal Withholding

The Town shall pay its portion of Social Security and Medicare taxes for its eligible employees and shall withhold, in accordance with the law, the employee's portion of these taxes and required federal and state income tax withholding.

Section 8. Workers' Compensation

All employees of the Town (full-time, part-time, and temporary) are covered by the North Carolina Workers' Compensation Act. Workers' Compensation provides a weekly payment, based upon a percentage of the employee's normal pay, to an employee who has suffered a work-related injury or illness. Except for payment of medical expenses, compensation is not paid until an injury or illness prevents an employee from returning to work for more than seven days. Only if the injury or illness prevents a return to work for more than twenty-one days, the employee is entitled to compensation for the first seven days following the injury or illness.

An employee must immediately report to the supervisor or Department Head any injury arising out of and in the course of employment. The supervisor or Department Head should notify the Safety Officer or Human Resources Director of the injury/illness within the timeframe established in the Town's Safety Policy. The Safety Officer or Human Resource Director will assist any requesting employee in filing for Workers' Compensation by providing the necessary claim forms and necessary information as to the procedure for filing a claim. However, the 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.

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.

Upon notification to the supervisor or Department Head, a full-time employee absent from duty because of sickness or disability covered by the North Carolina Worker's Compensation act may elect:

- a) To use accrued sick, vacation, or compensatory leave during the waiting period until the Workers' Compensation begins;
- b) To use accrued sick, vacation, or compensatory leave during the waiting period and then supplement Workers' Compensation payments with sick, vacation, or compensatory leave pay after Worker's Compensation begins, provided that the combination of leave pay and Workers' Compensation payments does not exceed the employee's normal pay; or
- c) To use no leave pay during the waiting period until the Workers' Compensation begins.

Before returning to work, a statement from the attending physician should be submitted to the Human Resources Director 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 annual leave and sick leave, and will retain all accumulated sick or annual leave.

Section 9. Unemployment Compensation

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

Section 10. Tuition Assistance Program

Subject to availability of funds, the Town provides a tuition reimbursement program for approved courses taken at an accredited college or institution. To be eligible for reimbursement, the employee must have his request approved by the Town Manager in advance of taking a course and must sign a tuition reimbursement agreement that is approved by the Town Manager. "Approved courses" are those that are generally in the employee's field of work, or that are required for a degree in the employee's field of work, and will improve their skills for their current job or prepare them for promotional opportunities with the Town. Full-time employees who have completed their probationary period may be qualified. Tuition, registration, fees, cost of books, laboratory fees, and student fees are eligible expenses. Reimbursement will not exceed \$1,000 per fiscal year. Courses must be taken on the employee's own time. The Town will only be obligated to reimburse expenses for courses that comply with the following conditions:

- a) Receives a passing grade of "C" or better; and
- b) Adequately and properly performs all duties required of their position with the Town; and
- c) Commits to remain in the Town's employment for a period of six months following the end of the class/course. Should an employee leave employment before fulfilling that commitment, the employee must reimburse the Town for the cost of any tuition assistance paid, including tuition, fees, and books.

Section 11. Law Enforcement Separation Allowance

Every sworn law enforcement officer, as defined by N.C. Gen. Stat. § 128-21(11b) 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, in the amount specified in N.C. Gen. Stat. § 143-166.41(a). The purpose of this allowance is to provide additional income until the law enforcement officer is eligible for social security benefits with the consideration that the law enforcement officer may no longer be able to perform law enforcement work.

Beginning in the month in which the officer retires on a basic service retirement under the provisions of N.C. Gen. Stat. § 128-27 (a), the Town shall pay an annual separation allowance equal to eighty-five hundredths percent

(0.85%) of the annual equivalent of the base rate of compensation most recently applicable to the officer for each year of credible service. The allowance shall be paid in equal installments on the payroll frequency used by the employer. To qualify for the allowance, the officer shall:

- a) Have completed 30 or more years of creditable service, or have attained 55 years of age and completed five or more years of creditable service; and
- b) Not have attained 62 years of age; and
- c) Have completed at least five years of continuous service as a law enforcement officer immediately preceding a service retirement, as defined by N.C. Gen. Stat. §143-166.41(a)(3) and §143-166.41(b). Any break in the continuous service required by this subsection because of disability retirement or disability salary continuation benefits shall not adversely affect an officer's qualification to receive this allowance, provided the officer returns to service within 45 days after the disability benefits cease and is otherwise qualified to receive the allowance.

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

Payment to a retired officer under the provisions of this section shall cease at the first of:

- a) The death of the officer; or
- b) The last day of the month in which the officer attains 62 years of age; or
- c) The first day of reemployment by a local government employer in any capacity, except that a retired officer may be employed in a public safety position in a capacity not requiring participation in the Local Government Employee's Retirement System without disqualifying them from receiving the allowance.

This section does not affect the benefits to which an individual may be entitled from state, local, federal or private retirement systems. The benefits payable under this section shall not be subject to any increases in salary or retirement allowances that may be authorized by local government employers or for retired employees of local governments.

The law enforcement officer, after separation from employment with the Town, must notify the Town of any new employment by a local government employer in any capacity. In the event a former law enforcement officer fails to notify the Town of employment, the Town may suspend further payments until information is provided which establishes that the new employment is non-disqualifying, at which point the individual shall be paid any funds which were withheld, and payments shall resume.

This amendment shall not entitle any law enforcement officer to retroactive payments of any benefit for the period prior to the effective date, nor prospectively deny payment of a separation allowance to an officer who was previously determined to be eligible, unless a change in eligibility occurs subsequent to enactment.

Section 12. Employee Assistance Program

The Town has an Employee Assistance Program (EAP) to help employees resolve a wide range of personal problems that have a negative effect on their personal life and/or job performance. This confidential counseling service is available to employees and their family members. Town employees are encouraged to use the EAP when they are experiencing problems that impact their ability to be productive at work. Employees may choose to go to EAP on their own, or they may be encouraged to use EAP by their supervisor when their job performance is unsatisfactory. Employees participating in EAP are required to meet existing job performance standards. The employee's use of the EAP does not replace the use of established procedures for managing unsatisfactory job performance.

The Town will not have access to EAP records without written permission from the employee. All individual rights to confidentiality will be assured in the same manner as any other health records. Using the EAP services will not jeopardize an employee's employment status or promotion opportunities. With approval of the supervisor, employees may use earned comp time, sick or vacation leave for a scheduled EAP appointment. The initial EAP visits are provided to the employee free of charge. After the initial visits, the EAP may recommend additional assistance that may be covered by medical insurance.

ARTICLE VII. HOLIDAYS AND LEAVES OF ABSENCE

Section 1. Policy

The policy of the Town is to provide vacation leave and sick 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 shall grant holiday leave to all full-time and part-time employees for each holiday observed by the Town at the rate of 8 hours per holiday. Employees will not be allowed to accrue holiday leave.

Section 2. Holidays

The Town will follow the holiday schedule as published by the State of North Carolina each year. The Human Resources Director will post the holiday schedule for the upcoming fiscal year the beginning of June in each year.

Section 3. Holidays: Effect on Other Types of Leave

Regular holidays which occur during a vacation, sick or other paid leave period of any employee shall not be considered as vacation, sick, or other paid leave. Employees in leave without pay status are not eligible for the paid holiday.

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

Employees required to perform work on regularly scheduled holidays may be granted compensatory time off up to 8 hours or paid at their hourly rate of pay on an hour for hour basis for the hours actually worked in addition to any holiday pay to which they may be entitled. Compensatory time shall be granted whenever feasible and shall be taken within one month from the time earned.

Shift employees shall receive holiday pay for 8 hours at their hourly rate of pay for each holiday observed by the Town in addition to any regular pay to which they may be entitled.

Section 5. Vacation Leave

Vacation leave may be used for rest and relaxation, for medical purposes in lieu of sick leave, and for any other purpose not prohibited by this policy.

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

Years of Service	Days Accrued Per Year
0 - 1	10
2 - 5	12
5 - 10	15
10 - 15	18
15 - 20	20
20 plus years	21

Vacation should be accrued in each payroll based on the formula outlined in Section 16 of this Article.

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 30 days prorated as shown in Section 16. Effective the first payroll in the calendar year, any employee with more than 30 days of accumulated leave shall have the excess accumulation removed so that only 30 days are carried forward to January 1 of the next calendar year. Employees are not eligible to receive pay for vacation time not taken.

Employees may have the excess vacation leave (over 30 days 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

So long as it does not obstruct normal operations of the Town and is requested in advance, earned vacation leave may ordinarily be taken by an employee. A Department Head may deny a request for vacation leave when the Department Head determines that granting a leave request will hinder the effectiveness of service delivery.

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 30 days 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 30 days prorated as shown in Section 16, maximum. Employees dismissed for criminal conduct may be determined ineligible to receive vacation pay.

Section 11. Vacation Leave: Payment upon Death

When an employee dies while employed by the Town, the Town will pay the appropriate person all the accrued vacation leave credited to the employee's account subject to the 30 day prorated maximum. For purposes of this section, the appropriate person shall be the beneficiary designated by the employee or the appointed representative of the estate.

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 their immediate family who is ill.

Up to three days of sick leave may be used for bereavement and funeral leave upon the death of an immediate family member. Additional time needed or funeral leave needed for persons other than immediate family members, may be charged to vacation, accrued compensatory leave, or leave without pay.

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 the employee may not exceed the regular salary amount using this provision.

"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, of the employee or spouse or guardian of the employee. This also includes various combinations of step, half, and adopted relationships.

Except in an emergency where no prior notification is possible, an employee must request sick leave prior to the leave or within two hours of the beginning of the workday from the employee's supervisor. In an emergency, notification must be submitted as soon as possible.

Sick leave will only be approved during the final two weeks of a resignation notice with physician's certification or comparable documentation that the leave was taken because of illness or injury and was not anticipated at the time notice of resignation was given.

Section 13. Sick Leave: Accrual Rate and Accumulation

Sick leave shall accrue at a rate of 8 hours per month of service or 96 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 Section 16 of this article. Sick leave will be cumulative for an indefinite period of time and may be converted upon retirement for service credit consistent with the provisions of the North Carolina Local 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 Nashville. The sick leave amount must be certified by the previous employer and it is the employee's responsibility to provide documentation from their 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, Department Head, or the Human Resources Director may require a physician's certificate stating the nature of the employee's or employee's family member's illness and the employee's capacity to resume duties, for each occasion on which an employee uses sick leave or whenever the supervisor observes a "pattern of absenteeism." The employee may be required to submit to such medical examination or inquiry as the supervisor, Department Head, or Human Resources Director deems the information necessary to ascertain the health of the employee in order to:

- a) Prevent employees from working when they might endanger their health or safety or the health or safety of other employees or members of the public; or
- b) Prevent abuse of leave privileges by an employee.

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

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

- 1) The average number of hours scheduled for work per week by such employees shall be divided by the number of hours in the basic work week (usually 40 hours).
- 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 shall be the number of hours of leave earned biweekly.

Section 17. Family and Medical Leave

For cause identified in Section 17, subsections a,b,c, and d, 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). For cause identified in Section 17, subsections e and f, the Town will grant up to 26 workweeks of leave during any single 12 month period to care for the service member. The leave may be paid (coordinated with the Town's Vacation and Sick Leave policies), unpaid, or a combination of paid and unpaid. Earned

Compensatory time may also be used during FMLA leave. Workers' Compensation leave may also be designated by the Town as Family and Medical Leave, thereby reducing the Family and Medical Leave available. When an employee uses paid leave during the Family and Medical Leave, the employee's balance of accrued vacation and/or sick leave is reduced concurrently with the balance of Family and Medical Leave. Unpaid leave will be granted only when the employee has exhausted all appropriate types of paid leave. Additional time away from the job beyond the 12-week period may be approved in accordance with the Town's Leave without Pay policy.

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

Family and Medical Leave can be used for the following reasons:

- a) The birth or adoption of a child in order to care for that child;
- b) The placement of a child with the employee 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;
- e) Because of any qualifying exigency arising out of the fact that the spouse, or a son, daughter, or parent of the employee is on active duty (or has been notified of an impending call or order to active duty) in the Armed Forces in support of a contingency operation; or
- f) For a spouse, son, daughter, parent, or next of kin to care for a service member.

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 taking leave for the birth of a child may use paid sick leave for the period of actual disability, based on medical certification. The employee shall then use all paid vacation and accrued compensatory time for the remainder of the 12-week period. If the employee has insufficient accrued leave time to cover the entire 12-week period, the employee may take unpaid leave for the remainder of the twelve weeks.

The request for the use of leave must be made in writing by the employee 30 days in advance of when the leave is to be taken. The request shall be made to the Department Head and forwarded immediately to the Human

Resources Director. In an emergency situation, the request for the use of FMLA leave must be made as soon as reasonably practical. On its own initiative, the Town may designate leave as FMLA.

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

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

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

Section 18. Family and Medical Leave - Certification

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

In order to qualify for FMLA leave to care for a service member, the employee must provide a certification issued by the health care provider of the service member being cared for by the employee that the service member is in need of care by the employee.

An employee seeking FMLA leave because of any qualifying exigency arising out of the fact that the spouse, or a son, daughter, or parent of the employee is on active duty (or has been notified of an impending call or order to active duty) in the Armed Forces in support of a contingency operation must provide a certification, in a timely manner of such active duty or impending call to active duty.

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, in which case the certification should be furnished as soon as possible (no longer than 15 days from the date of the employee's request). The certification must be filed with the Human Resources Director. The FMLA leave must be approved by the Town Manager.

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

Section 19. 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 20. Family Medical Leave and Leave Without Pay: Retention and Continuation of Benefits

When an employee is on leave under FMLA (maximum of 12 weeks in a year), 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 their own expense, subject to any regulation adopted by the Town Council and the regulations of the insurance carrier.

Section 21. Family and Medical Leave – Return to Work

An employee taking FMLA leave for a serious health condition or the serious health condition of a spouse, child, or parent is expected to return to work at the end of the leave period stated in the medical certification, unless the Town has approved additional unpaid leave or the use of available sick or vacation leave.

Prior to an employee returning to work after an FMLA leave, the Human Resources Director may require a physician's certification that the employee can safely resume employment and has regained the ability to effectively perform the essential functions of the job. An employee who returns to work after an FMLA leave will return to the same job, if available, or a job with equivalent status, pay, benefits, and other employment terms and

requirements. The position will be the same or one which entails substantially equivalent skill, effort, responsibility, and authority.

Section 22. Workers' Compensation Leave

Workers' Compensation Leave complies with applicable NC Statutes and Federal Law and runs concurrently with the FMLA. 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

Regular employees who are members of an Armed Forces Reserve organization or National Guard shall be granted two calendar weeks per year for military leave without pay. On rare occasions due to annual training being scheduled on a federal fiscal year basis, an employee may be required to attend two periods of training in one calendar year. For this purpose only, an employee shall be granted an additional ten days of military leave during the same calendar year. If the compensation received while on military leave is less than the salary that would have been earned during this same period as a Town employee, the employee shall receive partial compensation equal to the difference. The effect will be to maintain the employee's salary at the normal level during this period. If such duty is required beyond this ten workdays, the employee shall be eligible to take accumulated vacation leave or be placed in a leave without pay status, and the provisions of that leave shall apply. While taking military leave, the employee's leave credits and other benefits shall continue to accrue as if the employee physically remained with the Town during this period. Employees who are eligible for military leave have all job rights specified by the Vietnam Veterans Readjustment Act.

Section 24. Reinstatement Following Military Service

An employee who is absent from employment due to service in the United States uniformed services, as defined in 20 C.F.R. Part 1002, shall be entitled to full reemployment and relevant reemployment benefits provided by the Uniformed Services Employment and Reemployment Rights Act of 1994, as Amended, so long as the following criteria are met:

- a) Proper advance notice is provided by the employee to the Town. Proper notice, for purposes of this section, is notice as far in advance as is reasonable under the circumstances. Notice may be verbal or written, and may be provided by either the employee or an appropriate officer of the pertinent uniformed service, unless such notice is prevented by military necessity, as determined by a designated military authority, is otherwise impossible or is unreasonable under all the circumstances;

- b) The employee remains away for employment for a period which includes no more than five years of service in the uniformed services, except for service excluded from consideration under the Uniformed Services Employment and Reemployment Rights Act of 1994, as Amended (See 20 C.F.R § 1002.103);
- c) The employee applies for reinstatement to the Director of Human Resources or reports to work within the following time periods, based upon the length of service in the uniformed services:
 - 1) Less than 31 days service: By the beginning of the first regularly scheduled work period after the end of the calendar day of duty, plus time required to return home safely and an eight hour rest period. If this is impossible or unreasonable, then as soon as possible.
 - 2) 31 to 180 days: The employee must apply for reemployment no later than 14 days after completion of military service. If this is impossible or unreasonable through no fault of the employee, then as soon as possible.
 - 3) 181 days or more: The employee must apply for reemployment no later than 90 days after completion of military service.
- d) For periods of service exceeding thirty days, the employee provides the Director of Human Resources with documentation to establish that the reemployment application is timely, the five-year limit for service has not been exceeded and that the separation from the service was not disqualifying.
- e) The employee is not separated or dismissed from the uniformed services:
 - 1) With a dishonorable or bad conduct discharge;
 - 2) Under other than honorable conditions;
 - 3) As the result of a general court-martial; or
 - 4) For any other reason specified in 20 C.F.R. §1002.124

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 themselves in school activities of their child(ren). 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 their child shall count toward the fulfillment of this provision by the Town.

Section 27. Voluntary Shared Leave

There are occurrences brought about by serious and prolonged medical conditions that cause employees to exhaust all available leave and therefore be placed on leave without pay. It is recognized that such employees forced to go on leave without pay could be without income at the most critical point in their work life. It is also recognized that fellow employees may wish to voluntarily donate some of their leave so as to provide assistance to a fellow town employee. This policy intends to provide an opportunity for employees to assist another affected by a medical condition that requires absence from work for a prolonged period of time resulting in possible loss of income due to a lack of accumulated leave.

In cases of prolonged medical condition, an employee may apply or be nominated to become a recipient of leave transferred from the vacation leave accounts of unrelated employee working for the Town of Nashville or from sick or vacation account of an immediate family member who works for the Town of Nashville. For purposes of this policy, medical condition means the medical condition of an employee, their spouse, parents, children, or other dependents, including step and in-law relationships that are likely to require an employee's absence from duty or work for a prolonged period, generally considered to be at least 20 consecutive work days. If an employee has had previous random absences for the same condition that has caused excessive absences, or if the employee has had a previous, but different, prolonged medical condition within the last twelve months, the town may make an exception to the 20-day period.

The following general guidelines shall apply to the donation and the use of Voluntary Shared Leave:

- a) Establishment of a leave "bank" for use by unnamed employees is expressly prohibited. Leave must be donated on a one-to-one personal basis.
- b) This Policy does not apply to employees receiving Workers' Compensation Benefits.
- c) This Policy does not apply to employees receiving Disability Income.
- d) Individual leave records are confidential and only individual employees may reveal their donation or receipt of leave. All donations must be done on a voluntary basis. Solicitation on the part of Department Heads or supervisors is prohibited. No employee shall directly or indirectly intimidate, threaten, coerce any other employee for the purpose of interfering with any right an employee may have in donating, receiving, or using leave under this program. Such action by an employee will result in disciplinary action up to and including dismissal on the basis of personal conduct.
- e) An employee donating leave cannot receive remuneration for the donation of leave.
- f) The Privacy Act makes medical information confidential; therefore, prior to making the employee's status public for the purpose of receiving shared leave, the employee must sign a release to allow the status to be known.

- g) A committee composed of the Human Resources Director, the Department Head of the recipient employee, and the Town Manager will make the final decision concerning eligibility to participate in the program. Participation in this program shall be based on the applicant's and donors past compliance with leave rules.

In order to apply for shared leave, the applicant must be a regular, full-time permanent employee who has successfully completed his/her probationary period. At the time of the request, applicant must have exhausted all sick, annual and compensatory leave; all leave balances must be zero. The application should include name, social security number, Department Head, position title, and a doctor's statement describing the medical condition and estimated length of time needed to participate in the program. The applicant shall apply to the Department Head who shall forward the application to the Human Resources Director. After receiving the application, the three member committee will meet to review the merits of the request as well as the employee's past leave history and will make a decision concerning the applicant's eligibility to participate in the program. An employee may not file a grievance or an employee appeal if his/her request to receive or to donate leave is denied.

The following guidelines apply to the applicant:

Participation in this program is limited to 1,040 hours, either continuously or, if for the same condition, on a recurring basis. The Town Manager may, however, grant employee continuation in the program, month by month, for a maximum of 2,080 hours if the employee would otherwise have been granted leave without pay. Subject to the maximum of 1,040 hours, the number of leave hours an employee can receive is limited to the projected recovery or treatment period. All donated leave will be credited to the recipient's sick leave account. At the expiration of the medical condition any unused leave in the recipient's donated leave account shall be treated as follows: The recipient's sick leave account balance shall be limited to a total of forty (40) hours. Any additional unused donated leave will be returned to the donor(s) on a pro rata basis and credited to the leave account from which it was donated. Fractions of one hour shall not be returned to an individual donor. If a recipient separates due to resignation, death, or retirement from the town, his/her participation in the program will end. Donated leave shall be returned to donor(s) on a pro rata basis.

The following guidelines apply to the donor:

A non-family member donor may contribute only vacation leave to another employee. A family member who is a Town of Nashville employee may contribute vacation or sick leave to another immediate family member who is a Town of Nashville employee. Immediate family is defined as spouse, parents, children, brother, sister, grandparents and grandchildren, great grandparents and great grandchildren. Also included are the step, half and in-law relationships. The minimum amount to be donated is four (4) hours. An employee family member donating sick leave to a qualified family member under this program may donate up to a maximum of 1,040 hours but may not reduce their own sick leave balance below forty (40) hours. The maximum amount of vacation leave allowed to be donated by one individual can be no more than the amount he/she could earn in one year; however, the amount donated may not reduce the donor's vacation leave balance below one-half of the amount he/she could earn in one year. All donations must be in writing and must be signed by the donating employee. The employee receiving the leave must be named and the amount and type of leave donated must be specified. Once a donation is made it cannot be retracted by the donor.

Section 28. Adverse Weather Leave

Emergency/Inclement Weather Policy

The Town's desire is to be open and provide Town services whenever possible. This desire to maintain services is equally balanced with the desire to maintain a safe and hazard free workplace for the employee and the public. During emergencies and periods of inclement weather, the Town Manager is responsible for making a determination as to whether or not the operating hours of the Town of Nashville should be delayed, canceled, or closed early. The Town Manager makes this determination based on the severity of the circumstances and the closing of area businesses and industries.

In the event it becomes necessary to alter the Town's normal operating schedule, it is the Town's intent that employees receive their regular pay for the day. If the work day is altered, the following provisions apply: The Town will continue to provide emergency services. Emergency personnel, which consist of sworn Police Officers and Fire will operate according to normal operating hours. Essential personnel consists of Public Work staff scheduled to work during emergencies and other staff approved to work by the Town Manager. The Town Manager may alter the definition of essential personnel dependent upon the actual events and circumstances at any given time and will notify Department Heads of such changes.

The Town Manager will notify Department Heads of the decision to cancel work or delay work by 7 AM. When the decision to close early is made, the Town Manager will notify Department Heads as soon as possible. Department Heads will be responsible for notifying staff of the workday alterations. No employee should assume the workday has been altered without confirmation.

Any employee who has previously scheduled time off (vacation, sick, comp, etc.) coinciding with a closing will not receive administrative leave or compensatory time. Employees not required to work should not report to work. Employees are to record actual hours worked and indicate administrative leave for the hours of leave granted due to the closing or delay. The Town will pay overtime in accordance with all applicable state and federal wage and hour laws based on actual hours worked.

In the event the workday is cancelled:

Non-essential personnel are not required to report to work and will be granted 8 hours of administrative leave. Essential personnel are required to report to work according to normal operating hours (or as directed by the Department Head) regardless of conditions or Town operating schedules and will be compensated accordingly. Essential personnel who are scheduled to and report to work will be granted compensatory leave for the actual hours worked in addition to being paid for actual hours worked.

In the event the workday is delayed:

Non-essential personnel are not required to report to work until the designated opening time and will be granted administrative leave for the hours not worked due to the delay. Essential personnel are required to report to work according to normal operating hours (or as directed by the Department Head) regardless of conditions or Town operating schedules and will be compensated accordingly. Essential personnel who are scheduled to and report to work will be granted compensatory leave equivalent to the hours delayed in addition to being paid for actual hours worked.

In the event the workday ends early:

Non-essential personnel are not required to remain at work after the designated closing time and will be granted administrative leave for the remaining hours in the work day. Essential personnel are required to

remain at work according to normal operating hours (or as directed by the Department Head) regardless of conditions or Town operating schedules and will be compensated accordingly. Essential personnel who are scheduled to and remain at work will be granted compensatory leave equivalent to the early closing in addition to being paid for actual hours worked.

In times of emergency/inclement weather the employee has a responsibility to determine if he/she can travel safely to work. If an employee decides they cannot make it to work according to the Town's operating schedule, the employee will be allowed to charge time to vacation or compensatory time. In the event the employee does not have vacation or compensatory time available, the employee will be compensated for actual hours worked. Employees must contact his/her Department Head or designee prior to the scheduled opening to advise them of any inability to arrive at work and request approval of vacation leave. All Department Heads reserve the right to either deny or approve all such requests in consultation with the Town Manager.

Department Heads, supervisors, and the Finance Director are responsible for ensuring this policy is adhered to properly and for the monitoring of employee time sheets.

Compensatory leave granted due to emergency/inclement weather shall be used by the end of the subsequent pay period and not allowed to accrue. Leave shall be used at the discretion of the Department Head so not to interfere with normal operations of the Town.

ANNOUNCEMENTS REGARDING OPERATING HOURS

Information regarding the operating hours during emergency/inclement weather will be provided to designated media outlets by 7 AM. Announcements will also be placed on the Town of Nashville website (www.townofnashville.com). Employees also have the option of calling their Department Head/immediate supervisor for further information and instruction.

Section 29. Families First COVID-19 Coronavirus Response Act: Emergency Paid Sick Leave

The Families First Coronavirus Response Act requires covered employers to provide employees with paid sick leave for specified reasons related to COVID-19. These provisions are time limited and will apply from April 1, 2020 through December 31, 2020 or the date upon which the State Emergency is lifted.

For purposes of this section, "Child Care Provider" is defined by the Act as one who provides childcare services on a regular basis and is unavailable regardless of whether that provider is paid or not to look after the child. Also for purposes of this section, the definition of "School" does not include home schooling. Additionally, for purposes of this section, the term "Emergency Responders" is defined as fire and police personnel.

All employees (full-time, part-time, and seasonal) are eligible for two weeks (up to 80 hours) of paid sick time at the employee's regular rate of pay where the employee is unable to work or telework because the employee:

- (1) is quarantined pursuant to a Federal, State, or local quarantine or isolation order related to COVID-19; or
- (2) has been advised by a health care provider to self-quarantine because of COVID-19; or
- (3) is experiencing symptoms of COVID-19 and is seeking a medical diagnosis.

All employees (full-time, part-time, and seasonal), with the exception of emergency responders, are eligible for two weeks (up to 80 hours) of paid sick time at *two-thirds* the employee's regular rate of pay where the employee is unable to work or telework because of a bona fide need:

- (4) to care for an individual subject to quarantine pursuant to Federal, State, or local government order or advice of a health care professional; or
- (5) to care for a son or daughter (under 18 years of age) whose school or child care provider is unavailable due to COVID-19; or
- (6) where the employee is experiencing substantially similar conditions as specified by the Secretary of Health and Human Services, in consultation with the Secretaries of Labor and Treasury.

Part-time and seasonal employees will be paid for the number of hours the employee works, on average, over a two-week period. Paid leave under this policy is limited to \$511 per day (\$5,110 in total) where leave is taken for reasons 1, 2, or 3 described above; and is limited to \$200 per day (\$2,000 in total) where leave is taken for reasons 4, 5, or 6 as described above.

Employees will not be required to use any accrued leave if they are eligible for paid leave under the emergency paid sick leave provision; however an employee may elect to supplement the two-thirds of the regular rate of pay for emergency paid sick leave under options 4, 5, or 6 with accrued sick leave, vacation, or compensatory time, provided that the combination of leave supplemented and the emergency paid sick leave does not exceed normal compensation.

Emergency paid sick leave taken for reasons 1, 2, 3, 4 or 6 may not be taken on an intermittent basis and must be taken in full consecutive days of leave. Emergency paid sick leave taken under reason 5 for child care leave may be taken on an intermittent basis provided that the Town and the employee agree that the employee will take intermittent leave and agree on the increments of time in which it will be measured (i.e. half day, hours, etc.) Intermittent leave for child care reasons is available for employees who are still reporting to the workplace and to those who are working remotely. No leave provided by the Town before April 1, 2020 may be credited against an employee's emergency paid sick leave entitlement. In addition, emergency paid sick leave cannot be carried over after December 31, 2020.

The request for use of this leave must be made by the employee as soon as the need arises. The request shall be made to the Human Resources Director. The Town will not retaliate against employees who request or take leave in accordance with this policy.

Section 30. Families First COVID-19 Coronavirus Response Act: Family and Medical Leave Expansion Act (eFMLA)

The Families First Coronavirus Response Act requires covered employers to provide employees with emergency paid Family and Medical Leave for specified reasons related to COVID-19. These provisions are time limited and will apply from April 1, 2020 through December 31, 2020 or the date upon which the State Emergency is lifted.

For purposes of this section, "Child Care Provider" is defined by the Act as one who provides childcare services on a regular basis and receives compensation for those services; it excludes the situation where a

family member has been providing childcare and is no longer available. Also for purposes of this section, the definition of “School” does not include home schooling. Additionally, for purposes of this section, the term “Emergency Responders” is defined as fire and police personnel.

All employees (full-time, part-time, and seasonal), with the exception of emergency responders, who have worked for the Town of Nashville for at least 30 days prior to the designated leave are eligible for Emergency Family and Medical Leave when the employee is unable to work due to a bona fide need for leave to care for a son or daughter whose school or child care provider is closed or unavailable for reasons related to COVID-19.

This Act does not change the eligibility requirements for regular FMLA leave as described in Article VII, Section 17.

Leave taken under the Emergency Family and Medical Leave Act is paid leave following a 10-day waiting period; an employee may choose to take unpaid leave, to use accrued leave, or to choose to use Emergency Paid Sick Leave as described in Article VII, Section 29 to satisfy this waiting period. After the 10-day waiting period and for up to an additional 10 weeks of Emergency Family and Medical Leave (for a total of 12 weeks), the Town will pay full-time employees no less than two-thirds the employee’s regular rate of pay for the number of hours the employee would otherwise be normally scheduled. The Act limits this pay entitlement to \$200 per day and \$10,000 in the aggregate per employee. Employees who work a part-time or seasonal schedule will be paid no less than two-thirds of the employee’s regular rate of pay for the average number of hours the employee worked for the six months prior to taking leave; employees who have worked for less than 6 months prior to leave are entitled to the employee’s reasonable expectation at hiring of the average number of hours the employee would normally be scheduled to work.

Employees will not be required to use any accrued leave if they are eligible under the Emergency Family and Medical Leave provision; however an employee may elect to supplement the two-thirds of the regular rate of pay for Emergency Family and Medical Leave pay with accrued sick leave, vacation, or compensatory time, provided that the combination of leave supplemented with Emergency Family and Medical Leave pay does not exceed normal compensation.

Leave taken under this reason may be taken on an intermittent basis provided that the Town and the employee agree that the employee will take intermittent leave and agree on the increments of time in which it will be measured. Intermittent leave for child care reasons is available for employees who are still reporting to the employer’s workplace and to those who are working remotely.

Employees are still limited to a total of twelve weeks of FMLA leave within a 12-month period for all reasons combined. Employees who have already used up their FMLA allotment for the year are not entitled to Emergency FMLA leave. The regular rules under the Family Medical Leave Act as described in Article VII, Section 21 will apply to job reinstatement.

Emergency FMLA leave is available effective April 1, 2020 and expires December 31, 2020 or the date upon which the State Emergency is lifted. The request for use of this leave must be made by the employee as soon as the need arises. The request shall be made to the Human Resources Director. The Town will not retaliate against employees who request or take leave in accordance with this policy.

Section 31. Paid Administrative Leave and Telework Policy

During emergency situations, the Town Manager may determine the need to implement the following Paid

Administrative Leave and Telework Policy. The Town Manager, in conjunction with the Human Resources Director and Department Heads, will determine the appropriate category for positions based on the current needs of the Town. Employees may be categorized as:

- a. Category 1 – Required: Employees in this category, regardless of the situation will be working, unless they are sick, quarantined, or isolated.
- b. Category 2 – Intermittently Required: Employees in this category most likely perform some task that is required. Most employees in this category could perform their work via telework; however, they could be required to report to the office depending on the needs of the Town.
- c. Category 3- On-Call: Employees in this category would be on-call for a situation that may arise that requires them to come in based on the needs of the Town.
- d. Category 4 – Not Required: Employees in this category would rarely be required to work on-site during an emergency situation; however, they could be recalled depending on the needs of the Town.

The Town Manager, in conjunction with the Human Resources Director and the Department Head, will determine if an employee can or cannot perform some or all of their essential job functions via telework from home. Employees sent home under this policy will coordinate with their Department Head and the Town Manager which work assignments may require the employee to report to a work site, may be completed via telework, or may remain incomplete for the duration of an agreement. Employees may also be assigned new tasks by the Department Head or the Town Manager.

Under this policy, employees are eligible to receive Paid Administrative Leave for regular hours of work that cannot be completed either in-person or remotely via telework. Employees must complete their timesheet to accurately reflect separate entries for hours of work completed and for any Paid Administrative Leave hours. During the employees' regularly scheduled work hours, the employee is required to respond to communications from a supervisor, Department Head, Human Resources Director, or Town Manager within two (2) hours. This time is not eligible for "stand-by" pay, as defined in Article III, Section 14. Employees are required to check their Town email periodically each day to handle any time sensitive business and to check for updates from Town Administration, Human Resources, or the Department Head. The employee should record this time on the timesheet.

Employees may be required to report to work by their supervisor, Department Head, or Town Manager, regardless of the employee's job category. Employees may be asked to temporarily carry out job duties outside of their normal responsibilities to cover for other employees' absences; this could include assignments outside of the employee's department.

If an employee is required to report to work during normal work hours, they will be given as much notice as possible, but may need to report within two hours' time, depending on the circumstances. This time will be considered part of the employee's normal working hours and will not qualify for "stand-by" pay. If an employee is called out for an unscheduled assignment and is required to report to work outside of normal work hours, "stand-by" pay will apply to non-exempt employees. Employees will be given 24 hours-notice regarding the end of an agreement under this policy.

The Department Head, with approval from the Town Manager, may impose additional restrictions for their employees not inconsistent with this policy.

ARTICLE VIII. LIGHT DUTY FOR INJURED OR ILL EMPLOYEES

Section 1. Purpose.

When an employee is capable of providing a needed service to the Town during the rehabilitation process, the Town will seek to place the employee in a light duty status.

Section 2. Light Duty Defined.

Light duty is non-strenuous work which is restricted to the capacities of the employee.

Section 3. Eligibility for Light-Duty Status.

- a) An employee is eligible for light-duty status when the employee suffers from either a job-related or non-job related injury or illness which restricts the employee's ability to perform the essential functions of their job. The employee must provide the Town with the certification of a licensed physician knowledgeable about the employee's condition(s) and the requirements of the job, which sets out a definite time after which the employee should be able to return to full duty. The physician must also certify that in the interim the employee can safely perform duties as described.
- b) In a Workers' Compensation situation, if the examining physician certifies the employee is able to safely resume light duty work, upon the Town's request that the employee return to light duty work, the employee must do so.
- c) In a Non-Workers' Compensation situation, if the employee wishes to report for light duty the employee must submit to an evaluation by a physician chosen by the Town, which evaluation must be paid for by the employee. If the physician certifies the employee is capable of light duty work, the employee may report for light duty if such work is available.
- d) In order to be allowed light-duty status, duties must exist which can safely be performed by a person with the restrictions indicated by the physician.

Section 4. Approval Process for Light Duty Status.

- a) Light duty status will only be approved if the proposed duties are needed by the Town.
- b) Light duty status must be approved by the Town Manager, following consideration of recommendations by the Department Head, Safety Officer, and the Human Resources Director.
- c) Light duty status may not extend for more than thirty days without review, an updated medical certification and approval by the Town Manager, following consideration of recommendations by the Department Head, Safety Officer, and the Human Resources Director. If extended, similar reviews must occur every thirty days.

Section 5. Options Available for Light-Duty Status.

Light duty status may deviate from an employee's normal position, including, but not limited to the following ways:

- a) The employee's schedule may provide for fewer working hours and/or different working hours.
- b) Duties may be different and/or the same as required in the employee's normal position.
- c) Light duty may be performed under different supervision than the employee's normal position.
- d) Light-duty responsibilities may be adjusted as the employee's recovery progresses.

Section 6. Return from Light Duty Status to Regular Duty.

An employee will be returned to regular duty as soon as the employee's conditions permit. However, before an employee placed on light duty status may be transferred back to regular duty, the employee must provide a physician's certification that the employee can return to work without restrictions. Transfer back to regular duty must be approved by the Town Manager, following consideration of recommendations by the Department Head, Safety Officer, and the Human Resources Director. Once approved, the employee must immediately return to regular duty. Failure to comply is grounds for discipline, including dismissal.

ARTICLE IX. ALCOHOL AND CONTROLLED SUBSTANCE TESTING

Section 1. Purpose.

The Town of Nashville seeks to protect its employees and the public and to provide employees with a drug-free, healthy, safe, and secure work environment. The Town is committed to developing and administering a fair and consistent policy to promote and maintain a drug-free work environment. Employees who abuse alcohol and/or controlled substances are encouraged and may be required to use the Town's Employee Assistance Program. Conscientious efforts to seek and use such help will not jeopardize an employee's job. However, failure to seek and use such help may subject the employee to disciplinary procedure including, but not limited to, termination.

Section 2. Definitions.

Reasonable Suspicion means an expressible belief based on specific objective facts and rational inferences drawn from those facts that an employee has consumed or is under the influence of alcohol or improper use of drugs while at work. Circumstances which constitute a basis for determining reasonable suspicion may include, but are not limited to:

- a) Direct observation of drug use or alcohol use and/or the physical symptoms of being under the influence of a drug or alcohol;
- b) A pattern of absenteeism, tardiness, or deterioration of work performance and abnormal conduct or erratic behavior while at work;
- c) A pattern of accidents and/or information that an employee has caused or contributed to an accident at work while under the influence of drugs or alcohol;
- d) Evidence an employee is involved in the unauthorized possession, sale, solicitation, or transfer of drugs at any time;
- e) Evidence an employee is under the influence of alcohol or consumes alcohol while working or while operating a Town vehicle, machinery, or equipment.

Approved Laboratory means a laboratory approved and certified to conduct employee and applicant drug testing by the North Carolina Department of Human Resources or the National Institute on Drug Abuse, the College of American Pathology, the American Association for Clinical Chemistry, or the equivalent.

Controlled Substance means any substance regulated by state or federal law which has been determined to have a potential for abuse and that may lead to physical or psychological dependence. This includes all forms of marijuana (THC metabolite), cocaine, amphetamines, opiates (including heroin), phencyclidine (PCP), barbiturates, and benzodiazepine.

Positive Drug Test means a chemical test on one's urine or blood sample performed by a certified laboratory which confirms the presence of a controlled substance. A test shall be declared positive after two tests confirm the presence of drugs in the sample.

Positive Alcohol Test means a Breathalyzer or blood test which confirms the presence of alcohol at a level of 0.02 or greater. To ensure maximum validity, the test shall be conducted under the generally accepted test procedures accepted under the Department of Transportation (Federal Highway Administration) and North Carolina General Statutes.

Section 3. Workplace Use of Prescription or Ability-altering Drugs.

The employee is responsible for ascertaining from a health care professional the effects of any prescribed drug or over-the-counter medication. Any employee with knowledge that the use of a prescribed or over-the-counter medication could alter the employee's ability to perform the duties of the position must notify the appropriate supervisor before undertaking their job duties. Failure to obtain or communicate such information may result in disciplinary action.

Section 4. Employee Testing.

Employees shall be tested when there is reasonable suspicion of improper use of alcohol and/or a controlled substance, and after an on the job accident/incident in which the employee was at fault and involves either a fatality or both bodily injury and property damage. Employees are also required to submit to random drug testing on the following basis: fifty percent (50%) of all CDL employees and twenty-five percent (25%) of all safety-sensitive employees shall be randomly tested annually for illegal controlled substances. Twenty-five percent (25%) of all CDL employees and ten percent (10%) of all safety-sensitive employees shall be tested annually for alcohol.

Section 5. Retesting of Employees who have Tested Positive.

If an employee is allowed to continue employment after testing positive for drugs, he/she will be subject to unannounced and random testing. An employee who tests positive for alcohol at a level of 0.04 or greater will be tested a minimum of four times for the first year. After this period, the Substance Abuse Professional will determine when follow-up testing should end.

Section 6. Consent.

Before a test is administered, an employee will be asked to sign a consent form authorizing the test and permitting the release of test results to those Town officials with a need to know as defined by North Carolina Gen. Stat. § 160A-168. The consent form shall provide space for employees to indicate current or recent use of prescription or over-the-counter medication. Consent forms shall also set forth the following information:

- a) The procedure for confirming an initial positive test result;
- b) The consequences of a positive test result;

- c) The right of an employee to explain a positive test result and to be heard at a pre-disciplinary conference; and
- d) The consequences of refusing to undergo a test.

Section 7. Refusal to Consent.

Refusal to consent to testing will subject an employee to immediate dismissal. In addition, failing to appear for a scheduled test will be considered to have refused to consent to the test. An employee who requests a delay of a test scheduled under the provisions of this section will be considered to have violated expected work behavior.

Section 8. The Drug Test.

Normally, a urine test will be used to determine the presence of drugs. Guidance and instructions in administering the drug test will be provided by an approved laboratory to ensure that proper steps are followed in collecting and evaluating samples. A strict chain of custody will be maintained by the approved testing laboratory. If the result is positive, the employee shall be notified in writing by the Human Resources Director. A letter of notification shall identify the particular substance found. Within 72 hours of notification of a positive drug-test result, an employee or applicant may request that the original sample be sent to an approved laboratory for another test at the employee's own expense.

Section 9. Consequences of a Positive Drug Test.

An employee who has a positive drug test will be subject to disciplinary action up to and including dismissal. The employee may request continued employment and assistance under the Employee Assistance Program. When making recommendations for disciplinary action, supervisors and Department Heads shall consider factors which include the following: (1) the employee's work history; (2) the job assignment; (3) the length of employment; (4) the current job performance; (5) the existence of past disciplinary action; and (6) the danger or potential danger to other employees and the public at large due to employee's job duties.

Pursuant to N.C. Gen. Stat. § 20-37.19(c), the Town will notify the North Carolina Division of Motor Vehicles in writing within five business days following the positive drug test of an employee who operates commercial motor vehicles for the Town and who is required as a condition of their job to have, hold, or maintain a commercial driver's license. The Town shall provide the Department of Motor Vehicles with the employee's name, address, driver's license number, social security number, and the results of the drug test.

Section 10. The Alcohol Test.

Normally, an evidential breath-testing device will be used to determine the presence of alcohol. The test will be administered by a Breath Alcohol Technician (BAT) following procedures accepted by the Department of Transportation.

Section 11. Consequences of a Positive Alcohol Test.

0.02 or greater, but less than 0.04 - An employee testing positive in this range may be subject to disciplinary action up to and including dismissal. Arrangements for safe transportation to the employee's home shall be made. If the employee refuses transportation, this shall be documented.

0.04 or greater - An employee testing positive in this range will be subject to disciplinary action up to and including dismissal. Arrangements for safe transportation to the employee's home shall be made. If the employee refuses transportation, this shall be documented and the Town of Nashville Police Department notified.

Pursuant to N.C. Gen. Stat. § 20-37.19(c), the Town will notify the North Carolina Division of Motor Vehicles in writing within five business days following the positive alcohol test of an employee who operates commercial motor vehicles for the Town and who is required as a condition of their job to have, hold, or maintain a commercial driver's license. The Town shall provide the Department of Motor Vehicles with the employee's name, address, driver's license number, social security number, and the results of the alcohol test.

Section 12. Mandatory Participation in Employee Assistance Program.

An employee permitted to continue employment after a positive alcohol or drug test or after voluntarily identifying themselves as a drug user or alcohol abuser will be required to participate and cooperate fully with the provisions of a recommended rehabilitation program as prescribed by the Employee Assistance Program, or comply with any long-term treatment programs which are recommended either through the Employee Assistance Program or another counseling program. Disciplinary action is not automatically suspended by an employee's participation in the Program and may be taken against employees for performance issues or conduct violations, but the employee's participation in the Program will be considered in any decision regarding disciplinary action.

Those employees participating in the Program will be subject during that participation to unannounced and random alcohol and drugs tests. Upon a positive test result, the employee will be subject to dismissal. Those employees who satisfactorily complete the rehabilitation program prescribed by the Employee Assistance Program will be subject to unannounced and random drug and alcohol tests for a period of two years after completion. Satisfactory completion of the rehabilitation program shall be determined by the Town with the guidance of staff of the program. Failure to enter or complete the prescribed program shall be considered by the Town as voluntary termination of employment by the employee.

The Town will pay for the first visit of an employee to the Employee Assistance Program during the calendar year. **The cost of all other visits, be they voluntary or mandatory, will be the responsibility of the employee.**

Section 13. Use of Results in Criminal Action.

No test results of the Town's drug testing program may be used as evidence in a criminal action against an employee except by order of a court of competent jurisdiction.

Section 14. Notification of Charge.

An employee charged with or convicted of an alcohol-related crime or charged with or convicted of a drug-related crime shall notify his/her department head no later than twenty-four hours after such charge or conviction. Failure to notify one's department head of such charge or conviction shall be grounds for dismissal.

Section 15. Accident Involving Town Vehicles.

All tests shall be administered as soon as possible after an accident. However, alcohol tests following a traffic accident involving a Town vehicle must be administered no later than eight hours from the time of the accident. Drug tests following a traffic accident involving a Town vehicle must be administered no later than thirty-two hours from the time of the accident.

ARTICLE X. DISCIPLINARY ACTIONS

It is the Town's policy to take disciplinary actions in accordance with the procedures set forth in this Article whenever reasonably possible and appropriate. However, all Town employees are employed at-will and may be terminated at any time without notice by the Town, just as the employee may resign their position at any time without notice. Nothing in this Article shall be construed as or deemed to give any property right or interest to any Town employee, nor to be binding upon the Town. In the discretion of the Town Manager, a Town employee may be disciplined, up to and including dismissal, without application of the following procedures.

Section 1. Disciplinary Action for Unsatisfactory Job Performance

A regular employee may be placed on disciplinary suspension, demoted, or dismissed for unsatisfactory job performance, if after following the procedure outlined below, the employee's job performance is still deemed to be unsatisfactory. All cases of disciplinary suspension, demotion, or dismissal must be approved by the Town Manager prior to giving final notice to the employee.

Section 2. Unsatisfactory Job Performance Defined

Unsatisfactory job performance includes any 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; or
- 10) Failure to follow the chain of command to address work-related issues.

- 11) Failure to promptly report a work related injury or accident;
- 12) Failure to meet fitness requirements.

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 coaching and feedback sessions to discuss specific performance problems and agree on a plan for correction. A brief summary of these coaching 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 suspension, demotion, or dismissal is taken by the Town Manager. In each case, the supervisor should record the dates of discussions with the employee, the performance deficiencies discussed, the corrective actions recommended, and the time limits set.

If the employee's performance continues to be unsatisfactory after performance feedback and coaching with at least one written warning, 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

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 or discrimination against an employee(s) and/or member of the public on the basis of sex or any other protected class status, or retaliation against any person who has reported or participated in the investigation of any such harassment or discrimination; or
- 14) Directing threatening or obscene language and/or gestures at an employee or member of the public;

- 15) Stated refusal to perform assigned duties, flagrant violation of work rules and regulations, or serious malfeasance of work;
- 16) Using alcohol within eight hours prior to or following an accident or prior to undergoing a post- accident alcohol test;
- 17) Reporting to work or remaining at work, driving a Town vehicle or operating any vehicle on Town property with any amount of alcohol or drugs present in your system or partaking of such while on duty ;
- 18) Failure to report their arrest for a criminal act to a supervisor within 24 hours;
- 19) Failure to report to a supervisor within 24 hours their citation for a traffic violation while operating a town vehicle;
- 20) Intentional use of Town property for unauthorized purposes;
- 21) Use of the Town's internet services to conduct personal business for compensation or to access inappropriate information such as pornography;
- 22) Insubordination toward a supervisor, Department Head, Town Official, or Town Manager; or
- 23) Behavior outside work that is so detrimental as to be obviously contrary to the image and interests of the Town.

Section 6. 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 or Department Head may:

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

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

Section 7. Pre-disciplinary Conference

Before final disciplinary suspension, demotion, or dismissal action is taken, whether for failure in personal conduct or failure in performance of duties, the Town Manager, together with the Human Resources Director and/or Department Head, will conduct a pre-disciplinary conference. The employee may be represented by an attorney at this conference. At this conference, the employee or their attorney may present any response to the proposed discipline or dismissal to the Town Manager or Department Head. The Town Manager, Human Resources Director, and/or Department Head will consider the employee's response, if any, to the proposed discipline, and will, within three working days following the 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.

ARTICLE XI. GRIEVANCE PROCEDURE

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 objecting to an action, event or condition which affects the circumstances under which the employee works, allegedly caused by misinterpretation, unfair application, or lack of established policy pertaining to a particular employment condition(s). The Grievance Procedure is not properly invoked where an employee simply disagrees with an adopted policy or procedure of the Town or their department.

Section 3. Purposes of the Grievance Procedure.

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

- a) Providing employees with a procedure by which their complaints can be considered promptly, fairly, and without reprisal;
- b) Encouraging employees to express themselves about the conditions of work which affect them as employees;
- c) Promoting better understanding of policies, practices, and procedures which affect employees;
- d) Increasing employees' confidence that personnel actions taken are in accordance with established, fair, and uniform policies and procedures;
- e) Increasing the sense of responsibility exercised by supervisors in dealing with employees;
- f) Encouraging conflicts to be resolved between employees and supervisors who must maintain an effective future working relationship and therefore, encouraging conflicts to be resolved at the lowest level possible of the chain of command; and
- g) Creating a work environment free of continuous conflicts, disagreements, and negative feelings about the Town or its leaders thus freeing up employee motivation, productivity, and creativity.

Section 4. Grievance Procedure.

When an employee has a grievance, the following successive steps are to be taken unless otherwise provided. The number of calendar days indicated for each step should be considered the maximum, unless otherwise provided and every effort should be made to expedite the process. However, the time limits set forth may be extended by mutual consent of the employee and the Human Resources Director. If an employee discontinues the grievance procedure prior to review by the Town Manager, the Town will assume that the employee is satisfied with the last response the employee has received. A decision to rescind a disciplinary suspension or demotion must be approved by the Department Head or Town Manager and rescinding dismissal must be approved by the Town Manager before the decision becomes effective.

Step 1. The first step when an issue is perceived by an employee, and prior to the submission of a written grievance, is for the employee and supervisor to meet to discuss the issue to attempt to resolve it informally. Either the employee or the supervisor may involve the Department Head or the Human Resources Director as a resource to help resolve the grievance.

Step 2. If the issue is not resolved at Step 1, the employee may file a written grievance to the supervisor. The grievance must be submitted within fifteen (15) working days of the matter giving rise to the grievance. The supervisor shall acknowledge receipt of the grievance and shall respond to the grievance within ten (10) working days after receipt. The supervisor may consult with other employees of the Town in order to reach a correct and fair determination concerning the grievance. Any employee consulted by the supervisor is required to cooperate.

All responses from the supervisor shall be in writing and signed by the supervisor. The employee must acknowledge receipt of the supervisor's determination by endorsing the Town's copy. All grievance documents must be provided to the Human Resources Director.

Step 3. If the grievance is not resolved at Step 2, the employee may appeal, in writing, to the appropriate department head within ten (10) working days after receipt of the Step 2 decision. If mailed by regular mail, the response shall be presumed to have been received two days after mailing. The department head shall decide the appeal within ten working days after receipt of the appeal.

Step 4. If the grievance is not resolved at Step 3, the employee may appeal in writing to the Human Resources Director within ten working days after receipt of Step 3 decision. If mailed by regular mail, the response from Step 3 shall be presumed to have been received two days after mailing. The Director of Human Resources shall notify the Town Manager of the appeal, and the Town Manager shall respond to the appeal, make arrangements to hear the grievance, and render a decision within ten (10) working days after hearing of the appeal, which shall be scheduled within ten days (10) days of the receipt of the request. The Town Manager's decision shall be the final decision of the Town.

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:

- a) Provide mediation between the grieving Department Head and the Town Manager (see definition of mediation in "Step 1" above); or

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

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

Section 5. Role of the Human Resources Director

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

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

The Human Resources Director 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. Procedure for Alleged Discrimination.

When an employee, former employee, or applicant believes that any employment action or policy discriminates illegally against them based on age, sex, race, color, gender identity, sexual orientation, national origin, religion, creed, political affiliation, veteran status, non-job related disability, or job related disability where the employee believes that with a reasonable accommodation, the employee could perform the job, the employee has the right to appeal such action using the grievance procedure above. While such persons are encouraged to use the grievance procedure, they shall also have the right to appeal directly to the Human Resources Director or the Town Manager. Employment actions subject to appeal because of discrimination include: promotion, training, classification, pay, disciplinary action, transfer, layoff, failure to hire, or termination of employment. An employee or applicant should generally file a grievance regarding an alleged act of discrimination within thirty (30) calendar days of the alleged discriminatory action, but may appeal for up to six months or 180 days following the action.

ARTICLE XII. 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.

The Town Manager may negotiate a resignation with an employee when it is determined to be in the best interest of the Town. Such negotiated resignation may include a severance package consisting of a combination of salary, benefits and/or accumulated leave (vacation, compensatory, etc.).

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.

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 designated beneficiary or appointed representative of the estate of the employee.

Section 7. Dismissal

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

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 their previously accrued sick leave.

Section 9. Rehiring

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

Section 10. Exit Interview Process

Upon separation from Town employment, an exit interview shall be held with the Human Resources Director. The interview shall normally be held during the last week of employment and shall document the return of any Town property issued to the employee, the reason for leaving, counseling on continuation of fringe benefits, and final payroll computation and payment information, including the employee's forwarding address. The Human Resources Director may solicit information from the employee which may be helpful to the improvement of working conditions within the employee's former department.

ARTICLE XIII. PERSONNEL RECORDS AND REPORTS

Section 1. Personnel Records and Reports - Public Information.

In compliance with N.C. Gen. Stat. §160A-168, the following information with respect to each Town employee is a matter of public record: name; age; date of original employment or appointment to the service; 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; current position, title; current salary; date and amount of each increase or decrease in salary with the Town; date and type of each promotion, demotion, transfer, suspension, separation, or other change in position classification with the Town; date and general description of the reasons for each promotion with the Town; date and type of each dismissal, suspension, or demotion for disciplinary reasons taken by the Town; if the disciplinary action was a dismissal, a copy of the written notice of the final decision setting forth the specific acts or omissions that are the basis of the dismissal; and the office to which the employee is currently assigned. Any person may have access to this information for the purpose of inspection, examination, and copying during regular business hours, subject only to such rules and regulations for the safekeeping of public records as the Town may adopt.

For the purposes of this subsection, the term “salary” includes pay, benefit, 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 or former employee’s personnel file, other than the information identified above, is confidential and shall be open to inspection only in the following instances, in accordance with N.C. Gen. Stat. §160A-168(c) and (c1):

- a. The employee or his/her agent, duly authorized in writing by the employee, may examine all portions of his/her personnel file except:
 1. Testing or examination material used solely to determine individual qualifications for appointment, employment, or promotion in the Town’s service, when disclosure would compromise the objectivity or the fairness of the testing or examination process.
 2. Investigative reports or memoranda and other information concerning the investigation of possible criminal actions of an employee, until the investigation is completed and no criminal action taken, or until the criminal action is concluded,
 3. Information that might identify an undercover law enforcement officer or a law enforcement informer,
 4. Notes, preliminary drafts and internal communications concerning an employee. In the event such materials are used for any official personnel decision, then the employee or his duly authorized agent shall have a right to inspect such materials,

5. 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, or the disclosure of which is prohibited by law.
- b. A licensed physician designated in writing by the employee may examine the employee's medical record.
 - c. A Town employee having supervisory authority over the employee may examine all material in the employee's personnel file.
 - d. By order of a court of competent jurisdiction, any person may examine such portion of an employee's personnel file as may be ordered by the Court.
 - e. An official of an agency of the State or federal government, or any political subdivision of the State, may inspect any portion of a personnel file when such inspection is deemed by the Town Manager to be necessary and essential to the pursuit of a proper function of the inspecting agency, but no information shall be divulged for the purpose of assisting in a criminal prosecution of the employee, or for the purpose of assisting in an investigation of the employee's tax liability, absent a court order. However, the official having custody of the personnel records may release the name, address, and telephone number from a personnel file for the purpose of assisting in a criminal investigation.
 - f. An employee may sign a written release to be placed with his/her personnel file that permits the record custodian to provide, either in person, by telephone, or by mail, information specified in the release to prospective employers, educational institutions, or other persons specified in the release.
 - g. The Town Manager, with the concurrence of the Town Council, may inform any person of the employment, non-employment, promotion, demotion, suspension or other disciplinary action, reinstatement, transfer, or termination of a Town employee, and the reasons for that action. Before releasing that information, the Town Manager shall determine in writing that the release is essential to maintaining public confidence in the administration of Town services or to maintaining the level and quality of Town services. The written determination shall be retained in the office of the Town Manager or Town Clerk, as a record for public inspection, and shall also become a part of the employee's personnel file, pursuant to N.C. Gen. Stat. § 160A-168(c)(7).
 - h. Each individual requesting access to confidential information will be requested to submit satisfactory proof of identity.

Section 3. Personnel Actions

The Human Resources Director, with the approval of the Town Manager, will prescribe necessary forms and reports for all personnel actions and will retain records necessary for the proper administration of the personnel system. 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 or former 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 through the grievance procedure.

Section 6. Records of Applicants.

Applications and other information gathered with respect to an applicant will be kept confidential in accordance with N.C. Gen. Stat. § 160A-168. The Town will not release this information without written permission from the applicant.

Section 7. Internal Investigation Records.

Records relating to an internal investigation into the conduct of employee shall be kept separate from the personnel file. Such records shall be kept confidential, and no person may have access to such records or disclose any information contained therein without the approval of the Town Manager.

If an internal investigation is undertaken in response to a complaint by a citizen, then the Town Manager may disclose to the complainant at the conclusion of the investigation that an investigation was completed and whether the charge was founded or unfounded. The Town may not disclose the nature of any disciplinary action taken except as required by Section 1, or in 2.

Section 8. Penalties for Permitting Access to Confidential Records.

Pursuant to Section 160A-168(e) of the North Carolina General Statutes, any public official or employee who knowingly, willfully, and with malice permits any person to have access to any confidential information contained in an employee personnel file, except as expressly authorized, is guilty of a Class 3 misdemeanor and upon conviction may be fined in an amount of up to \$500.00.

Section 9. Examining and/or Copying Confidential Material without Authorization.

Pursuant to Section 160A-168(f) of the North Carolina General Statutes, any person, not specifically authorized to have access to a personnel file designated as confidential, who shall knowingly and willfully examine it in its official filing place, remove or copy any portion of a confidential personnel file, shall be guilty of a Class 3 misdemeanor and upon conviction may be fined in an of up to \$500.00.

Section 10. Destruction of Records Regulated

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

Section 11. Changes in Personal Information

Employees are required to notify the Human Resources Director as soon as possible if there is a change in any of the following:

1. Legal Name
2. Home address
3. Home telephone number and mobile number
4. Emergency Contact Name and Telephone number
5. Number of dependents
6. Marital Status
7. Change of beneficiary
8. Driving record or status of driver's license, if you operate any Town vehicle
9. Military status
10. Exemptions on your W-4 federal tax form and state withholding tax form

Coverage or benefits that employees and their dependents receive under the Town's benefit package could be negatively affected if the above information in the employee's personnel file is incorrect.