

## **CHAPTER 4**

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## **Article I**

### **PURPOSE, COVERAGE, AND DEFINITIONS**

#### **Section 4-1 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 4-2 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 age, race, color, religion, sex, national origin, political affiliation, non-disqualifying disability, sexual orientation, marital status, gender identity, or gender expression.

#### **Section 4-3 Responsibilities of the Town Council**

The Town Council shall be responsible for establishing and approving personnel policies, the position classification and pay plan, and changing the policies and benefits as necessary. They shall also make and confirm appointments when so specified by the general statutes.

#### **Section 4-4 Responsibilities of the Town Manager**

The Town Manager shall be responsible 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 appointed by the Town Council. 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:

- (a) Recommend rules and revisions to the personnel system to the Town Council for consideration;
- (b) Make changes as necessary to maintain an up-to-date and accurate position classification plan;
- (c) Recommend necessary revisions to the pay plan;

- (d) Determine which employees shall be subject to the overtime provisions of Fair Labor Standards Act;
- (e) Develop and administer such recruiting programs as may be necessary to obtain an adequate supply of competent applicants to meet the needs of the Town;
- (g) Perform such other duties as may be assigned by the Town Council not inconsistent with this Policy; and
- (h) Appoint an employee to the role of Human Resources Director.

#### **Section 4-5 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) Recommend rules and revisions to the personnel system for consideration by the Town Manager;
- (b) Recommend changes as necessary to maintain an up-to-date and accurate position classification plan;
- (c) Recommend necessary revisions to the pay plan;
- (d) Recommend which employees shall be subject to the overtime provisions of the Fair Labor Standards Act (FLSA);
- (e) Maintain a roster of all persons in the municipal service;
- (f) Establish and maintain 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) Develop and administer such recruiting programs as may be necessary to obtain an adequate supply of competent applicants to meet the needs of the Town;
- (h) Develop and coordinate training and educational programs for Town employees;
- (i) Investigate periodically the operation and effect of the personnel provisions of this policy; and
- (j) Perform such other duties as may be assigned by the Town Manager not inconsistent with this Policy.

#### **Section 4-6 Application of Policies, Plan, Rules and Regulations**

The personnel policy and all rules and regulations adopted pursuant thereto shall be binding on all Town employees, but does not apply to Service Providers. The Town Manager, Town Attorney, Town Clerk, Assistant to the Mayor/Deputy Town Clerk, and 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 4-7 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 4-8 Definitions**

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

*Disciplinary Action.* An action taken by an employee's Department Head or the Town Manager in response to the conduct or performance of that employee which deprives the employee of a benefit or privilege already possessed or an opportunity to which the employee would otherwise be entitled. Disciplinary actions may range in seriousness up to and including suspensions without pay and dismissals. Without limiting the generality of the foregoing, denials of performance increases, adverse evaluations, or oral or written reprimands shall not be regarded as disciplinary actions for the purposes of the appeals procedure.

*Domestic Partner.* Any person with whom the employee cohabits and shares an intimate relationship regardless of marital status as shown by affidavit.

*Employee.* A person who performs personal services for the Town in return for some form of compensation and is treated as such for the purposes of withholding social security or tax payments in accordance with federal or state regulations.

*Full-time employment.* Employment, whether permanent or temporary, in which an employee works the number of hours per week designated by the Town Council as full-time. For the purposes of this section, full-time employment shall consist of an average workweek of at least **thirty-seven and one-half (37 ½) hours.**

*Grievance.* A claim or complaint by an employee that some event, policy, condition, or situation for which the Town or any of its employees is or may be responsible, has adversely affected or is

adversely affecting that employee in connection with their employment relationship with the Town. Grievances shall be categorized as follows:

a. Type 1 Grievance: A grievance in which the claim or complaint involves a contention that the aggrieved employee has been unfairly evaluated or treated by another employee or agent of the Town. By way of illustration without limitation, a Type 1 grievance may involve a claim that an employee has unfairly received a negative performance evaluation or been denied a performance increase or has been the victim of unfair or discriminatory supervisory practices or unjust treatment by fellow workers.

b. Type 2 Grievance: A grievance in which the claim or complaint involves a contention that the employee is being or has been adversely affected by generally applicable policies or procedures (or the lack thereof), unsatisfactory, unhealthy, or unsafe physical facilities, surroundings, materials, or equipment, unreasonable work quotas or expectations, or other conditions or terms of employment that do not arise out of or result from an interpersonal conflict between the aggrieved employee and another employee or agent of the Town.

*Immediate family.* Father, mother, wife, husband, son, daughter, brother, sister, grandmother, grandfather, mother-in-law, father-in-law, daughter-in-law, son-in-law, half-sister, half-brother, stepmother, stepfather, stepson, stepdaughter, stepsister, stepbrother, or any other relative who is a guardian of the employee or a domestic partner. This definition does not apply to benefits such as health insurance or retirement, unless otherwise provided.

*Officials.* The Mayor, members of the Town Council and the members of any advisory board or commission.

*Part-time employment.* Employment, whether permanent or temporary, in which an employee works less than the number of hours per week designated by the Town Council as full-time. For the purposes of this section, full-time employment shall consist of an average workweek of at least thirty-seven and one-half (37 ½) hours.

*Permanent position.* A position authorized by the Town Council budgeted for a full 12-month period with the expectation that the position will continue from year to year. Positions or employment should not be construed as a contract or right to perpetual funding or employment.

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

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

*Service Provider.* A person who performs personal services for the Town of Carrboro for compensation, under a service agreement, but with respect to whom the Town does not withhold any portion of the compensation paid for social security or income tax payment.

*Temporary position.* Any position other than a permanent position.

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



## Article II

### POSITION CLASSIFICATION PLAN

#### **Section 4-9 Purpose**

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

#### **Section 4-10 Composition of the Position Classification Plan**

The classification plan shall consist of:

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

#### **Section 4-11 Use of the Position Classification Plan**

The classification plan is to be used:

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

#### **Section 4-12 Administration of the Position Classification Plan**

The Town Manager, assisted by 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 Town Manager shall periodically review portions of the classification plan and make minor revisions to ensure that classifications

accurately reflect current job duties and responsibilities. The Town Manager shall also periodically review the entire classification plan and, when needed, recommend major changes to the Town Council.

#### **Section 4-13 Authorization of Positions and the Position Classification Plan**

The Town Manager needs the flexibility to adjust the staffing and assignment of personnel from time to time to ensure that priority services and programs approved by the Town Council are being addressed efficiently. Given such, the Town Manager shall establish, administer, and maintain a current plan of classification of all positions and shall allocate and reallocate positions to classes on the basis of kind and level of duties and responsibilities within the parameters of the adopted budget.

#### **Section 4-14 Request for Reclassification**

Each budget year, any employee who considers the position in which the employee is classified to be improper shall submit a request in writing for reclassification to such employee's immediate supervisor, who shall immediately transmit the request through the Department Head who will review the request and determine if it should be forwarded to the Human Resources Director. The position will be reviewed to determine the merits of the reclassification, and any recommendations to revise the classification and pay plan will be made to the Town Manager.

**Article III**  
**THE PAY PLAN**

**Section 4-15 Definition**

The pay plan, published as a separate document, includes the basic salary schedule and the "List of Classes Arranged by Grades" adopted by the Town Council. The salary schedule consists of minimum, midpoint, and maximum salary for all classes of positions.

**Section 4-16 Payroll Deduction Authorization**

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

**Section 4-17 Service Level Benefits**

Full-time employees of the Town may be compensated for years of service by payment of a service level benefit based on continuous years of service as of December 31st of each year if funds are appropriated in the Annual Budget Ordinance. Payment of this benefit begins at five years of creditable service and is paid in a lump sum benefit in December of each calendar year. The amount of the benefit is the same for each employee who is in the same seniority group. Differing amounts are provided according to the following schedule:

- 5 – 9 years
- 10 -14 years
- 15 – 19 years
- 20 or more years

Employees who separate from Town employment and return within one year will be credited with previous service for the purposes of the service level benefit.

The amount of the service level benefit is indexed each year to reflect the cost of living portion of the pay for performance increase. Continuous service is defined as continuous employment including any approved leave or involuntary reduction in force.

## Article IV

### RECRUITMENT AND EMPLOYMENT

#### **Section 4-18 Equal Employment Opportunity Policy**

It is the policy of the Town to foster, maintain and promote equal employment opportunity. The Town shall select employees on the basis of the applicant's qualifications for the job and award them, with respect to compensation and opportunity for training and advancement, including upgrading and promotion, without regard to age, race, color, religion, sex, national origin, political affiliation, non-disqualifying disability, sexual orientation, marital status, gender identity, or gender expression.

#### **Section 4-19 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, and is being actively observed to the end that no employee or applicant for employment shall suffer discrimination because of age, race, color, religion, sex, national origin, political affiliation, non-disqualifying disability, sexual orientation, marital status, gender identity, or gender expression. Notices with regard to equal employment matters shall be posted in conspicuous places on Town premises in places where notices are customarily posted.

#### **Section 4-20 Recruitment, Selection, and Appointment**

*Recruitment Sources.* When position vacancies occur, the Human Resources Director shall publicize these opportunities for employment, including applicable salary information and employment qualifications. Information on job openings will be published in local and/or other news media as necessary to inform the community and create a quality and diverse pool of applicants. In addition, notice of vacancies shall be posted at designated conspicuous sites within departments. Individuals shall be recruited from a geographic area as wide as necessary and for a period of time sufficient to ensure that well-qualified applicants are obtained for Town service. The North Carolina Employment Security Commission shall normally be used as a recruitment source. In rare situations because of emergency conditions, high turnover, etc., the Town may hire or promote without advertising jobs, upon approval of the Town Manager.

*Job Advertisements.* 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 currently being recruited.

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

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

*Appointment.* 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.

*Living Wage.* Every Town of Carrboro position, whether full-time or part-time, is paid at least a living wage equivalent to the rates established by the Orange County Living Wage non-profit.

#### **Section 4-21 Probationary Period**

An employee appointed to a permanent position shall serve a probationary period. Employees shall serve a six-month probationary period, except that part-time employees, sworn police officers and fire personnel shall serve a twelve-month probationary period (six months for Police Chief and Fire Chief). Employees hired as trainees shall remain on probation until the provisions of their traineeship are satisfied; however not to exceed 18 months. During the probationary period, supervisors shall monitor an employee's performance and communicate with the employee concerning performance progress. Before the end of the probationary period, the supervisor and/or Department Head 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 as an evaluation form. The supervisor shall recommend in writing to the Town Manager, or the supervisor's designee as to whether the probationary period has been successfully completed, should be extended, or the employee transferred, demoted, or dismissed. Probationary periods may be extended up to fifty percent (50%) of the initial period.

Disciplinary action, including demotion and dismissal, may be taken at any time during the probationary period of a new employee without following the steps outlined in this Policy for disciplinary action. Given such, probationary employees serving an initial probationary period in a position with the Town are not entitled to utilize the procedures for appeal of disciplinary action set forth in Section 4-92.

An employee who moves from one position to another (promotion, demotion, transfer) will serve a new probationary period in the new position; however, the employee is entitled to use the procedures for appeal of disciplinary action.

#### **Section 4-22 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 Lieutenant or Fire Captain), 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.

Department Heads are responsible for developing staff capacity to provide back-up for coworkers and higher level positions; to prepare staff and the organization for smooth transitions; and to ensure capability to cover interim absences and vacancies.

#### **Section 4-23 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 chapter.

An employee who wishes to accept a position with less complex duties and reduced responsibilities may request a voluntary demotion. A voluntary demotion is not a disciplinary action and is made without using the above-referenced disciplinary procedures; however, this does not preclude a reduction in salary.

#### **Section 4-24 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 to the Town Manager or the Town Manager's designee 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 4-25 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 4-26 Political Activity**

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

- (a) Engage in any political or partisan activity while on duty;
- (b) Use official authority or influence for the purpose of interfering with or affecting the result of a nomination or an election for office;
- (c) Be required as a duty of employment or as condition for employment, promotion or tenure of office to contribute funds for political or partisan purposes;
- (d) Coerce or compel contributions from another employee of the Town for political or partisan purposes;
- (e) Use any supplies or equipment of the Town for political or partisan purposes; or
- (f) No official may be employed by the Town in any capacity. If an employee is elected or selected to an official position, then that employee forfeits their employment with the Town upon assuming that office.

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

#### **Section 4-27 Outside Employment**

The work of the Town shall have precedence over other occupational interests of employees. All outside employment for salaries, wages, or commission and all self-employment must be reported in advance to the employee's supervisor, who in turn will report it to the Department Head. The Department Head will review such employment for possible conflict of interest and decide whether to approve the work. Conflicting or unreported outside employment are grounds

for disciplinary action up to and including dismissal. Documentation of the approval of outside employment will be placed in the employee's personnel file.

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

- (a) Employment with organizations or in capacities that are regulated by the employee or employee's department; or
- (b) Employment with organizations or in capacities that negatively impact the employee's perceived integrity, neutrality, or reputation related to performance of the employee's Town duties.

Outside employment as it relates to law enforcement contains more specific criteria that should be included in the Police Department's Administrative manual.

#### **Section 4-28 Dual Employment**

If the Town of Carrboro elects to approve such, a full or part-time employee of the Town may simultaneously hold another position with the Town if the temporary position is in a different department and clearly a different program area from that of the full or part-time position and the employment in the temporary position is performed on an occasional or sporadic basis. However, the work of the full or part-time position shall take precedence over the temporary position, and such work will not count toward the calculation of overtime for pay or time off.

#### **Section 4-29 Employment of Relatives**

The Town prohibits the hiring and employment of immediate family in permanent or temporary positions within the same department. "Immediate Family" is defined in Article I, Section 4-8. The Town also prohibits the employment of any person into a permanent position who is an immediate family member of individuals holding the following positions: Mayor, Mayor Pro Tem, Council Member, Town Manager, Town Clerk, Town Attorney, or any Town Department Head. Otherwise, the Town will consider employing family members or related persons in the service of the Town, provided that such employment does not:

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

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

#### **Section 4-30 Harassment**



Harassment on the basis of age, race, color, religion, sex, national origin, political affiliation, non-disqualifying disability, sexual orientation, marital status, gender identity, or gender expression is discrimination. The Town opposes harassment by supervisors and co-workers in any form. Harassment is verbal or physical conduct that denigrates or shows hostility or aversion toward an individual because of their age, race, color, religion, sex, national origin, political affiliation, non-disqualifying disability, sexual orientation, marital status, gender identity, or gender expression, or that of the individual's relatives, friends, or associates.

Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when 1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; 2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or 3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Any employee who believes that they may have a complaint of harassment may follow the Grievance Procedure described in this Policy or may file the complaint directly with the Town Manager, Human Resources Director, or any Department Head who will advise the Human Resources Director of the complaint. The Human Resources Director will ensure that an investigation is conducted into any allegation of harassment and advise the employee and appropriate management officials of the outcome of the investigation. Employees witnessing harassment shall also report such conduct to an appropriate Town official.

#### **Section 4-31 Acceptance of Gifts and Favors**

(a) No official or employee may accept any gift, whether in the form of service, loan, thing or promise from any person who to the knowledge of the official or employee is interested directly or indirectly in any manner whatsoever in business dealings with the Town.

(b) No official or employee may accept any gift, favor, or thing of value that may tend to influence that official or employee in the discharge of duties.

(c) No official or employee may grant in the discharge of duties any improper favor, service, or thing of value.

(d) No official or employee may use their position with the Town to secure a contract for the purchase of goods or services from any firm or organization in which they have a direct financial interest.

#### **Section 4-32 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 4-33 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 ensuring 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 4-34 Substance Abuse Policy**

The Town has established policies and procedures related to employee substance abuse in order to ensure the safety and well-being of citizens and employees, and to comply with any state, federal, or other laws and regulations.

#### **Section 4-35 Direct Deposit**

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

#### **Section 4-36 Adverse Weather/Hazardous Conditions**

(a) The Town has responsibility for emergency services including law enforcement. Adequate staff are required to operate critical Town Services seven days per week, twenty-four hours per day in all weather. Department Heads should designate which staff positions and personnel are critical and, therefore, required to report to work regardless of weather or other hazardous conditions.

(b) All Town departments are affected by extreme weather conditions. The Town Manager will make decisions related to the delayed opening, early closing, or full-day closure of Town Hall and administrative offices. When these circumstances occur, employee work attendance and compensation will be handled as described:

(1) Non-emergency, non-exempt employees: If Town offices are closed due to extreme weather conditions, non-emergency, non-exempt employees will be paid their regular hourly rate for work hours missed due to the closing, up to a maximum of twenty-four (24) hours per fiscal year. If Town offices are open during extreme weather, non-emergency, non-exempt employees with supervisor approval may use accrued time, or leave without pay, if they are absent from work due to local extreme weather conditions (for example, roads near an employee's home are not clear but roads in Carrboro are safe).

(2) Non-emergency, exempt employees: If Town offices are closed due to extreme weather conditions, non-emergency, exempt employees will be paid their regular salary for work hours missed due to a full day closing, for a maximum of three (3) full-day closures per fiscal year. If Town offices are open during extreme weather, non-emergency, exempt employees with Town Manger approval may use accrued time, or leave without pay, if they are absent for a full day from work due to extreme weather conditions (for example, roads near an employee's home are not clear but roads in Carrboro are safe).

(3) Emergency and weather-essential employees: Many of the Town's employees must function at all times regardless of weather conditions. Emergency and weather-essential employees are required to report to work. The Town Manager will exercise their best judgement for each weather situation as to which employees are considered essential. If Town offices delay opening, close early, or are closed for a full day, emergency and weather essential staff who work during this time will receive compensatory time up to but not exceeding twenty-four (24) hours per year due to extreme weather conditions, in the equivalent amount as non-emergency employees.

(4) There will be no accrual, no pay-out, and no carry-over of these days from one fiscal year to another.

(5) Previously scheduled sick and/or vacation leave during extreme weather conditions will be deducted as originally scheduled and approved and will not be eligible for compensatory time.

#### **Section 4-37 Residency**

Within six months after appointment as Town Manager, the Town Manager shall become a resident of the Town and shall remain a resident of the Town during their tenure as Town Manager.

The Town Council also deems it important to the health, safety, and welfare of the citizens of the Town of Carrboro that the administrative heads of the police department and fire department reside within close proximity to the Town so that they can generally be available to respond rapidly to the Town's needs at all times. Therefore, within six months of their appointment, the police chief and fire chief, respectively, shall establish residency that is no more than fifteen miles (measured on a straight line basis) from the Town limits. They shall continue to adhere to this requirement while employed by the Town.

All Department Heads are encouraged but shall not be required to reside within the Town. A person becomes a resident of or establishes residency within the prescribed area when the person:

- (a) Has left their prior home with no intent to return to the prior home as a place of regular habitation; and

(b) Has rented, leased, or purchased a dwelling unit (as defined in the Carrboro Land Use Ordinance) within the prescribed area; and

(c) Has established such dwelling unit as their regular place of habitation and the place to which, whenever they are absent, they have the intention of returning; and

(d) Actually resides within the dwelling unit on a regular basis at least five evenings during normal weeks.

**Article VI**

**EMPLOYEE BENEFITS**

**Section 4-38 Eligibility**

All permanent full-time and part-time employees of the Town are eligible for employee benefits to the extent provided for in this policy. These benefits are subject to change at the Town's discretion. Temporary employees are eligible only for workers' compensation and FICA (social security benefits).

**Section 4-39 Group Health and Hospitalization Insurance**

The Town provides group health and hospitalization insurance programs for employees designated as permanent full-time and working a minimum of 37.5 hours per week. Permanent employees working less than full-time who meet the industry standard for insurance coverage eligibility may purchase the coverage at their own expense.

In addition, the Town elects to extend health insurance benefits or provide a stipend to retirees. As long as it is provided by the Town and permitted by the provider, this benefit is available to retirees who meet the following eligibility requirements:

- Have at least 10 years of continuous service with the Town (or reinstated in accordance with Section 4-85 of the Personnel Ordinance);
- Qualify for one of the retirement options available through the NCLGERS; and
- Pay their share of the insurance premium.

Coverage for active employees and retirees is provided as follows:

Active Employees	Participate in Town Group Health Plan
Non-Medicare Eligible Retirees Hired Prior to July 1, 2007	Participate in Town Group Health Plan
Medicare Eligible Retirees (according to age) Hired Prior to July 1, 2007	Participate in Town Group Medicare Supplement Plan
Retirees hired on or after July 1, 2007	Receive a stipend to defray the costs of health insurance; eligible for coverage through COBRA

The stipend provided to retirees hired on or after July 1, 2007 will be based on the cost of the medical premium for active individual coverage effective 7/01/07 and will have future increases based on the consumer price index (CPI). Should the CPI decrease, there will be no reduction in the amount of the stipend. Staff will review the policy periodically and report to the Council as necessary.

Dependents of retirees who are on the plan at the time the employee retires may continue coverage as provided below.

Dependents of Active Employees	Participate in Town Group Health Plan
Non-Medicare Eligible Dependents of Retirees Hired Prior to July 1, 2007	Participate in Town Group Health Plan
Medicare Eligible Dependents of Retirees (according to age) Hired Prior to July 1, 2007	Participate in Town Group Medicare Supplement Plan
Dependents of retirees hired on or after July 1, 2007	Eligible for coverage through COBRA

Dependents that are not enrolled when the employee retires may not be added to the plan; and once removed from the plan, the dependents may not be re-enrolled. The Town pays no portion of the premium for a retiree’s dependents.

The percentage of the insurance premium for the group health plan, the group Medicare Supplement Plan, or the percentage of the stipend paid for by the Town for retirees, hired prior to 2007, is based upon years of service according to the schedule listed below.

<u>Continuous years of Service</u>	<u>Percentage of Insurance Premium to be Paid by Town</u>
10 - 14 years	50%
15 - 19 years	75%
20 years and up	100%

As used in this section, the term “insurance premium” refers to the amount of premium charged by the insurance provider for the retiree coverage under the group health plan or the group Medicare supplement plan.

The benefits provided under this section are not intended to be contractual in nature and may be reduced or withdrawn at any time in the unilateral discretion of the Town Council for financial reasons or any other reason deemed sufficient by the Town Council.

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

**Section 4-40 Group Life Insurance**

The Town may elect to provide group life insurance for each employee subject to the stipulations of the insurance contract. Employees may elect to purchase additional coverage and/or to insure other family members at their expense.

**Section 4-41 Other Optional Group Insurance Plans**

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

#### **Section 4-42 Retirement**

Each employee who is expected to work for the Town in a position designated as permanent for 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 as defined by the retirement system.

#### **Section 4-43 Supplemental Retirement Benefits**

The Town may provide supplemental retirement benefits for its permanent full time and part-time employees. Each law enforcement officer shall receive 401-K benefits as prescribed by North Carolina State Law beginning on the first day of employment. Other employees may receive supplemental benefits as determined by the Town Council.

#### **Section 4-44 Social Security**

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

#### **Section 4-45 Workers' Compensation**

All employees of the Town (full-time, part-time, and temporary) are covered by the North Carolina Workers' Compensation Act and are required to report all injuries arising out of and in the course of employment to their immediate supervisors at the time of the injury in order that appropriate action may be taken at once.

Responsibility for claiming compensation under the Workers' Compensation Act is on the injured employee, and such claims should be filed with the North Carolina Industrial Commission within five days of the date of injury. The Safety Officer will assist the employee in filing the claim if necessary.

#### **Section 4-46 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 4-47 Tuition Assistance Program**

Permanent full-time employees who have completed initial probation may apply for tuition reimbursement for courses taken on their own time, which will improve their skills for their current job or prepare them for promotional opportunities with the Town. Tuition, registration fees, laboratory fees, and student fees are eligible expenses. Satisfactory completion of the courses will be required for reimbursement. Requests for tuition assistance shall be submitted to

the Human Resources Department prior to course registration and are subject to the review and approval of Department Head and Town Manager. Tuition assistance funds are available only as budgeted annually.

#### **Section 4-48 Legal Defense of Employees**

The policy of the Town is to provide for the defense of all employees for acts or omissions allegedly committed while in the course and scope of their employment or duty as an employee of the Town. Upon request made by or on behalf of any employee or former employee, the Town shall provide for the defense of any civil or criminal action or proceeding brought against them either in their official capacity or individual capacity, or both, on account of any act done or omission made, or any act allegedly done or omission allegedly made in the scope of their employment or duty as an employee of the Town. The defense may be provided by the Town by its own counsel, or by employing other counsel, or by purchasing insurance that requires that the insured provide the counsel. Limits on the amount of defense expenditures may be set by the Town Manager, in relation to prevailing local rates in consideration of available budget funding. In addition, the Town Council may appropriate funds for the purpose of paying all or part of a claim made or a civil judgment entered against any employee or former employee of the Town when such claim is made or such judgment is rendered regarding any act done or omission made, or any act allegedly done or omission allegedly made, in the scope and course of such employee's employment with the Town, subject to the following:

- (1) No such payment shall be made if the Council finds that the employee acted or failed to act because of actual fraud, corruption or actual malice.
- (2) No such payment shall be made unless notice of the claim or litigation is given to the Council prior to the time that the claim is settled or civil judgment is entered.
- (3) Funds may be appropriated under this section only if and to the extent that a determination has been made that no insurance is available to the employee (whether provided by the Town or by the employee) to cover the payment of such claim or judgment.
- (4) In determining whether to appropriate funds for the payment of a claim or judgment under this section, the Council shall consider (i) the amount of the claim or judgment and whether the payment would have a significantly adverse impact on the Town's ability to fulfill its other budgetary priorities; (ii) the nature and extent of the injury that gives rise to the claim; (iii) the impact of the Council's decision on the employee; (iv) the extent to which the employee was culpable in causing the injury that gives rise to the claim or judgment; and (v) any other factor bearing upon the question of whether payment of the claim or judgment would be fair and appropriate and in the best interest of the residents and taxpayers of the Town of Carrboro.



**Article VII**

**HOLIDAYS AND LEAVES OF ABSENCE**

**Section 4-49 Policy**

The policy of the Town is to provide annual leave, sick leave, and holiday leave to all permanent full-time and part-time employees. Leave is provided in pro-rated amounts to employees working less than the standard thirty-seven and one-half (37 ½) hours per week. Leave balances should be printed on direct deposit stubs and provided to employees with each pay stub.

**Section 4-50 Holidays**

The following days, and other such days as the Town Council may designate, are holidays with full pay for permanent employees.

- |                                   |                                |
|-----------------------------------|--------------------------------|
| New Year's Day                    | Independence Day               |
| Martin Luther King Jr.'s Birthday | Labor Day                      |
| Easter Friday                     | Thanksgiving Thursday & Friday |
| Memorial Day                      | Christmas Day (3 working days) |
| Juneteenth                        |                                |

When any recognized holiday other than Christmas Day falls on a Saturday or a Sunday, Friday or Monday shall be observed in recognition of the holiday.

**When Christmas Day falls on:**

- Sunday
- Monday
- Tuesday
- Wednesday
- Thursday
- Friday
- Saturday

**The Town observes:**

- Thursday, Friday and Monday
- Friday, Monday and Tuesday
- Monday, Tuesday, and Wednesday
- Tuesday, Wednesday and Thursday
- Wednesday, Thursday and Friday
- Wednesday, Thursday and Friday
- Thursday, Friday and Monday

In order to receive pay for a holiday, an employee must be on paid status before and after the holiday.

**Section 4-51 Holidays: Effect on Other Types of Leave**

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

**Section 4-52 Holidays: Compensation for Public Safety Shift Personnel**

Sworn shift police and fire personnel, whether on duty or not, shall receive pay for all eleven Town holidays as the holidays occur. Sworn shift police officers shall receive pay at straight time for the number of hours equivalent to a regularly scheduled shift, i.e. 8.4 hours or 12 hours. Shift fire personnel shall receive pay for the holidays at 11 hours of straight time per holiday. Compensatory time shall not be awarded or accrued for holiday compensation when shift personnel are required to work on a holiday. No holiday compensation for hours worked shall be accrued by an employee.

Because the Town continues to operate emergency services seven days a week, twenty-four hours per day, public safety personnel working a shift may be required to work on scheduled holidays. When shift public safety personnel are required to work on a scheduled holiday, the employee shall receive regular pay for all hours actually worked. Holiday pay shall not be factored into overtime pay; however, in accordance with the Fair Labor Standards Act (FLSA), all hours actually worked shall be factored into overtime calculations, including those hours worked on scheduled holidays.

**Section 4-53 Annual Leave**

Annual leave may be used for rest and relaxation, absences due to adverse weather conditions, and other reasons as the employee may deem necessary.

**Section 4-54 Annual Leave: Use by Probationary Employees**

Employees serving a probationary period following initial employment may accumulate annual leave but shall not be permitted to use such leave during the probationary period. Employees who need to take time off may do so upon the approval of the Department Head; however, any time off will be without pay. Employees shall be allowed to take accumulated annual leave after successful completion of probation.

**Section 4-55 Annual Leave: Accrual Rate**

Annual leave shall be earned by persons employed permanent full-time in accordance with the following table. Persons employed permanent part-time shall earn annual leave in a prorated amount based upon this table:

<b>Years of Service</b>	<b>Days Accrued Per Year</b>	<b>*Duty Days Per Year</b>
Less than 2 years	12	6
2 but less than 5 years	14	7
5 but less than 10 years	17	8
10 but less than 15 years	20	9
15 but less than 20 years	23	11
20 years or more	26	12

\*For shift employees of the Fire Department.

**Section 4-56 Annual Leave Pro-rated**

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

- (1) The number of hours worked by such employees shall be divided by the number of hours in the basic workweek (37.5 for the standard Town department).
- (2) The proportion obtained in step 1 shall be multiplied by the number of hours of leave earned annually by employees working the basic workweek.
- (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, divided by 26 shall be the number of hours of leave earned per bi-weekly payroll period.

#### **Section 4-57 Annual Leave: Maximum Accumulation**

Annual leave may be accumulated without any applicable maximum until December 31 of each year. However, if the employee departs from service, payment for accumulated annual leave shall not exceed 240 hours (14 duty days for shift fire personnel). Effective the last payroll in the calendar year, any employee with more than this maximum amount of accumulated leave shall have the excess accumulation transferred to their sick leave balance so that only 240 hours (14 duty days for fire personnel) are carried forward to January 1st of the next calendar year. Annual leave is accumulated while the employee is in continuous service and in pay status, or while on workers' compensation leave.

Employees are cautioned not to retain excess accumulated annual leave until late in the year. Because of the necessity to keep all functions in operation, large numbers of employees cannot be granted annual 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 annual leave scheduled or in receiving any exception to the maximum accumulation.

#### **Section 4-58 Annual Leave: Manner of Taking**

Employees should request annual leave in advance of the requested leave time. Employees shall be granted the use of earned annual leave at those times designated by the Department Head which will least obstruct normal operations of the Town. Department Heads are responsible for insuring that approved annual leave does not hinder the effectiveness of service delivery. All eligible Department Heads (those having completed probation) shall be required to take annual leave equivalent to five (5) consecutive working days per year. An exemption to this section may be granted by the Town Manager.

#### **Section 4-59 Annual Leave: Payment upon Separation or Retirement**

An employee who has successfully completed six months of the probationary period will normally be paid for accumulated annual leave upon separation, subject to a 240 hour maximum

(14 duty days for shift fire personnel), provided written notice is given to the supervisor at least two weeks in advance of the effective date of resignation (minimum of 30 days notice for Department Heads). Any employee failing to give the written 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.

An employee retiring under the provisions of the North Carolina Local Government Retirement System may have any excess annual leave (above 240 hours or 14 duty days for shift fire personnel) converted to sick leave and used for retirement service credit.

#### **Section 4-60 Annual Leave: Payment upon Death**

The estate of an employee who dies while employed by the Town shall be entitled to payment of all the accumulated annual leave credited to the employee's account.

#### **Section 4-61 Sick Leave**

Sick leave may be granted to an employee absent from work for any of the following reasons: sickness, bodily injury, temporary disabilities, 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 or needs medical care; however, any sick leave that the employee receives under the shared leave program may be used only for the employee's personal illness or medical care.

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

With the permission of the Department Head, sick leave may be used for death in the employee's immediate family after bereavement leave has been exhausted (one-day sick leave per occurrence for shift employees of the Fire Department and three days sick leave per occurrence for other permanent employees).

#### **Section 4-62 Sick Leave: Accrual Rate, Accumulation, and Manner of Taking**

Sick leave shall accrue at a rate of one day per month of service or twelve days per year. Sick leave for permanent part-time employees shall be pro-rated as described in this Article. Shift employees of the Fire Department shall earn sick leave at the rate of four, twenty-four hour tour-of-duty days for each completed year of service.

Notification of the desire to take sick leave shall be submitted to the employee's supervisor prior to the leave or not later than two hours after the beginning of a scheduled workday. Failure to so notify the appropriate supervisor may result in disciplinary action.

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.

#### **Section 4-63 Transfer of Sick Leave from Previous Employer**

The Town may accept the transfer of sick leave for employees from other employers who are participants of the North Carolina Local Government or State Employees Retirement System. The sick leave will be treated as though it were earned with the Town of Carrboro. The sick leave amount must be certified by the previous employer. This sick leave may be taken after the employee successfully completes the initial hire probationary period.

#### **Section 4-64 Sick Leave: Medical Certification**

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

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

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

#### **Section 4-65 Family and Medical Leave**

The Town will grant up to 12 weeks of family and medical leave per twelve (12) months to eligible employees in accordance with the Family and Medical Leave Act of 1993 (FMLA). The leave may be paid (coordinated with the Town's Annual Leave and Sick Leave policies), unpaid, or a combination of paid and unpaid. Unpaid leave will be granted only when the employee has exhausted all appropriate types of paid leave. Additional time away from the job beyond the 12-week period may be granted with the approval of the Town Manager.

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

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

1. The birth of a child and in order to care for that child;
2. The placement of a child for adoption or foster care;
3. To care for a spouse, domestic partner, child (or child of the domestic partner), or parent with a serious health condition;
4. The serious health condition of the employee; or
5. Any qualifying exigency arising out of the fact that the spouse, or domestic partner, child (or child of the domestic partner), or parent of the employee is on active duty, or has been notified of an impending call to active duty status, in support of a contingency operation.

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 both spouses 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 spouses together may only take a total of 12 weeks leave under FMLA.

An employee taking leave for the birth of a child may use parental leave and/or paid sick leave for the period of actual disability, based on medical certification; afterward, the employee must use other types of leave for the remainder of the 12-week period.

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 that entails substantially equivalent skill, effort, responsibility, and authority.

Any employee requesting the use of leave must complete the appropriate FMLA form, submit it to Human Resources for approval by Human Resources and the Town Manager, or the Town Manager's designee.

#### **Section 4-66 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 their position. For a seriously ill family member, the certification must include a statement that the patient requires assistance and the employee's presence would be beneficial or desirable.

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

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

#### **Section 4-67 Leave Without Pay**

A permanent full-time or part-time employee may be granted a leave of absence without pay for a period of up to twelve months by the Town Manager. The Town Manager will (as information) report any such leave granted an employee to the Town Council at the Council's next meeting after such leave has been granted. The leave shall be used for reasons of personal disability after both sick leave and annual leave have been exhausted, sickness or disability of immediate family members, continuation of education, special work that will permit the Town to benefit by the experience gained or the work performed, or for other reasons deemed justified by the Town Manager.

The employee 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.

An employee who is in a leave without pay status will not accrue retirement service credits.

#### **Section 4-68 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 any dependents 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.

Any employee, upon the exhaustion of all leave benefits, may be placed on Leave Without Pay in accordance with Section 4-67. 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 the employee's own expense, subject to any regulation adopted by the Town Council and the regulations of the insurance carrier.

#### **Section 4-69 Workers' Compensation Leave**

An employee who is absent from duty because of sickness or disability covered by the North Carolina Workers' Compensation Act may elect to use accrued sick leave, annual leave, or compensatory time during initial waiting period for benefits. The employee may also elect to supplement workers' compensation payments after they begin with sick leave, annual leave, 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. When workers' compensation leave extends long enough for the waiting period to be reimbursed, the employee shall return the reimbursement check to the Town and have leave hours re-instated for all time covered by paid leave. In such cases, the Town will pay the employee for any unpaid time that is owed the employee.

(a) All injuries arising out of, and during, the course of employment should be reported by the injured employee to the immediate supervisor as soon as possible. The supervisor or Department Head shall file an injury report to the Human Resources Director or the Human Resource Director's designee within twenty-four (24) hours of the time of the accident. The employee must use sick leave or annual leave for the first seven (7) days of disability. These days will be reimbursed only if the disability continues for more than twenty-one (21) days.

(b) 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.

(c) Upon return to work, the employee's salary will be computed on the basis of the last salary plus any merit increment or other salary increase to which the employee would have been entitled during the disability covered by Workers' Compensation. While receiving workers' compensation benefits, an employee continues to earn annual leave sick leave, and personal time off leave; however, personal time off leave not used by the end of the calendar year will be lost. Retirement service credit is not earned during a workers' compensation period.



This provision also applies to reactions to small pox vaccinations administered to County 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.

The Town reserves the right to consider a separation of employment for any employee who is out on workers' compensation for any reason for more than 12 (twelve) months.

#### **Section 4-70 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 with pay. On rare occasions due to annual training being scheduled on a federal fiscal year basis, an employee may be required to attend two periods of training in one calendar year. For this purpose only, an employee shall be granted an additional ten days of military leave during the same calendar year. If 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 these ten workdays, the employee shall be eligible to take accumulated annual leave or be placed in a leave without pay status, and the provisions of that leave shall apply. While taking military leave, 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.

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, for a maximum period of three months, receive partial compensation equal to the difference in base salary earned as a military reservist or member of the National Guard and the salary that would have been earned during this same period as a Town employee. The effect will be to maintain the employee's salary at the normal level during this period.

#### **Section 4-71 Reinstatement Following Military Service**

An employee called to extended active duty with the United States military forces, who does not volunteer for service beyond the period for which called, shall be reinstated with full benefits provided the employee:

- (1) Applies for reinstatement within ninety days after the release from military service; and
- (2) Is able to perform the duties of the former position or similar position; or
- (3) Is unable to perform the duties of the former position or a similar position due to disability sustained as a result of the military service, but is able to perform the duties of another position in the service of the Town. In this case the employee shall be employed

in such other position as will provide the nearest approximation of the seniority, status, and pay which the employee otherwise would have been provided, if available.

#### **Section 4-72 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 4-73 Personal Time Off**

Effective July 1, 2019, permanent employees shall be granted eighteen (18) hours per year of personal time off over and above sick leave and annual leave with pay. Personal time off under Section 4-73 is separate from Town closures due to adverse weather. (See Section 4-36 Adverse Weather, Rev. 11/15.)

Personal time off must be requested through supervisors and may be taken in the same manner as sick and annual leave. Personal time off shall accrue biweekly at a rate of .6923 hours per pay period beginning on January 1st of each calendar year. Employees may not carry over unused personal time off from year to year. Any unused personal time off not taken by December 31st shall be lost.

Personal time off may be used during the employee's probationary period.

#### **Section 4-74 Compensatory Time**

As necessitated to ensure Town operations, non-exempt employees may, at times, be required to work more than their regularly scheduled hours. According to the Fair Labor Standards Act, local governments may elect to award compensatory time in lieu of overtime pay. 29 U.S.C.A. § 207(o)(1).

Effective July 1, 2019, non-exempt, non-public safety employees may accrue up to a maximum of forty (40) hours of compensatory time per calendar year. Non-exempt, public safety employees may accrue up to a maximum of one hundred (100) hours of compensatory time per calendar year. Exempt employees are not eligible for overtime pay and may not earn compensatory time.

All non-exempt employees must use any earned compensatory time before taking any other earned leave, including annual leave (vacation), personal time off, and/or sick leave. Compensatory time in excess of the allowed maximum shall not be accumulative beyond the end of each calendar year. Any unused compensatory time in excess of the allowed maximum as of

December 31st may be paid out in a lump sum by January 31st following the end of the calendar year.

The Town Manager may grant a one-time exception to the maximum compensatory time accrual for an employee or class of employees if so doing would be in the best interest of the Town. In order to reduce instances of overtime work and compensatory time earnings, all Department Heads and supervisors are expected to adjust employee work schedules during periods of heavy workloads.

#### **Section 4-75 Bereavement Leave**

Full or part-time permanent employees are eligible for Bereavement Leave which may be used for death in the employee's immediate family as defined in Section 4-8 of this article. The employee may be granted up to five working days per calendar year (two working days for shift employees of the Fire Department, and twenty hours for permanent part-time employees) with pay due to death of immediate family. Additional leave time required for such occurrence may be charged to sick leave or other approved leave, such as compensatory time, when approved by the Department Head and/or Town Manager. Bereavement Leave for those not covered by the immediate family definition may be also charged to sick leave or compensatory time with the permission of the Department Head or Town Manager.

#### **Section 4-76 Educational Leave**

An employee that has completed one (1) year of employment with the Town may request educational leave at full or partial pay for a period not to exceed nine (9) months. The Town Manager may permit an employee to take courses of study that will better enable the employee to perform their duties. Educational leave that exceeds fifteen (15) consecutive working days shall be approved by the Town Council.

An employee granted extended leave with pay shall agree in writing to return to the service of the Town upon completion of training and remain in the employment of the Town for a period equal to twice the educational leave received; otherwise, the employee shall reimburse the Town for all compensation received while on educational leave.

#### **Section 4-77 Shared Leave**

An employee may donate accumulated hours of their own annual leave or sick leave to another employee who meets the criteria so that employee may be provided sick leave for that employee's own personal illness under the Town's Shared Leave Program.

The recipient must meet the following requirements:

- Has successfully completed the probationary period;
- Has a personal medical condition that requires absence from work for more than three consecutive work days as certified by a physician;
- Has exhausted all sick leave, annual leave, and compensatory leave time;

- Requests, in writing, leave under the Shared Leave Program and receives approval to request shared leave through their Department Head;
- Cannot receive more leave than needed for the medical condition as stated in writing by the employee's physician; and
- Has not received shared leave within the past twelve months.

The donor must meet the following requirements:

- Has successfully completed the probationary period;
- Retains, after the donation, a combined annual leave and sick leave balance of no less than 240 hours;
- Has not donated more than 100 hours of leave within the past 12 (twelve) months;
- Agrees to donate a minimum of four (4) hours; and
- Understands that the leave is irrevocable.

Employees out on workers' compensation leave or employees receiving disability insurance benefits are not eligible for shared leave. Leave is available for use on a current basis and is not retroactive beyond the current pay period. Leave donations will be kept confidential unless otherwise requested by the donor.

#### **Section 4.78 Paid Parental Leave**

Effective December 1, 2018, employees who qualify for Family and Medical Leave Act (FMLA) coverage under Section 4-65 of this Article will be eligible to receive a maximum of 240 hours of paid parental leave during each 12 rolling monthly period for the birth, adoption, or placement of a foster child. Paid Parental Leave will run concurrently with the employee's Family and Medical Leave.

Paid parental leave will be provided to any qualifying full-time or permanent part-time employee who is a new birth parent, spouse of a birth parent, domestic partner, or foster parent of a child age 18 or younger.

If both parents are employed by the Town at the time of the child's birth, adoption, or foster care placement, the couple will be entitled to a total of six weeks of paid parental leave combined. The birth or placement of more than one child (i.e. twins or siblings) at the same time does not entitle the employee to additional paid leave above the 240 hour maximum. Adoption of a stepchild or stepchildren does not qualify for paid parental leave.

An employee requesting paid parental leave must contact Human Resources in advance of taking such leave, if practicable, and submit FMLA forms that must be completed by the parent's medical provider, or legal representative in the case of adoption or foster care placement. Forms are available from the Human Resources Department and should be submitted to that Department. Leave must be approved by the employee's Department Head, the Human Resources Director, and the Town Manager.

Payment will be made to the employee's bank account via direct deposit on the Town's biweekly payroll schedule, and employees who are on paid parental leave will receive pay for their regular, biweekly hours, not to exceed 240 hours in any 12 rolling month period. The employee's usual payroll deductions and contributions, and the Town's usual payroll contributions, will continue.

All benefits provided to the employee per Town policy prior to paid parental leave will continue. Any employee contributions for benefits, 401k loans, or other employee obligations normally paid by the employee through payroll deduction, shall continue. If a holiday occurs during the paid parental leave period, the holiday will be paid and will not count against the paid parental leave hours.

Employees continue to accrue service time, as well as sick and vacation leave, according to Town policy.

A qualifying employee is entitled to paid parental leave once in each 12 rolling month period. Leave must be taken immediately after the birth, adoption, or placement of the child/children, and the 240 hours must be taken consecutively, subject to the exception provided for in the next paragraph of this Section. All unused leave will be forfeited upon the employee's return to work. If both parents are employed by the Town, the couple will be entitled to a total of 240 hours of paid parental leave combined, and only one parent will receive FMLA leave running concurrently with the paid parental leave.

An employee may request intermittent paid parental leave or a delayed start of the leave period. Such requests must be made to Human Resources at least sixty days in advance of taking leave, if practicable, and may be approved by the Department Head, Human Resources Director, and Town Manager in the Town's discretion. All paid parental leave must be taken within 12 months of the birth or placement of the child/children.

An employee is expected to return to work at the end of their approved paid parental leave, unless the employee has received approval to extend the time away from work with other types of leave. Employees should notify Human Resources and their supervisor or Department Head if there is any anticipated change in their original return-to-work date. Nursing parents who return to work will receive paid break times and private space to pump breast milk, as well as access to refrigerated storage.

## Article VIII

### SEPARATION AND REINSTATEMENT

#### **Section 4-79 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 4-80 Resignation**

An employee may resign by submitting the reasons for resignation and the effective date in writing to the immediate supervisor as far in advance as possible. In all instances, the minimum notice requirement is two weeks; 30 days notice is required for Department Heads. Failure to provide minimum notice shall result in forfeit of payment for accumulated annual leave 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.

Participation in a work stoppage or strike against the Town by an employee(s) may be considered a resignation by the employee.

#### **Section 4-81 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 4-82 Disability**

Subject to the remaining provisions of this section, an employee who cannot perform satisfactorily the essential duties because of a physical or mental disability may be separated. The employee or the Town may initiate action. In all cases, such action must be accompanied by medical evidence acceptable to the Town Manager. If and to the extent that an employee has a disability as defined by the ADA, and if requested by the employee, the Town and employee must fully explore reasonable accommodation(s) which might permit the employee to perform the essential duties of the employee's position. Reasonable accommodation may include transfer

to another vacant position if the employee is able and qualified to perform the essential duties of that other position. The Town may require an examination, at the Town's expense, to be performed by a physician of the Town's choice.

An employee who has been granted leave without pay under Section 4-67 for reasons of personal disability shall not be subject to termination under this section during the authorized leave without pay period.

An employee who is disabled and who is out on accrued sick leave or annual leave shall not be subject to termination under this section until all such accrued leave has been exhausted; provided that, the Town may terminate a disabled employee who has remained out on such accrued leave for a period of twelve months. In such a case, the employee shall be compensated for any remaining accrued sick leave unless such leave is converted upon retirement into service credit consistent with the provisions of the North Carolina Local Government Employees' Retirement System.

An employee who is disabled and who is out on workers' compensation leave shall not be subject to termination under this section until after the employee has been certified by a physician as having reached maximum medical improvement; provided that, the Town may terminate a disabled employee who has remained on workers' compensation leave for a period of twelve months. In such a case, the employee shall be compensated for any remaining accrued sick leave unless such leave is converted upon retirement into service credit consistent with the provisions of the North Carolina Local Government Employees' Retirement System.

#### **Section 4-83 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 4-84 Death**

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

#### **Section 4-85 Dismissal**

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

#### **Section 4-86 Reinstatement**

An employee who resigns while in good standing or 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 and previous service.

**Section 4-87 Rehiring**

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



## Article IX

### DISCIPLINARY ACTIONS AND NON-DISCIPLINARY ACTIONS

#### Section 4-88 Disciplinary Action: By Whom Imposed and Reasons Therefore

(a) Disciplinary action may be taken against an employee by that employee's Department Head, except that only the Town Manager may dismiss an employee or suspend an employee without pay for more than five working days.

(b) Subject to Subsection 4-21, disciplinary action may be taken against an employee only for cause.

#### Section 4-89 Warnings Before Disciplinary Action

Whenever practicable, before disciplinary action is taken, an employee should be counseled that a particular course of conduct or pattern of performance will result in disciplinary action, and efforts should be made to assist the employee in improving their conduct or performance.

#### Section 4-90 Notification of Disciplinary Action

Before any discipline is imposed, an employee shall be informed by their Department Head of the precise nature of the discipline, the reasons for it, and the date and time the discipline is to become effective. Whenever practicable this notification shall be given in writing before the discipline is imposed, and if this is not possible, then this written notification shall be given to the employee as soon thereafter as is feasible.

#### Section 4-91 Effective Date and Time of Disciplinary Action

Except when a Department Head determines that any delay in the imposition of discipline would diminish its effectiveness or would be detrimental to the Town, employees, or others, the Department Head shall provide the employee with at least three days notice before proposed disciplinary action is to take effect.

#### Section 4-92 Recommendations to Town Manager of Disciplinary Actions Including Dismissal

(a) A Department Head may recommend to the Town Manager that disciplinary action that is solely within the prerogative of the Town Manager (including dismissal) be taken. Such a recommendation shall be made in writing, and a copy shall be given to the affected employee.

(b) If a Department Head suspends an employee without pay for five days and recommends to the Town Manager that the employee be dismissed, the Town Manager may, upon the recommendation of the Department Head, continue the suspension without

pay until the termination date or pending the outcome of the appeal (if any). The Town Manager shall notify the employee and the Department Head in writing at the earliest possible time that the suspension is being confirmed.

**Section 4-93 Appeal of Disciplinary Action; Referral to Personnel Advisory Committee**

~~(a) An employee may appeal any disciplinary action or proposed disciplinary action to the Town Manager. The appeal may be decided by the Town Manager after a review of any written documents submitted by the appellant and the Department Head who imposed the discipline, or at the request of the appellant, Department Head, or Town Manager, a hearing may be held by the Town Manager in accordance with this section. If requested in writing by the employee, the hearing shall be open to the public, except that the Town Manager may close the hearing, or portions of the hearing, if and to the extent that the Town Manager concludes that such closure is necessary to preserve the personnel privacy rights of any employee, including without limitation the Department Head who has recommended or imposed the discipline that is the subject of the appeal.~~

~~(b) An appeal may be perfected within three days after the employee receives notice of the proposed disciplinary action, or, if the disciplinary action becomes effective immediately within three days after such disciplinary action becomes effective, unless extenuating circumstances prohibit meeting the three day deadline. An appeal is perfected by filing with the Town Manager a written notice of appeal, briefly stating the action appealed from and the reasons for the appeal. A copy of this notice of appeal shall be furnished to the Department Head imposing or recommending the discipline.~~

~~(c) If the discipline has not taken effect at the time an appeal is perfected, then the appeal stays the disciplinary action until after the appeal is decided. However, this shall not preclude the Town Manager from extending a suspension without pay under Section 4-91(b).~~

~~(d) An appeal shall be considered by the Town Manager at the earliest convenient time, but generally not later than ten days after the appeal is filed. If a hearing is requested, the employee shall be given at least three days notice of the date, time, and location of the hearing.~~

~~(e) If a hearing is requested, then, unless the appellant is a Department Head, the Department Head shall present the reasons why the discipline is justified. The employee shall have an opportunity to ask questions, present evidence, or otherwise attempt to convince the Town Manager that the disciplinary action is not justified. When the appellant is a Department Head, the Town Manager shall present to the Department Head the reasons for the discipline, and the Department Head shall then have an opportunity to respond in the same manner as other appellants.~~

~~(f) With respect to appeals of disciplinary actions, if the Town Manager chooses to do so, the Town Manager may obtain the recommendation of the non-employee members of the Personnel Advisory Committee (PAC) created pursuant to Section 4-99 before deciding~~

~~the appeal. The Town Manager shall furnish to the PAC such information as is available to the Town Manager regarding the appeal, and if an oral hearing is provided, the members of the PAC shall have the opportunity to be present. The PAC shall make its recommendation to the Town Manager within the time frame specified by the Town Manager.~~

~~(g) The appellant may be represented by counsel if the Town Manager is notified not later than five days prior to the date of the hearing. If the employee intends to be represented by counsel, the Department Head shall be so notified by the Town Manager and the Town may then provide counsel to the Department Head if the Department Head so requests. The Town Manager shall attempt to notify the employee at least three days prior to the hearing if the Department Head will be represented by counsel.~~

~~(h) The Town Manager shall decide the appeal as expeditiously as possible, and, in particular, every effort shall be made to decide any appeal of disciplinary action that has not yet taken effect before the proposed effective date of such action. The Town Manager may extend the proposed effective date of disciplinary action in order to meet this objective.~~

~~(i) The Town Manager may take any action with respect to disciplinary appeals that the Town Manager deems appropriate consistent with this chapter, including (but not limited to) increasing or decreasing the disciplinary sanction. The Town Manager shall inform the appellant of the Town Manager's decision and the reasons for it. The Town Manager's decision shall be final.~~

~~(j) If an employee has been suspended without pay and the Town Manager finds the suspension to have been unwarranted, in whole or in part, then the employee shall be entitled to receive lost wages and benefits accordingly.~~

~~(k) If the Town Manager sustains an employee's appeal (at least in substantial part) then the Town Manager may recommend that the Town Council authorize partial or full payment of fees incurred by the employee for representation.~~

#### **Section 4-94 Non-disciplinary Suspension**

(a) With the approval of the Town Manager, a Department Head may impose a non-disciplinary suspension (with or without pay) on any employee who has been accused of some action which, if the accusation is substantiated, would constitute cause for disciplinary action. There may be no appeal from non-disciplinary suspension.

(b) If a non-disciplinary suspension is imposed, the employee shall be notified in writing:

(1) That the suspension is non-disciplinary;

(2) That the suspension is temporary in nature (for example, pending the outcome of a criminal trial or internal investigation);

(3) What the accusations or allegations are that triggered the non-disciplinary suspension; and

(4) Why a non-disciplinary suspension has been imposed on this particular case.

(c) If it is determined that the charges are not substantiated, then the employee shall be reinstated with full recovery of any lost wages or benefits. If an employee has been accused of a criminal offense but is not convicted of the offense accused, the outcome of the criminal process may be considered (but shall not be determinative) in determining whether the accusations leading to the suspension have been substantiated.

(d) If it is determined that the charges are substantiated, then appropriate disciplinary action may be taken in accordance with this article. If any employee has been suspended without pay pending the outcome of the investigation and the employee is not dismissed and the discipline imposed is less severe than the suspension without pay the employee has already experienced, the employee may be entitled to partial recovery of lost wages or benefits, according to the discipline imposed.

#### **Section 4-95 Department Heads**

The Town Manager may take disciplinary action against or impose non-disciplinary suspensions upon Department Heads. In taking such actions, the Town Manager shall follow the procedures set forth in Article IX for disciplinary actions or non-disciplinary suspensions initiated by Department Heads to the maximum extent feasible (i.e., steps involving Department Head recommendations to the Town Manager do not apply).

#### **Section 4-96 Town Council Access to Records of Disciplinary Actions**

Pursuant to G.S. 160A-168(c)(5), the Mayor or a member of the Town Council may have access to the records of any disciplinary action that is referred to the Personnel Advisory Committee. A request for access shall be made to the Town Manager and may be made at any time after the completion of the disciplinary appeals process.

#### **Section 4-96.1 Suspension Without Pay of Exempt Employees**

(a) Disciplinary sanctions and non-disciplinary suspensions may not be imposed to reduce the salary of any employee who is exempt from the overtime provisions of the Fair Labor Standards Act for any workweek in which the employee performs work, except as set forth in subdivisions (1) and (2) of this subsection. The provisions of this section shall control to the extent there is any conflict with the other provisions of this chapter relating to disciplinary sanctions, including disciplinary suspensions without pay, and the provisions of Section 4-93 relating to non-disciplinary suspensions without pay.

(1) Deductions from pay may be made for penalties imposed in good faith for infractions of safety rules of major significance.

(2) Deductions from pay may be made for unpaid disciplinary suspensions of one or more full days imposed in good faith for infractions of written workplace conduct rules applicable to all employees.

(b) When a Department Head imposes a disciplinary sanction involving a reduction in pay, such as a suspension without pay, or imposes a non-disciplinary suspension without pay under Section 4-93, such action shall be reviewed by the Human Resources Director to ensure compliance with applicable provisions of the Fair Labor Standards Act. The salaries of exempt employees shall not be reduced contrary to the provisions of that Act, but the actions of the Department Head shall otherwise remain in effect, subject to the remaining provisions of this chapter.

## **Article X**

### **GRIEVANCE PROCEDURE**

#### **Section 4-97 Purpose and Scope**

(a) The purpose of this grievance procedure is to:

- (1) Provide employees a procedure by which their complaints can be considered rapidly, fairly, and without reprisal, and by which their concerns can be addressed at the lowest possible level.
- (2) Encourage employees to express themselves about the conditions of work which affect them as employees.
- (3) Promote better understanding of policies, practices, and procedures that affect employees.
- (4) Instill in employees confidence that personnel actions are taken in accordance with established, fair, and uniform policies and procedures.
- (5) Increase supervisory responsibility for maintaining effective communication with employees.

(b) The procedures set forth in this article for the consideration of grievances do not apply to grievances resulting from:

- (1) Disciplinary actions (the appeal process for disciplinary actions is set forth in Section 4-92 this chapter).
- (2) Oral reprimands or oral performance evaluations.

#### **Section 4-98 Procedure**

(a) In General. Subject to subsections (f) and (g), when an employee or group of employees has a grievance, the successive steps described in subsections (b) through (e) are to be taken. The number of days indicated at each level should be considered as the maximum number of working days unless provided for otherwise, and every effort shall be made to expedite the process. However, when mutually agreed upon, the time limits given below may be extended. Unless a time extension is agreed upon or extended under this section, a grievance may be dismissed summarily if not timely filed.

(b) *Informal Discussion*. Before filing a formal grievance, the employee or group of employees must have discussed the problem with the supervisor. This assures that the supervisor knows about and has had the opportunity to consider and investigate the

problem and to resolve the problem informally. The employee must request this meeting within five working days of the event or condition complained of, except that ongoing conditions are not subject to this deadline.

(c) *Step One.* The first step of the formal grievance procedure is for the employee to file a written notice with the immediate supervisor. This notice must be filed within five working days of the employee's meeting with the supervisor to discuss the issue.

(1) Grievances may be filed by completing step 1 of a Grievance Form (copies of which shall be available from the Human Resources Director), or may be filed in letter or narrative form. In either case, the grievance must, to the extent reasonably possible, be specific, stating the problem or complaint and what solution or remedy the employee expects. (The Human Resources Department will assist an employee in correct filing procedures, if desired.)

(2) The supervisor will investigate the matter and respond in writing to the employee within five working days of receipt of the formal grievance. The grievance and the supervisor's response shall be forwarded to the Human Resources Director by the supervisor. The supervisor may seek the assistance of the Human Resources Director or Department Head in complying with this requirement.

(d) *Step Two.* If the grievance is not settled to the employee's satisfaction at step 1, the employee may proceed to step 2. The employee must file with the Department Head either the Grievance Form, with the step 2 section completed, or a letter or narrative, within five working days of receiving the supervisor's written response under step one.

(1) If the solution or remedy desired has altered since the initial grievance, or if there is a particular area of disagreement with the supervisor's written response, this should be specified by the employee along with a request for consideration of the grievance by the Department Head.

(2) The Department Head will review the issues in the grievance, meet with the employee, and respond in writing to the employee within five working days of the meeting. The grievance and the Department Head's response shall be forwarded to the Human Resources Director by the Department Head.

(e) *Step Three.* If the grievance is not settled to the employee's satisfaction at step 2, the employee may proceed to step 3, appeal to the Town Manager. The employee must file with the Town Manager, using either the Grievance Form with step 3 section completed, or a letter or narrative, within ten working days of receipt of the Department Head's written response.

(1) As in previous steps, the employee should be specific as to the solution or further remedy desired and concerning particular points of disagreement with supervisory and Department Head responses.

(2) The Manager will investigate the matter, meet with the employee and Department Head, either separately or together, and respond in writing within ten working days of receipt of the formal grievance, ~~unless the Town Manager refers the grievance to the mediation process and/or the Personnel Advisory Committee.~~

(f) *Discrimination.* If a grievance involves a claim of discrimination based on age, race, color, religion, sex, national origin, political affiliation, non-disqualifying disability, sexual orientation, marital status, gender identity, or gender expression (including a claim of sexual harassment), informal discussion shall not be required, and the employee may initiate the grievance procedure at step two if the supervisor's conduct is involved in the grievance or at step three if the Department Head's conduct is involved in the grievance. Alternatively, claims of racial or sexual discrimination may be reported by any employee directly to the Human Resources Director, who may initiate a grievance on behalf of the employee or take any other action deemed appropriate.

(g) *When Supervisor Is Department Head or Town Manager.* If the immediate supervisor of the aggrieved employee is a Department Head, then the employee may proceed directly to step two of the grievance procedure within five days after meeting with the Department Head for the informal discussion required under section 4-96(b). If the aggrieved employee is a Department Head, then the employee may proceed directly to step three of the grievance procedure within five days after meeting with the Town Manager for the informal discussion required under section 97(b).

(h) *Council Access to Records of Grievances.* Pursuant to G.S. 160A-168(c)(5), the Mayor or any member of the Town Council may have access to the records of any grievance that is referred to the personnel advisory committee. A request for access shall be made to the Town Manager and may be made at any time after the completion of the grievance appeals process.

#### **Section 4-99 Mediation**

(a) Any grievance may be referred to a mediation process under the following circumstances:

(1) After a grievance has been filed under step one or two of the grievance process, and before a decision has been reached by the supervisor or Department Head, respectively, the Town Manager may refer the grievance to the mediation process as set forth below.

(2) After a grievance has been filed under step three of the grievance process, the Town Manager, may elect to refer the grievance to the mediation process as set forth below.



(b) For purposes of this section, the term mediation refers to a process in which a trained mediator seeks to help the parties to resolve their differences in a mutually acceptable fashion. (The mediator does not impose a solution or issue a "decision.")

(c) The Town shall arrange for qualified mediators to be available to perform the mediation services called for under this article. All expenses of such mediation services shall be borne by the Town.

(d) While mediation is going on, deadlines established for various stages of the grievance process are suspended. Such deadlines will come into play again if the grievance is not settled by mediation, except that in no case shall a deadline for the next step in the grievance process occur less than three days after the date of the mediator's notification to the employee and Department Head or supervisor of the end of the mediation process.

(e) If mediation resolves the grievance, the mediator will draft a document outlining the terms of the agreement. The document will be signed by the parties and by the mediator and forwarded to the Human Resources Director. At this point, the grievance will be considered closed. If the parties do not reach agreement, the mediator will notify the Human Resources Director and the parties themselves that the mediation process is completed. Unless the employee then withdraws the grievance, the grievance process shall continue as set forth in this section.

(f) The mediation process is confidential, and mediators may not disclose information discussed during mediation sessions. Documents generated as part of the mediation process will not be admissible as evidence in future proceedings and are considered confidential. Additionally, no offers of compromise made during mediation may be referred to in subsequent formal processing of the grievance.

#### **Section 4-100 Personnel Advisory Committee**

(a) The Town Manager shall appoint a Personnel Advisory Committee (PAC) consisting of five members, who shall serve at the pleasure of the Town Manager. Three members shall be persons who are not currently employed by the Town, and the Town Manager may also appoint alternative non-employee members to sit in the absence of other non-employee members. Two members of the PAC shall be Town employees, and the Town Manager may also appoint alternate employee members to sit in the absence of employee members.

(1) In making appointments to the PAC, the Town Manager shall endeavor to (i) create a committee whose membership is reflective of the diversity within the Town's workforce and the Carrboro community; and (ii) appoint at least one member with training or experience in personnel matters.

(2) The members of the PAC shall select one of their members to serve as chairperson and one or more members to act as chairperson in the absence of the chairperson.

(3) The members of the PAC shall strictly observe the requirements of the Personnel Privacy Act (N.C.G.S. 160A-168). Any violation of this act (in addition to other penalties) shall constitute grounds for the Town Manager to remove the offending member from the PAC.

(b) Among other duties that may be assigned by the Town Manager, the PAC shall advise the Town Manager in making decisions on grievances in accordance with this section.

(1) Type 1 grievances may be heard only by the three non-employee members of the PAC, while type 2 grievances may be heard by the full PAC.

(2) The Town Manager shall determine whether a grievance is a type 1 or type 2 grievance at the time the grievance reaches step 3.

(3) With respect to type 2 grievances, an employee member of the PAC may not hear a grievance originating from the department where the employee member is employed.

(c) When a grievance has been filed under step three of the grievance process in accordance with Section 4-97, the Town Manager may refer the grievance to the PAC within five days after it has been filed. Generally, the Town Manager shall refer a grievance to the PAC only after an attempt has been made to resolve the grievance through mediation.

(d) When the PAC has been called upon to advise the Town Manager in connection with a grievance:

(1) The Town Manager shall provide to the PAC the same written information that is available to the Town Manager regarding the grievance, and the PAC shall be present during the hearing of the grievance by the Town Manager and may participate in that hearing.

(2) The deadlines set forth in Section 4-97 are suspended from the time the Town Manager refers the grievance to the PAC until the date the PAC provides its recommendation to the Town Manager.

(e) The PAC shall provide its written recommendation to the Town Manager within the time frame specified by the Town Manager.

## **Article XI**

### **RECORDS AND REPORTS**

#### **Section 4-101 Personnel Records Maintenance**

The Human Resources Department and Payroll shall maintain such personnel records as are necessary for the proper administration of the personnel system. The Town shall maintain in personnel records only that information that is relevant to accomplishing personnel purposes.

#### **Section 4-102 Personnel File**

(a) For the purposes of this section, an employee's personnel file consists of any information in any form gathered by the Town with respect to that employee and, by way of illustration but not limitation, relating to the employee's application, selection or non-selection, performance, promotions, demotions, transfers, suspension and other disciplinary actions, evaluation forms, leave, salary, and termination of employment.

(b) As required by G.S. 160A-168, the following information on each employee shall be maintained in the employee's personnel file and shall be open to public.

- (1) Name;
- (2) Age;
- (3) Date of original employment or appointment to Town service;
- (4) The terms of any contract by which the employee is employed, whether written or oral, past and current, to the extent that the Town has the written contract or a record of the oral contract in its possession;
- (5) Current position title;
- (6) Current salary;
- (7) Office to which the employee is currently assigned;
- (8) Date and amount of each increase or decrease in salary;
- (9) Date and type of each promotion, demotion, transfer, suspension, separation, or other change in position classification;
- (10) Date and general description of the reasons for each promotion;

(11) Date and type of each dismissal, suspension, or demotion for disciplinary reasons taken by the Town; and

(12) For dismissals due to disciplinary reasons, a copy of the written notice of the final decision of the Town setting forth the specific acts or omissions that is the basis of the dismissal.

(c) Other information maintained in an employee's personnel file may be made available only in accordance with G.S. 160A-168 and Section 4-103.

#### **Section 4-103 Access to Personnel Files**

As required by G.S. 160A-168, any person may have access to the information listed in Section 4-101 for the purpose of inspection, examination, and copying, during the regular business hours, subject to the following provisions:

(1) All disclosures of records shall be accounted for by keeping a written record (except for authorized persons processing personnel actions) of the following information: name of employee; information disclosed; date information was requested; name and address of the person to whom the disclosure is made; and purpose for which information is requested. This information must be retained as a permanent part of the employee's personnel file.

(2) Upon request, records of disclosure shall be made available to the employee to whom it pertains.

(3) An individual examining a personnel record may copy the information; any available photocopying facilities may be provided and the cost may be assessed to the individual.

#### **Section 4-104 Confidential Information Contained in Personnel Files**

All information contained in a Town employee's personnel file other than the information listed in Section 4-101 will be kept confidential in accordance with the requirements of G.S. 160A-168 and shall be open to inspection only in accordance with G.S. 160A-168.

#### **Section 4-105 Records of Former Employees**

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

#### **Section 4-106 Remedies of Employees Objecting to Material in File**

An employee who objects to material in their personnel file may place in their file a statement relating to the material they consider to be inaccurate or misleading. The employee may seek the removal of such material in accordance with established grievance procedures as provided in Article X of this Chapter.

**Section 4-107 Penalties**

(a) As provided in G.S. 160A-168, it shall be unlawful for any public official or employee to knowingly, willfully, and with malice permit any person to have access to information contained in an employee personnel file, except as permitted by this Article and by statute.

(b) As provided in G.S. 160A-168, it shall be unlawful for any person not specifically authorized to have access to a confidential personnel file to knowingly and willfully examine in its official filing place, remove or copy any portion of such confidential personnel file.