

**TOWN OF ERWIN
PERSONNEL POLICY**

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

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ARTICLE I. GENERAL PROVISIONS

Section 1. Purpose of the Chapter

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

Section 2. At-Will Employment

The Town of Erwin is an at-will employer. The employment relationship between the Town and the employee is terminable at the will of either at any time with or without cause and with or without advance notice. No employee, officer or representative of the Town has any authority to enter into any agreement or representation, verbally or in writing, which alters, amends, or contradicts this provision or the provisions in these policies or to grant any employee contractual rights of employment. Nothing in this policy creates an employment contract or term between the Town and its employees.

None of the benefits or policies set forth in these policies is intended, because of their publication, to confer any rights or privileges upon employees or entitle them to be or remain employed by the Town.

All Town positions are subject to budget review and approval each year, and salary advancement is subject to annual funding and approval by the Board.

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

Section 3. Merit Principle

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

Section 4. Responsibilities of the Town Board of Commissioners

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

Section 5. Responsibilities of the Town Manager

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

The Town Manager shall supervise or participate in:

- a) recommending rules and revisions to the personnel system to the Town Board of Commissioners for consideration;
- b) making changes as necessary to maintain an up to date and accurate position classification plan;
- c) preparing and recommending necessary revisions to the pay plan;
- d) determining which employees shall be subject to the overtime provisions of FLSA;
- e) establishing and maintaining a roster of all persons and authorized positions in the municipal service, setting forth each position and employee, class title of position, salary, any changes in class title and status, and such data as may be desirable or useful;
- f) developing and administering such recruiting programs as may be necessary to obtain an adequate supply of competent applicants to meet the needs of the Town;
- g) developing and coordinating training and educational programs for Town employees;
- h) investigating the operation and effect of the personnel provisions of this chapter periodically; and
- i) performing such other duties as may be assigned by the Town Board of Commissioners that are not inconsistent with this chapter.

Section 6. Responsibilities of the Human Resource Director

The Town Manager shall designate an employee to perform this role or perform this role themselves and delegate any or all of the responsibilities listed below. If delegated, the employee responsible for the Human Resources function shall make recommendations to the Town Manager on the following:

- a) policies and revisions to the personnel system for the Town Manager's consideration;
- b) changes as necessary to maintain an up-to-date and accurate position classification plan;
- c) necessary revisions to the pay plan;

- d) which positions shall be subject to the overtime provisions of the FLSA;
- e) establish and maintain of a roster of all persons and authorized positions in the municipal service, setting forth each authorized position, position number, class title, salary range, any changes in class title, and other such data as may be useful;
- f) development and administration of such recruiting programs as may be necessary to obtain an adequate supply of competent applicants to meet the needs of the Town;
- g) development and/or coordination of training and educational programs for Town employees;
- h) development and recommendation of such administrative procedures as are necessary to implement these policies provided the administrative procedures are not in conflict;
- i) periodic evaluations of the operation and effect of the personnel provisions of this policy;
- j) actions that are needed to address barriers to effective employee communication, productivity, engagement, and morale; and
- k) such other duties as may be assigned by the Town Manager that is not inconsistent with this policy.

Section 7. Responsibilities of Department Heads and Supervisors

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

- a) dealing with all employees fairly and equitably and upholding the principles of equal employment opportunities;
- b) developing and motivating employees to reach their fullest potential through continued education and training;
- c) making objective evaluations of individual work performance and discussing these evaluations with each employee to bring about needed improvements;
- d) keeping employees informed of their role in accomplishing the work of their unit and conditions or changes affecting their work;
- e) making every effort to resolve employee problems and grievances and advising employees of their rights and privileges;
- f) cooperating and coordinating with other staff members in workflow and distribution of information;
- g) making proper performance documentation and maintaining current files; and

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

Section 8. Responsibilities of Employees

Employees of the Town shall be expected to conduct themselves both on and off the job to reflect favorably upon the Town and fellow employees. Employees are expected to:

- a) ask questions and learn their full scope of responsibilities and perform those diligently;
- b) recognize and follow the chain of command in addressing work concerns and problems;
- c) show courtesy and respect and work cooperatively with other employees;
- d) provide excellent customer service to citizens and visitors; and;
- e) learn and follow these personnel policies along with any departmental policies and procedures.

Section 9. Application of Policies, Plan, Rules, and Regulations

The personnel policy and all rules and regulations adopted pursuant thereto shall be binding on all Town employees. The Town Manager, Town Attorney, members of the Town Board of Commissioners, 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 10. 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 chapter.

Section 11. Definitions

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

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

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

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

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

Limited service employee. A person hired by the Town to perform designated services. Many work on a seasonal or short-term basis. Limited service employees are paid on an hourly basis only for hours actually worked and appointed to a position for which either the average workweek required by the Town over the course of a year is less than 20 hours of continuous employment required by the Town is less than 12 months. They are not eligible for benefits except those mandated by State and Federal governments. If work continues for more than 12 months, hours worked in a 12-month period cannot exceed 1000 hours.

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

Intern. A student of an accredited institution of higher education, or a former student who has graduated in the past six months from an accredited institution of higher education, who is employed by the town in a nonpermanent unpaid position for a duration of nine months or less that provides training and experience in the primary area of focus agreed upon by the town manager and the student.

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

ARTICLE II. POSITION CLASSIFICATION PLAN

Section 1. Purpose

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

Section 2. Composition of the Position Classification Plan

The classification plan shall consist of:

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

Section 3. Use of the Position Classification Plan

The classification plan is to be used:

- A. as a guide in recruiting and examining applicants for employment;
- B. in determining lines of promotion and in developing employee training programs;
- C. in determining salary to be paid for various types of work;
- D. in determining personnel service items in departmental budgets; and
- E. in providing uniform job terminology.

Section 4. Administration of the Position Classification Plan

The Town Manager, or Human Resources Director if designated, 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, or Human Resources Director if designated, shall periodically review portions of the classification plan and recommend appropriate changes to the Town Board of Commissioners.

Section 5. Adoption of the Position Classification Plan

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

Section 6. Request for Reclassification

Any employee who considers the position in which classified to be improper shall submit a request in writing for reclassification to such employee's immediate supervisor, who shall immediately transmit the request through the department head to the Town Manager. Upon receipt of such a request, the Town Manager shall study the request, determine the merit of the reclassification, and make a decision to revise the classification and pay plan where necessary.

ARTICLE III. THE PAY PLAN

Section 1. Definition

The pay plan includes the basic salary schedule and the “Assignment of Classes to Grades and Ranges” adopted by the Board of Commissioners. Each position is assigned a classification title and each title is assigned to a salary grade with a specific salary range. Positions are assigned to grades within the pay plan based on the duties and responsibilities assigned. Positions with more complex tasks, more responsibility, or requiring more technical knowledge are assigned to higher salary grades. Salary ranges are set based on two components: competitiveness with the market and internal equity with similar positions and occupational groups. The salary schedule consists of rates of pay for minimum or beginning, maximum, and may include intervening rates of pay for all classes of positions and a designation of the standard hours in the workweek for each position.

Section 2. Administration and Maintenance

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

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

Periodically, the Town Manager shall recommend that individual salary ranges be studied and adjusted as necessary to maintain market competitiveness. Such adjustments will be made by increasing or decreasing the assigned salary grade for the class and adjusting the rate of pay for employees in the class when the action is approved by the Town Board of Commissioners.

Section 3. Starting Salaries

All persons employed in regular positions approved in the position classification plan, including temporary employees (such as Reserve Police Officers) employed to perform the same duties as full and part-time regular positions, shall be employed at the minimum salary for the classification in which they are employed. However, exceptionally well-qualified applicants may be employed above the minimum of the established salary range upon approval of the Town Manager.

Section 4. Trainee Designation and Provisions

Applicants being considered for employment or Town employees who do not meet all of the requirements for the position for which they are being considered may be hired, promoted, demoted, or transferred by the Town Manager to a “trainee” status. In such cases, the department head must prepare a plan for training, including a schedule. “Trainee” salaries may be no more than two grades below the minimum salary established for the position for which the person is being trained. A new employee designated as a “trainee” shall be regarded as a probationary employee. A trainee period may extend from three to eighteen months.

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

Section 5. Merit Pay

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

Section 6. Merit Pay Bonus

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

Section 7. Salary Effect of Promotions, Demotions, Transfers, and Reclassifications

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

Demotions. A demotion is a move to a position in a lower salary grade. Demotions can be either voluntary, where the employee chooses to take a position in a lower salary grade, or involuntary/disciplinary, resulting from inefficiency in performance or as a disciplinary action. When an employee is voluntarily demoted to a position for which qualified, the salary shall be set at the rate in the lower pay range which provides a salary commensurate with the employee’s

qualification to perform the job and is consistent with the placement of other employees within the same classification. If the demotion is the result of discipline, the salary shall be decreased at least 5% and may be no greater than the maximum of the new range.

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

Reclassifications. An employee whose position is reclassified to a class having a higher salary grade shall receive a pay increase of 5% or an increase to the minimum of the new pay range, whichever is higher.

If the position is reclassified to a lower pay range, the employee's salary shall remain the same. If the employee's salary is above the maximum established for the new range, the salary of that employee shall be maintained at the current level until the range is increased above the employee's salary.

Section 8. Salary Effect of Salary Range Revisions

When a class of positions is assigned to a higher salary range, employees in that class shall receive a pay increase of at least 5%, or to the minimum of the new range, whichever is greater. When a class of positions is assigned to a lower salary range, the salaries of employees in that class will remain unchanged. If this assignment to a lower salary range results in an employee being paid at a rate above the maximum step established for the new class, the salary of that employee shall be maintained at that level until such time as the employee's salary range is increased above the employee's current salary.

Section 9. Transition to a New Salary Plan

The following principles shall govern the transition to a new salary plan, subject to the availability of funds:

1. No employee shall receive a salary reduction resulting from the transition to a new salary plan.
2. All employees being paid at a rate lower than the minimum rate established for their respective classes shall have their salaries raised at least to the new minimum rate for their classes.
3. All employees being paid at a rate above the maximum rate established for their respective classes shall be maintained at that salary level until such time as the employees' salary range is increased above the employees' current salary.

Section 10. Effective Date of Salary Changes

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

Section 11. Fair Labor Standards Act and Overtime Compensation

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

The Town will comply with the Fair Labor Standards Act (FLSA). The Town Manager and Human Resources Director shall determine which jobs are “non-exempt” and are therefore subject to the Act in areas such as hours of work and work periods, rates of overtime compensation, and other provisions.

Non-exempt employees

Employees are expected to work during all assigned periods exclusive of breaks or mealtimes. Employees are not to perform work at any time that they are not scheduled to work unless they receive approval from their Department Head or Town Manager, except in cases of emergency. This includes working through lunch, coming in early, or staying late after the employee’s normal working hours.

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

It is the policy of the Town that non-exempt employees may receive compensatory time at the appropriate overtime rate, in lieu of cash payments, in accordance with the provisions of the FLSA.

Non-exempt employees will be compensated at a straight time rate for hours up to the FLSA established limit for their position. For most positions, the limit is 40 hours in a 7-day period. Sworn Police and uniformed Fire employees have longer pay cycles for determining the eligibility of overtime—Police up to 171 hours worked in a 28-day cycle / Fire 212 hours in a 28-day cycle.

Hours worked beyond the FLSA established limit will be compensated in either time off or pay at the appropriate overtime rate. Compensatory leave requires approval by the Manager when creating a balance that exceeds 100 hours. In determining eligibility for overtime in a work period, only hours actually worked shall be considered; in no event will vacation, sick leave, or holidays be included in the computation of hours worked for FLSA purposes. Non-exempt employees separating from employment shall be paid for their compensatory time balances.

Whenever practicable, departments will schedule time off on an hour-for-hour basis within the applicable work period for non-exempt employees instead of paying overtime. When time off within the work period cannot be granted, overtime worked will be compensated – pay or time off at a time and a half rate – in accordance with the FLSA.

When employees are required to work long and continuous hours, the Board may approve compensation at time and a half or double time for those hours worked and/or grant time off with pay for rest and recuperation to ensure safe working conditions.

Exempt employees

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

supervisor on an hour for hour basis where the convenience of the Town allows and as approved by the Board of Commissioners. Such compensatory time is not guaranteed to be taken and ends without compensation upon separation from the organization.

The Town intends to make deductions from the pay of exempt employees for authorized reasons and prohibits improper pay deductions. Exempt employees who wish to question deductions they believe to be improper may use the Town's Grievance procedure, as explained in this policy. If the deduction is found to be improper, the Town will reimburse the employee for lost pay.

In a declared disaster or emergency situation requiring long and continuous hours of work, exempt employees may be compensated at a rate of up to double time and/or be granted time off with pay for rest and recuperation to ensure safe working conditions for the duration of the emergency period, at the approval of the Board.

Section 12. Rest Periods and Breaks

Due to the variation in work schedules and needs among departments, the Town makes no attempt to define a uniform policy for rest periods or breaks. Department supervisors may establish appropriate rest period practices which best serve the Town's interest within the work units under their supervision. Such practices shall be subject to the review of the Department Head and shall be limited to one rest period or break in the morning and one in the afternoon, no longer than 15 minutes each. Each employee's regular workday schedule will include a meal break of at least 30 minutes, but not more than one hour, near the middle of their shift. The meal breaks are unpaid time, and the two 15-minute rest periods are paid time. If an employee must miss a meal break due to an emergency situation, the supervisor will make a reasonable effort to accommodate a meal break later in the shift.

Section 13. Break Time for Nursing Mothers

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

Section 14. Call-back and Stand-by Pay

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

Call-back. Non-exempt employees will be guaranteed a minimum payment of two hours of wages for being called back to work outside of normal working hours. "Call-back" provisions do not apply to previously scheduled overtime work.

Stand-by. Stand-by time is defined as that time when an employee must remain near an established telephone or otherwise substantially restrict personal activities in order to be ready to respond immediately to calls for service. Non-exempt employees required to be on “stand-by” duty will be paid for five *hours* of work for each week of stand-by time they serve. Stand-by compensation for less than one full week shall be determined by the ratio of .04 hours of pay per one hour of stand-by time. Actual hours worked while on stand-by are calculated beginning when the employee reports to the worksite and are added to the regular total of hours worked for the week.

Section 15. Payroll Deduction

Deductions shall be made from each employee’s salary, as required by law (see Human Resources Director for details of deductions). Additional deductions may be made upon the request of the employee on a determination by the Town Manager as to the capability of payroll equipment, associated increase in workload, and the appropriateness of the deduction.

Section 16. Hourly Rate of Pay

Employees working in a part-time or temporary capacity with the same duties as full-time employees will work at a rate in the same salary range as the full-time employees. The hourly rate for employees working other than 40 hours per week, such as police officer working an average of 42 hours per week, will be determined by dividing the average number of hours scheduled per year by the annual salary for the position.

Section 17. Longevity Pay

Subject to availability of funds, full-time and part-time employees of the Town are compensated for years of service by payment of a longevity supplement based on the following table:

Years of Service	Longevity Amount
Less than 5 years of service	\$200
5 - 9 years of service	1.00%
10 - 14 years of service	1.25%
15 - 19 years of service	1.50%
20 - 24 years of service	1.75%
25+ years of service	2.00%

Years of service are calculated on a calendar year basis as of June 30 of each year. Longevity pay will be issued on the last regular pay period in November or on a date in November designated by the Town Manager.

Section 18. Payment of Travel Expenses

Expenses incurred as a part of the job for the Town will be reimbursed at the rate set by the IRS, and meals and lodging reimbursed at actual reasonable costs or an established per diem. When anticipated that the per diem will be exceeded, the Board may elect to increase the rate before

the travel is incurred. To receive a cash advance the appropriate travel authorization form must be completed by the employee and submitted to the Manager no later than 5 working days prior to the date upon which travel will commence.

All travel claims must be supported by detailed documentation, usually in the form of receipts or similar vouchers.

The Manager may deny reimbursement of any questionable, unsupported, or excessive expense claim submitted by the employee.

Each trip to a destination outside the state must be authorized by the Manager.

Section 19. Certification Salary Increases

Subject to the availability of funds, employees who achieve certifications above those required by their classifications or which are directly related to higher skills or different potential tasks may be rewarded with a pay increase in an amount recommended by the Town Manager. The bonus may be either in the form of a salary increase within the range or a one-time payment, not added to the base pay. Employees are eligible for these increases for achieving certifications directly related to their work, such as code enforcement, utility plant operations, utility collection, distribution system operations, inspections, and advanced or specialized law enforcement training.

Section 20. Reimbursement of Training Expenses

An employee who enters a voluntary but job-related training program or educational course, with the prior approval of the Town Manager, may be reimbursed for expenses such as tuition and books upon successful completion of the program. The Board may set annual limits for the amount of reimbursement. If the employee leaves employment with the Town within twenty-four months thereafter, the employee shall reimburse the Town for such expenses.

Section 21. Pay for Interim Assignments in a Higher Level Classification

An employee who is formally designated by the Town Manager to perform the duties of a position that is assigned to a higher salary grade than that of the employee's regular classification for a period of at least one month shall receive a pay increase for the duration of the interim assignment. The employee shall receive a salary adjustment to the minimum level of the job in which the employee is acting or an increase up to 10%, whichever is greater. The salary increase shall be temporary, and the employee shall go back to the salary he or she would have had if not assigned to the interim role upon completion of the assignment.

Criteria involved in determining if an employee is officially serving in an interim assignment is made by the Town Manager and will be based on:

- A. The difference between the existing job and that being filled on a temporary basis, and
- B. The degree to which the employee is expected to fulfill all the duties of the temporary assignment.

ARTICLE IV. RECRUITMENT AND EMPLOYMENT

Section 1. Equal Employment Opportunity Statement

The Town of Erwin fosters, promotes, and maintains a consistent recruitment program to promote equal opportunity and to identify and attract the most qualified applicants for all vacancies. This intent is achieved through consistency in announcing position vacancies, evaluating applicants on the same criteria, providing reasonable accommodations as needed, and by applying consistent testing methods when applicable. The Town shall select employees on the basis of the applicant's qualification for the job and award them with respect to compensation and opportunity for training and advancement, including promotions, without regard to race, religion, color, sex, national origin, sexual orientation, age, veteran status, marital status, political affiliation, non-disqualifying disability, genetic information, or on the basis of actual or perceived gender as expressed through dress, appearance or behavior. Applicants with physical disabilities shall be given equal consideration with other applicants for positions in which their disabilities do not represent an unreasonable barrier to satisfactory performance of duties with or without reasonable accommodation.

All personnel responsible for recruitment and employment will continue to review regularly the implementation of this personnel policy and relevant practices

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

Section 2. Recruitment, Selection, and Appointment

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

Job Advertisements. Jobs may be advertised in local newspapers, recruitment websites, professional publications, and other relevant publications in order to establish a diverse and qualified applicant pool. Employment advertisements shall contain assurances of equal employment opportunity and shall comply with Federal and State statutes.

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

Application Reserve File. Applications for candidates not selected shall be kept in an inactive reserve file for a period of two years, in accordance with Equal Employment Opportunity Commission guidelines.

Medical Examination, Physician's Certification, and Drug Testing. Prospective or current employees may be required to submit to a medical and/or psychological examination or inquiry to determine if they are able to perform the essential duties and responsibilities of the job.

Candidates for Town employment will also be required to pass a drug test prior to employment and may be required to take a drug or alcohol test based on reasonable suspicion of use or impairment on duty. Employees in designated safety-sensitive positions will be subject to random drug testing.

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, including work references and criminal history where job-related. 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 Town Manager with a recommendation of the position to be filled, the salary to be paid, and the reasons for selecting the candidate over other candidates. The Town Manager shall approve appointments and the starting salary for all applicants.

Section 3. Probationary Period

An employee appointed or promoted to a permanent position shall serve a probationary period. Employees shall serve a six-month probationary period, except that employees in sworn police personnel and department heads shall serve a twelve-month probationary period. During the probationary period, supervisors shall monitor an employee's performance and communicate with the employee concerning performance progress. Employees serving twelve-month probation shall have a probationary review at the end of six months and before the end of twelve months.

An important purpose of the probationary period is to allow the appointee to adjust to the new job. Likewise, it serves as a trial period during which the employee demonstrates their ability to perform the work, accept additional responsibility, demonstrate good work habits, and work well with the public and fellow employees. Before the end of the probationary period, the supervisor shall conduct a performance evaluation conference with the employee and discuss accomplishments, strengths, and needed improvements. A summary of this discussion should be documented in the employee's personnel file. The supervisor shall recommend in writing whether the probationary period should be completed, extended, or the employee transferred, demoted, or dismissed. Probationary periods may be extended for a maximum of six additional months.

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

A promoted employee who does not successfully complete the probationary period may be transferred or demoted to a position in which the employee shows promise of success. If no such position is available, the employee shall be dismissed. Promoted and demoted employees who are on probation retain all other rights and benefits, such as the right to use the grievance procedures.

Section 4. 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 to 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 or exceptional qualifications of an internal candidate so indicate, the Town will consider external and internal candidates for selection 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, prepare staff and the organization for smooth transitions, and ensure capability to cover interim absences and vacancies.

Section 5. Demotion

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

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

Section 6. Transfer

A transfer is the movement of an employee from one position to a position in a class in the same salary grade. 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 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 chapter. An employee who has successfully completed a

probationary period may be transferred into the same classification without serving another probationary period.

ARTICLE V. CONDITIONS OF EMPLOYMENT

Section 1. Work Schedule

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

Section 2. Political Activity

Each employee has a civic responsibility to support good government by every available means and in every appropriate manner. Employees 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 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 a condition for employment, promotion, or tenure of office to contribute funds for political or partisan purposes;
- D. Coerce or compel contributions from another employee of the Town for political or partisan purposes;
- E. Use any supplies or equipment of the Town for political or partisan purposes;
- F. Display any political advertisement in or on Town property; or
- G. Be a candidate for nomination or election to office under the Town Charter.

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

Section 3. Outside Employment

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

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

- a) employment with organizations or in capacities that are regulated by the employee or employee's department; or
- b) employment with organizations or in capacities that negatively impact the employee's perceived integrity, neutrality, or reputation related to the performance of the employee's Town duties (such as working for a company where significant Town purchases are ordered by the employee).

This section does not apply to volunteers performing work for the Town, nor to volunteer activities of employees.

Off-the-job injuries: An employee who sustains an injury or illness in connection with outside employment and is receiving Workers' Compensation from that employer shall not be entitled to receive Town Workers Compensation benefits or use accrued Town sick leave.

In cases where off-the-Town-job employment-related injury or illness results in temporary disability, an employee must either:

- a) request and obtain a leave of absence without pay;
- b) request and use accrued vacation leave or compensatory time; and,
- c) may be subject to termination by the Town due to lack of availability for work.

Section 4. Dual Employment

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 different program area from that of the full or part-time position. 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 5. Employment of Relatives

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

"Immediate family" is defined as spouse, child, parent, sibling, grandparent, grandchild, aunt, or uncle of the employee or spouse of the employee, or guardian, to include in-law and step relationships.

The Town also prohibits the employment of any person into a permanent position who is an immediate family member of individuals holding the following positions: Mayor, Mayor Pro Temp, Town Board of Commissioners Member, Town Manager, Town Clerk, or Town Attorney. Otherwise, the Town will consider employing family members or related persons in the service of the Town, provided that such employment does not:

- a) result in a relative supervising relative;
- b) result in a relative auditing the work of a relative;
- c) create a conflict of interest with either relative and the Town; or
- d) create the potential or perception of favoritism.

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

Section 6. Workplace Harassment Prohibited

The Town of Erwin prohibits, and will not tolerate, harassment by supervisors and co-workers in any form on the basis of race, religion, color, sex, national origin, sexual orientation, age, veteran status, marital status, political affiliation, non-disqualifying disability, genetic information, or on the basis of actual or perceived gender as expressed through dress, appearance or behavior. Harassment is defined as conduct that culminates in tangible employment action or is sufficiently severe or pervasive to create a hostile work environment, including bullying.

Harassment complaints or allegations will be investigated promptly and where it is determined that such inappropriate conduct has occurred, the Town will act immediately to eliminate the conduct and impose such corrective action as is necessary, including disciplinary action up to and including dismissal.

A particular form of harassment, sexual harassment, is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when 1) submission to or rejection of 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.

Harassment, other than sexual, is verbal or physical conduct that denigrates or shows hostility or aversion towards an individual because of race, color, religion, gender, national origin, age, or disability, which has the purpose or effect of creating an intimidating, hostile, or offensive work environment or unreasonably interferes with an individual's work performance or otherwise adversely affects an individual's employment opportunities. Harassing conduct includes, but is not limited to, epithets, slurs, negative stereotyping, or threatening, intimidating, hostile acts. Written or graphic material which denigrates or indicates hostility or aversion toward an individual or group is prohibited from display on the employer's premises, or circulation in the workplace.

Any employee who feels harassed or who knows of or suspects the occurrence of forbidden harassment is responsible for informing the Human Resources Director or the Town Manager in writing of the facts regarding such harassment so that management may promptly and thoroughly conduct an investigation.

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

Supervisors and Department Heads who receive a harassment complaint are to contact the Human Resources Director immediately. If an investigation confirms that unlawful harassment occurred, the Town will take immediate corrective action, including disciplinary action up to and including immediate termination of employment of the harassing party as is appropriate.

Employees making complaints of sexual harassment are protected against retaliation by alleged harassers or other employees. Employees witnessing harassment shall also report such conduct to an appropriate Town administrative official.

Section 7. Expectation of Ethical Conduct- Gifts and Favors

The proper operation of Town government requires that public officials and employees be independent, impartial, and responsible to the people; that governmental decisions and policy be made in the proper channels of the governmental structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government.

As stewards of public resources and holders of the public trust, Town employees are expected to uphold the highest standards of ethical conduct while fulfilling their job duties and responsibilities.

Employees shall not accept gifts, loans, or things of value (more than \$25) from organizations, business firms, or individuals with whom they have official relationships because of Town business. These limitations do not prohibit the acceptance of articles of negligible value, which are distributed generally, nor prohibit employees from accepting social courtesies that promote good public relations, nor prohibit employees from obtaining loans from public lending institutions. It is particularly important that inspectors, contracting officers, and enforcement officers guard against relationships that might be construed as evidence of favoritism, coercion, unfair advantage, or collusion.

Section 8. Performance Evaluation

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

The supervisor shall conduct performance evaluation conferences with employees prior to the completion of the probationary period and at least once each year thereafter. The performance evaluation conferences shall consist of two-way discussions between the employee and supervisor(s). The discussions should cover areas of accomplishment and performance strengths, areas for improvement, training needs, and goals for the upcoming year. The overall purpose of performance evaluation will be to improve the employee's performance. Through open communications with the supervisor, the employee should obtain a clear understanding of what is expected related to job performance and a periodic assessment of their job strengths and areas

for improvement. A summary of these performance evaluation conferences shall be documented in writing.

Section 9. Safety

Safety is the responsibility of both the Town and employees. It is the policy of the Town to establish a safe work environment for employees. The Town shall establish a safety program including policies and procedures regarding safety practices and precautions and training in safety methods. Department Heads and supervisors are responsible for 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 10. Substance Abuse Policy

The Town is committed to a drug-free workplace to maintain a safe and healthy working environment for employees and a productive, effective workforce for the citizens. The Town prohibits employees reporting to work impaired by alcohol, illegal drugs, intentionally and inappropriately used prescriptions, over-the-counter drugs, or other chemicals and substances. The Town may establish 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. All employees shall comply with the Town's Substance Abuse Policy.

The Town:

- A. prohibits employees from being under the influence of legal or illegal substances while on duty,
- B. is authorized to conduct pre-employment drug tests for all full-time and part-time positions,
- C. is authorized to random drug tests for full-time and part-time positions designated as safety-sensitive positions
- D. is authorized to conduct drug and alcohol tests based on a reasonable suspicion that the employee in any Town position is under the influence of substances on the job, and
- E. Where authorized by federal law, is authorized to conduct both random and post-accident drug tests for any employees subject to federal Department of Transportation drug-testing regulations.

Section 11. Smoking and Tobacco Use

Tobacco use (smoking and/or use of tobacco products) is prohibited within municipal buildings and in municipal vehicles.

Department Directors are authorized to designate outside areas at least twenty (20) feet away from any entry into those municipal buildings under the control of such department to accommodate employees who use tobacco products.

Section 12. Use of Town Property and Equipment

Town equipment, materials, tools, and supplies shall not be available for personal use and are not to be removed from Town property except in the conduct of official Town business. No employee shall purchase for personal use any equipment or supplies through Town purchase accounts.

Vehicles: An employee shall care for vehicles and equipment owned by the Town in the same responsible manner in which the employee should care for their own. Vehicles are to be used for official Town business, and personal use of Town vehicles and use of Town gasoline in privately owned vehicles is strictly prohibited. Under extraordinary circumstances such as weather-related emergencies (snowstorms, hurricanes, or flooding events), the Town Manager may temporarily authorize the use of Town vehicles for commuting to and from work or for shuttle runs to pick up employees whose personal vehicles are not suited for use in such conditions.

No Town-operated vehicle shall be permitted to idle for prolonged periods of time. Situations where idling is permitted and prohibited are spelled out in administrative procedures available from the Manager.

Telephones, Email, and Internet: Usage of Town telephones and computers for personal communications and Internet connections or email for personal reasons should be brief. Employees should not access pornographic sites or access personal networking sites through Town equipment, or use Town phones for personal long-distance calls.

Under North Carolina law, an email sent or received by the Town is considered a public record and is subject to inspection upon request.

Surrender of property: An employee who is terminated shall be required to return all items of equipment, including uniforms, owned by the Town. The return of such equipment in good condition may precede the issuance of an employee's final paycheck.

Section 13. Social Media Policy

The Town recognizes that employees may choose to use social media sites (such as networking sites, personal email, personal websites, blogs, comment boards, chat rooms, and other social media resources) off the job. We value employee interest in engaging in these forms of personal expression, as long as they are on the employee's own time and utilizing their own computer resources.

However, employees should be mindful that they are representatives of the Town of Erwin at all times, and their actions, whether on or off duty, can affect the Town and its ability to serve the citizens effectively. Specifically, when utilizing the internet, social media sites, or personal email on the employee's own time and using personal computer resources, employees should be mindful and respectful to others in regard to what they post. Personal posts should not create a

harassing, demeaning, or hostile work environment for any employee, interfere with another employee's work, or erode the public's confidence in the Town organization. Embarrassing or inappropriate posts or comments about other Town employees, officials, customers, or citizens are prohibited under this policy, as are pictures of the employee or co-workers in Town uniform without permission of the Town Manager. Employees are also cautioned not to purport to represent the Town on personal networking sites.

Finally, accessing social media sites is not a job requirement for most positions, and such assessing is prohibited while on Town time unless it is necessary for the completion of legitimate work purposes. Requests for access to any social media site using Town equipment should be requested in writing to the Town Manager's office by the department head.

Section 14. Immigration Law Requirements

All employees are required to furnish proof of citizenship or other required documents indicating a legal right to work in the United States. Copies of the completed I-9 form shall be a permanent part of their personnel file.

Section 15. Credentials and Certifications

Some duties assigned to positions in local government service may be performed only by persons who are duly licensed, registered, or certified as required by the relevant law, rule, or regulation. Employees in such classifications are responsible for maintaining current, valid credentials as required by law, rule, or regulation and must inform their supervisor immediately of any change in certification or license. Failure to obtain or maintain the required credentials as a basis for immediate dismissal without prior warning.

The Town will periodically check the driving records of employees to assure that appropriate licenses are still valid. Employees with marginal records (points or violations) may be removed from the operation of vehicles at the discretion of the Manager and may be terminated if a non-driving position is not available.

An employee who is dismissed shall be given a written statement of the reason for the action and their appeal rights.

Section 16. Weapons Policy

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

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

Section 17. Genetic Information Non-Discrimination Act

Pursuant to the Genetic Information Non-Discrimination Act of 2008 (hereinafter "GINA"), the Town of Erwin does not and will not discriminate against applicants, employees, former employees, and all such individuals and members with regard to genetic information that may have been inadvertently or otherwise obtained by the Town. Furthermore, the Town will take every action possible to avoid requesting, purchasing, requiring, or in any way discriminating or retaliating against an active employee or former employee with regard to genetic information.

From time to time, the Town may request specific healthcare information from an applicant, which could result in the Town requiring genetic information. The Town will take every possible action to avoid obtaining genetic information. To that end, the Town will include the following language in all requests for any medical information to an applicant, employee, former employee, or healthcare provider:

The Genetic Information Nondiscriminatory Act of 2008 (GINA) prohibits employers and other entities covered by GINA Title II from requesting or requiring the genetic information of employees or their family members. In order to comply with this law, we are asking that you not provide any genetic information when responding to this request for medical information. "Genetic Information" as defined by GINA, includes an individual's family medical history, the results of an individual's family medical history, the results of an individual's or family member's genetic test, the fact that an individual or individuals family members sought or seek genetic services, and genetic information of a fetus carried by an individual or an individual's family member or an embryo lawfully held by an individual with family members receiving assistive reproductive services.

Section 18. Direct Deposit

The Town may determine that employees will be paid by electronic transfer of funds to their designated bank account(s). If Direct Deposit is used, employees will receive written or electronic documentation of their wages, deductions, and leave balances each pay period.

Section 19. Attendance and Tardiness

The Town depends on employees to provide needed services every day. Regular attendance is mandatory and is part of the work standards for all jobs. Excessive absenteeism or chronic attendance/tardiness can lead to disciplinary action up to and including termination. All regular full-time employees, both non-exempt and exempt, are expected to work a 40-hour (or assigned) workweek.

Employees are required to call their supervisor in advance to advise them when illness prevents reporting to work or when the employee expects to be late for work due to unusual and/or unavoidable circumstances.

If an employee is away from the job for 3 consecutive workdays without notice, it may be presumed that the employee has resigned and forfeited any claim to terminal pay for the accumulated vacation.

Section 20. Confidential Information

Employees are prohibited from disclosing confidential information concerning the property, government, or affairs of the Town. Nor shall they, under any circumstance, use such information to advance the financial or other private interest of themselves or others.

Section 21. Technology Use Policy

Employees are expected to use Town technology resources responsibly, professionally, and respectfully. An employee's access to technology resources is a function of the business need of their position and is not a general employee benefit. All Town technology resources, electronic communication devices, and all information and records transmitted by, received on, captured by, or stored on technology resources are the property of the Town of Erwin and, as such, may be monitored, audited and inspected for proper use without advance notice to any user. Employees have no privacy rights when using Town information technology resources. Information that is stored on or transmitted to or from Town technological resources may be subject to disclosure pursuant to the North Carolina Public Records Law.

The Town prohibits the inappropriate use of technology resources. Prohibited use includes, but is not limited to, inappropriate content; defaming activity; illegal activity; content that violates the Town's harassment, workplace violence, or other related policies; any use that violates federal, state, or local law or regulation. In addition, the Town prohibits employees from viewing pornography, as defined by G.S. 143-805(b), via a government network or government-issued electronic devices owned, leased, maintained or otherwise controlled by the Town. Exceptions to this policy may be determined for employees as allowed in the course of their official duties such as investigating crimes and other law enforcement purposes, etc.

Improper use of technology resources or violations of this policy will subject the employee to disciplinary action up to and including termination of employment.

Employees should refer to the Town's Technology Use policy for more information regarding the appropriate use of technology resources.

ARTICLE VI. EMPLOYEE BENEFITS

Section 1. Eligibility

As an integral part of a comprehensive, competitive compensation program, the Town offers a variety of benefits. Specific benefit programs will vary from time to time and the type, level, eligibility, and cost of such programs are subject to change at any time at the sole discretion of the Town. To that end, the Town will periodically review employee benefits and may, with or without notification, modify, delete, or add benefits at its own discretion as may be deemed necessary.

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

The following benefit sections provide a brief summary and are not intended to be an all-inclusive benefit description. Employees may contact the Human Resources Director for more detailed information regarding benefits, eligibility, coverage, and costs.

Section 2. Group Health and Hospitalization Insurance

The Town provides group health and hospitalization insurance programs for regular full-time and part-time employees and their eligible family members, according to benefit plan terms, conditions, and restrictions.

Regular employees who are scheduled to work 20 hours or more per week on a continuous year-round basis may, if they so desire, purchase available group health insurance through the Town for themselves and qualified dependents. A pro-rated amount of the cost of coverage paid for a full-time employee shall be paid by the Town, with the remainder of the cost being paid by the employee. This pro-rated amount shall be based on regularly scheduled hours.

Section 3. Group Life Insurance

The Town may elect to provide group life insurance for each full-time employee subject to the stipulations of the insurance contract. Employees may elect to purchase additional coverage and/or to ensure other family members under this plan at their expense subject to the stipulations of the insurance contract.

Section 4. Other Optional Group Insurance Plans

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

Section 5. Retirement

The Town provides a retirement income plan for regular employees under the North Carolina Local Governmental Employees' Retirement System. All regular employees assigned to work

more than 1,000 hours in any 12-month period are required to participate as of the first day of employment. Currently, employees contribute 6% of salary (deducted from employee paycheck), while the Town pays an amount determined annually by the Local Governmental Employees' Retirement System and as approved by the North Carolina General Assembly. The retirement plan is known as a "defined benefit plan" meaning that an eligible employee can count on a guaranteed percentage of income at retirement. The percentage will depend on your average final compensation, years of service, and the age at the time of drawing benefits.

Section 6. Supplemental Retirement Benefits

The Town may provide supplemental retirement benefits for its full and part-time employees. Each law enforcement officer shall receive 401-K benefits as prescribed by North Carolina State Law. Each general employee may receive supplemental benefits as approved by the Town Board of Commissioners.

Section 7. Law Enforcement Separation Allowance

Every sworn law enforcement officer, as defined by G.S. 128-21(11d) or G.S. 143-166.50(a)(3), employed by a local government employer who qualifies under this section shall receive, beginning in the month in which the officer retires on a basic service retirement under the provisions of G.S. 128-27(a), an annual separation allowance equal to eighty-five hundredths percent (0.85%) of the annual equivalent of the base rate of compensation most recently applicable to the officer for each year of creditable service. The allowance shall be paid in equal installments on the payroll frequency used by the employer. To qualify for the allowance, the officer shall:

1. Have completed 30 or more years of creditable service, or have attained 55 years of age and completed five or more years of creditable service; and
2. Not have attained 62 years of age; and
3. Have completed at least five years of continuous service as a law enforcement officer immediately preceding a service retirement, as defined by N.C. G.S. 143-166.41(a)(3) and 143-166.41(b)
4. Notify the Town of any new employment involving state, local or federal law enforcement duties. Such notification shall include the nature and extent of the employment, any change in employment status, and any discontinuation of employment, within five (5) days of the new employment, change or discontinuation.

Such allowance shall terminate at death, or on the last day of the month prior to which the officer attains 62 years of age, or upon the first day of re-employment in a sworn position by any federal, state, or local law enforcement department, agency, or institution, whether in North Carolina or elsewhere in a job scheduled for 1,000 or more hours per year.

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

The governing body of each local employer shall determine the eligibility of employees for the benefits provided herein.

The Town may, at its discretion, offer a lump sum separation buyout to a law enforcement officer who leaves employment prior to reaching the officer's eligibility for a separation allowance under this Article. The lump-sum separation buyout shall be paid from funds available and shall not exceed the total that would otherwise be paid in separation allowance payments under G.S. 143-166.41 or G.S. 143-166.42. (2018-22, s. 1.)

Section 8. Retiree Health Insurance

Town of Erwin employees hired prior to July 1, 2013 and who retires from Town service with unreduced benefits from the North Carolina Local Government Employees' Retirement System are eligible for retiree health insurance benefits as follows:

- a) Employees retiring with 30 years or more of creditable service, with a minimum of 10 years of service with the Town of Erwin, may continue individual coverage on the group health insurance plan of the Town at no charge until they become eligible for Medicare.
- b) Employees retiring with 25 – 29 years of creditable service, with a minimum of 10 years of service with the Town of Erwin, may continue individual coverage on the group health insurance plan of the Town and pay 25 % of the cost, and the Town will pay the remaining 75% of the cost until they become eligible for Medicare.
- c) Employees retiring with 20 – 24 years of creditable service, with a minimum of 10 years of service with the Town of Erwin, may continue individual coverage on the group health insurance plan of the Town and pay 50 % of the cost, and the Town will pay the remaining 50% of the cost until they become eligible for Medicare.

Employees hired after July 1, 2013, and before July 1, 2025, who retire from Town service with full, unreduced benefits from the North Carolina Local Government Employees' Retirement System may continue to receive retiree health insurance benefits on the Town's group insurance plan (if allowed by the carrier) by paying the full employee rate until they become eligible for Medicare.

Employees hired after July 1, 2025, will no longer be eligible for the Town's post-employment group health benefits. Employees will continue to be eligible for COBRA coverage for the continuation of benefits.

Section 9. Social Security

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

Section 10. 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 so that appropriate action may be taken at once.

Responsibility for claiming compensation under the Workers' Compensation Act is on the injured employee. The Human Resources Director will assist the employee in filing the claims. Claims must be filed by the employee with the North Carolina Industrial Commission within two years from the date of injury.

Under NC Workers' Compensation law, the Town has the right to direct medical care for employees who suffer work related injuries or illnesses.

A disability of over seven calendar days is required before payment of Workers' Compensation salary benefits begin under the Workers' Compensation Act. An employee may use accrued sick or vacation leave during the first seven calendar day waiting period. If the work-related disability exceeds seven calendar days, the employee will be placed on Workers' Compensation Leave. During recovery from an accident, an employee may be able to work on light-duty assignments for all or part of the workday. Failure to report to a modified or light-duty assignment may result in disciplinary action and/or the workers' compensation salary supplement may be stopped.

Before returning to work, a statement from the attending physician should be submitted to the Human Resources Director giving permission for the employee to resume regular duties. Upon return to work, the employee's salary will be computed on the basis of the last salary plus any salary increase to which the employee would have been entitled based upon performance and other compensation policies.

This provision also applies to reactions to smallpox vaccinations administered to Town employees under Section 304 of the Homeland Security Act. Such reactions shall be treated the same as any other workers' compensation claim as regards leave and salary continuation. Eligible employees with an adverse reaction will have any medical expenses covered similar to other workers' compensation injuries.

Section 11. 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 12. Tuition Assistance Program

Full-time employees who have completed initial probation may apply for tuition reimbursement for courses taken on their own time, which will improve their skills for their current job or prepare them for promotional opportunities within the Town service. Tuition, registration, fees, laboratory fees, and student fees are eligible expenses. Employees may be reimbursed eligible expenses up to a total of five hundred dollars (\$500) per fiscal year. Satisfactory completion of the courses will be required for reimbursement. Requests for tuition assistance shall be submitted to the Human Resources Director prior to course registration and are subject to the review and approval of the Town Manager, as well as subject to the availability of funds.

ARTICLE VII. HOLIDAYS AND LEAVES OF ABSENCE

Section 1. Policy

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

Section 2. Holidays

The Town of Erwin observes the same holiday schedule as designated by the North Carolina State Government Holiday Schedule, currently with twelve paid holidays per year. The following are the designated holidays with full pay for employees of the Town:

New Year's Day	Labor Day
Martin Luther King Jr. Birthday	Veteran's Day
Good Friday	Thanksgiving Thursday & Friday
Memorial Day	Christmas (three days)
Independence Day	

Christmas holidays will coincide with North Carolina State government days observed.

When any recognized holiday falls on a Saturday, the preceding Friday shall be observed as the holiday. When any recognized holiday falls on Sunday, the following Monday shall be observed as the holiday.

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

Section 3. Holidays: Effect on Other Types of Leave

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

Section 4. Holidays: Compensations When Work is required or regularly scheduled Off for Shift Personnel

Employees required to perform work on a designated holiday shall receive time and a half pay for each hour worked on the holiday and shall receive straight-time hours of pay equivalent to the workweek equivalent average day (8.4 hours for Police) in compensation for the holiday.

If a holiday falls on a regularly scheduled off-duty day for shift personnel, the employee shall receive straight-time hours of pay equivalent to the workweek equivalent average day (8.4 hours for Police) in compensation for the holiday.

This section of the policy will be in effect as of July 1, 2013.

Section 5. Vacation Leave

Vacation leave is intended to be used for rest and relaxation, school appointments, and other personal needs. It may be used for medical appointments.

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

Section 6. Vacation Leave: Use by Probationary Employees

Employees serving a probationary period following initial employment may accumulate vacation leave but shall not be permitted to take vacation leave during the first six months of employment ~~probationary period~~. This provision may be waived by the Town Manager for special circumstances such as a death in the family or other family emergency. Employees who have preplanned family vacations, family weddings, etc., at the time of employment may be allowed to use leave without pay for such events.

Section 7. Vacation Leave: Accrual Rate

Each full and part-time employee of the Town shall earn annual leave at the following schedule, pro-rated by the average number of hours in the workweek:

Years of Service	Days Accrued Per Year
0 – 2 years	10
3 – 9 years	12
10 – 14 years	15
15 – 19 years	18
20 + years	21

Section 8. Vacation Leave: Maximum Accumulation

Vacation leave may be accumulated without any applicable maximum until December 31 of each year. ~~However, if the employee departs from service, payment for accumulated vacation leave shall not exceed 30 days.~~ Effective the first payroll in the calendar year, any employee with more than 30 days of accumulated leave shall have the excess accumulation transferred to sick leave so that only 30 days are carried forward to the next calendar year. Employees are not eligible to receive pay for vacation time not taken.

Employees are cautioned not to retain excess accumulated vacation leave until late in the year. Because of the necessity to keep all functions in operation, large numbers of employees cannot

be granted vacation leave at any one time. If an employee has excess leave accumulation during the latter part of the year and is unable to take such leave because of staffing demands, the employee shall receive no special consideration either in having vacation leave scheduled or in receiving any exception to the maximum accumulation.

Section 9. Vacation Leave: Manner of Taking

Employees shall be granted the use of earned vacation leave upon request in advance at those times designated by the Department Head, which will least obstruct normal operations of the Town. Department heads are responsible for ensuring that approved vacation leave does not hinder the effectiveness of service delivery. Vacation may be taken in one-hour (1 hour) increments.

Section 10. Vacation Leave: Payment upon Separation

An employee who has successfully completed six months of the probationary period will normally be paid for accumulated vacation leave upon separation (leave from work) not to exceed 30 days, provided notice is given to the supervisor at least two weeks in advance of the effective date of resignation (4 weeks for department heads).

Any employee failing to give the notice required by this section shall forfeit payment for accumulated leave. The notice requirement may be waived by the Town Manager when deemed to be in the best interest of the Town. Employees who are involuntarily separated shall receive payment for accumulated annual leave subject to the 30-day maximum. Employees dismissed for criminal conduct may be determined ineligible to receive vacation payout.

Section 11. Vacation Leave: Payment upon Death

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

Section 12. Sick Leave

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

Sick leave may be granted to a probationary or regular employee absent from work for any of the following reasons: sickness, bodily injury, required physical or dental examinations or treatment, or exposure to a contagious disease when continuing work might jeopardize the health of others. Sick leave is not intended to provide time off for recreation, personal reasons, or to extend vacations.

Sick leave may also be used when an employee must care for a member of his or her immediate family who is ill but may not be used to care for healthy children when the regular caregiver is sick. For the purposes of this benefit, "immediate family" is defined as the spouse, child, parent,

sibling, grandparent, grandchild, aunt, or uncle of the employee or spouse of the employee, or guardian. This also includes various combinations of “step” and adopted relationships.

Sick leave may also be used to supplement Workers’ Compensation Disability Leave during the initial waiting period before Workers’ compensation benefits begin.

Notification of the desire to take sick leave should be submitted to the employee’s supervisor prior to the leave or according to departmental procedures. If an employee is unable to report to work, the employee must notify their supervisor as soon as practical after the beginning of the regular scheduled workday, or no later than two (2) hours after the beginning of the scheduled workday. The employee is responsible for keeping their Department Head informed on a regular basis of the status of their return to work. The Town may require that employees obtain a physician’s statement attesting to the employee’s capacity to resume work duties. Failure to properly notify the Department Head or provide necessary medical documentation may result in disciplinary action.

Section 13. Sick Leave: Accrual Rate and Accumulation

Sick leave shall accrue at a rate of one day per month of service or twelve days per year. Sick leave for full-time and part-time employees working other than the basic work schedule shall be pro-rated as described in this Article. Sick leave will be cumulative for an indefinite period of time and may be converted upon retirement for service credit consistent with the provisions of the North Carolina Local Government Employees’ Retirement System.

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

However, employees who resign in good standing or are dismissed from employment because of a reduction in force and are reinstated within 3 years shall be credited with their previously accumulated sick leave. Employees who are dismissed from employment for reasons other than a reduction in force or who are not reinstated within 3 years shall lose all sick leave credits.

Section 14. Transfer of Sick Leave from Previous Employer

~~The Town will accept the transfer of sick leave for employees from other employers who are participants of the Local or State Employees Retirement System. The sick leave will be treated as though it were earned with the Town of Erwin. The sick leave amount must be certified by the previous employer.~~

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

Section 15. Sick Leave: Medical Certification

The employee's supervisor or Department Head may require a physician's certificate stating the nature of the employee's or family member's illness and the employee's capability 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 16. Leave Pro-rated

Holiday, annual, and sick leave earned by full-time and part-time employees with fewer or more hours than the basic workweek 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 (usually 40 hours).
2. The proportion obtained in step 1 shall be multiplied by the number of hours of leave earned annually by employees working the basic 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.

Section 17. Leave Without Pay

A full or part-time employee may be granted a leave of absence without pay for a period of up to twelve months by the Town Manager. The leave shall be used for:

- reasons of personal illness or injury after both sick leave and desired amount of compensatory time and/or annual leave have been exhausted,
- sickness or disability of immediate family members,
- continuation of education,
- special work that will permit the Town to benefit from 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.

The employee ceases to earn leave credits or holidays on the date the leave without pay begins. The employee may continue to be eligible for benefits under the Town's group insurance plans at this or her own expense through COBRA election, subject to any regulations of the insurance carrier.

Section 18. Workers' Compensation Leave

Under the North Carolina Workers' Compensation Act, employees may be compensated for absence from work due to injury or illness covered by the Act, subject to the following leave provisions:

- 1) There is a mandatory seven (7) calendar day waiting period before Workers' Compensation salary benefits begin. For this initial 7-day waiting period, employees may elect to use accrued sick leave, vacation leave, or compensatory time. Beginning the 8th calendar day following the injury or illness, employees who have not returned to work shall be placed in a Workers' Compensation Leave Without Pay status.
- 2) Employees out of work on Workers' Compensation Leave receiving workers' compensation benefits will not accrue vacation leave, sick leave, or paid holidays and their local government retirement and 401k benefits are not paid during this period. Employees will retain all accumulated sick and vacation leave.
- 3) An employee on Workers' Compensation leave may be eligible for health benefits for three months. After three months the employee may elect to continue health benefits by electing COBRA. Other insurance and payroll deductions are the responsibility of the employee and the employee must make those payments for continued coverage of that benefit.
- 4) Upon reinstatement, an employee's salary will be computed on the basis of the last salary plus any salary increase to which the employee would have been entitled during the absence covered by Workers' Compensation benefits.
- 5) After returning to work, employees shall be required to use sick or vacation leave for any additional absences for doctor visits, physical therapy, and other required medical care except where any full or partial workday absence may be eligible for Workers' Compensation payment.
- 6) The Town of Erwin's personnel policies shall continue to apply to an employee on Workers' Compensation leave in the same manner as they would apply to an employee who continues to work or is absent while on some other form of leave.
- 7) An employee is prohibited from moonlighting or performing other outside work during any kind of leave including workers' compensation leave.
- 8) The ability to return to work will be assessed individually, on a case-by-case basis. The Town will engage in an interactive process with the employee to carefully analyze whether accommodations requested are reasonable while not creating an undue hardship to the Town. If business necessity requires the Town to fill the position prior to the employee's return to work, the employee will receive priority consideration for qualified job openings for 6 months after their medical release to work.

- 9) Before an employee may return to work from a Workers' Compensation injury at full or light duty, the employee must provide a physician's note or Fitness for Duty certification to his/her supervisor indicating that he/she is released and capable of resuming duties, and what, if any restrictions are in place. The decision to allow an employee back on light duty and to determine the location of the light duty rests with the Town.
- 10) When worker's compensation leave extends long enough for the waiting period to be reimbursed, the employee shall return the reimbursement check to the Town and have leave hours reinstated for all time covered by paid leave. In such cases, the Town will pay the employee for any unpaid time that is owed the employee.

Section 19. ~~Short Term Disability~~ and Family Medical Leave

Provided that the Town has 50 or more full-time equivalent employees, 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). Until such time as the Town reaches that threshold, leave may be granted in a manner similar to FMLA as described below.

The leave may be paid (coordinated with the Town's vacation, compensatory time, and sick leave policies), unpaid, or a combination of paid and unpaid. As in the sick leave policy, sick leave is available only upon the documented disability of an employee or when an employee must care for a covered family member who is disabled. Sick leave may not be used to care for a healthy newborn or healthy children.

Unpaid leave will only be granted when the employee has exhausted all appropriate types of paid leave, including compensatory time. Additional time away from the job beyond the 12-week period may be approved in accordance with the Town's Leave without Pay policy.

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

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

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

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

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

An employee taking leave for the birth of a child may use paid sick leave for the period of actual disability, based on medical certification. The employee shall then use all paid vacation or leave without pay for the remainder of the 12-week FMLA period.

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

During a single 12-month period, the employee is entitled to a combined total of 26 weeks of all types of FMLA.

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

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

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

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

Medical and Family Leave Certification

In order to qualify for leave under this law, the Town requires medical certification. This statement from the employee's or the family member's physician should include the date when the condition began, its expected duration, prognosis, and a 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 to the department head and filed with the Town Manager.

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

Section 20. Leave without Pay and Retention and Continuation of Benefits

When an employee is on leave without pay under family medical leave as described above (maximum of 12 weeks in a year/ 26 if military caregiver leave), the Town will continue the employee's health benefits during the FMLA leave period at the same level and under the same conditions as if the employee had continued to work. If an employee chooses not to return to work for reasons other than a continued serious health condition, the Town will require the reimbursement of the amount paid for the employee's health insurance premium during the FMLA leave period.

Employees on leave without pay for non-family leave qualifying reasons will be required to pay for their health premiums beginning with the first full month of absence, subject to any regulation adopted by the Town Board and the regulations of the insurance carrier.

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

An employee shall retain all unused vacation and sick leave while on Leave without Pay. An employee ceases to earn leave credits on the date leave without pay begins.

Section 21. Military and other USERRA Leave

The Town will fully comply with the requirements of the 1994 Uniformed Services Employment and Re-Employment Rights Act (USERRA) and related federal regulations. Employees taking leave under USERRA shall be eligible to take accumulated vacation leave, accrued compensatory time, or be placed in a leave without pay status, and the provisions of that leave shall apply. While taking USERRA leave, the employee's unused leave balances will be retained and any seniority-based benefits such as leave accrual rates will continue to accrue.

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

Military Training

Regular employees who are members of an Armed Forces Reserve organization or National Guard shall be granted ten workdays per year for military leave without pay. If the compensation received while on military leave is less than the salary that would have been earned during the same period as a Town employee, the employee shall receive partial compensation equal to the difference in base salary earned on active duty and the salary that would have been earned during the same period as a Town employee. The effect will be to maintain the employee's salary at the normal level during this period. To claim differential pay, the employee must submit a copy of his/her military orders, pay vouchers, leave and earnings statement and/or other appropriate documentation evidencing performance and compensation pertinent to the military duty.

On rare occasions, due to annual training being scheduled on a federal fiscal year basis, an employee may be required to attend two periods of training in one calendar year. For this purpose only, an employee shall be granted an additional ten days of military leave during the same calendar year.

If such duty is required beyond these ten workdays, the employee shall be eligible to take accumulated vacation leave or be placed on leave without pay status, and the provisions of that leave shall apply. While taking military leave, the employee's leave credits and other benefits shall continue to accrue as if the employee physically remained with the Town during this period.

Employees who are eligible for military leave have all job rights specified by the Vietnam Veterans Readjustment Act.

Section 22. Reinstatement Following Military Service

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

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

- a) less than 31 days absence - employee must report to employer by the next business day.
- b) 31 days - 180 days absence - notification to the supervisor must be submitted within 14 days.
- c) more than 180 days absence - notification to the supervisor must be submitted within 90 days.

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

If the employee 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 23. 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 a 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.

Employees in court for their own case or appearing voluntarily as a witness in another person's case must use annual leave or leave without pay for their time in court.

Section 24. Shared Leave Policy

Town employees may donate accumulated vacation leave to the sick leave account of an eligible employee who has exhausted all paid leave due to an extended medical leave. Guidelines for the program are available in procedures developed by the Manager.

Section 25. Inclement Weather Policy

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

In the event it becomes necessary to open Town offices late or to close early due to severe inclement weather, it is the Town's intent that employees receive their regular pay for the day.

Specific policies concerning inclement weather notification and leave are available from the Manager.

Section 26. Personal Leave

Town employees that are considered full-time employees will receive 16 hours of Personal Leave Time once a year. The 16 hours of leave time must be used within a year of receiving the Personal Leave Time. It cannot roll over to the next year. Personal Leave Time will not be paid out in the instance of an employee leaving his or her employment with the Town of Erwin either voluntarily or involuntarily. The intention behind this leave time is to allow our full-time employees to take time off to get tasks completed which need to be taken care of during normal business hours, including the involvement in and attendance of school activities for their child(ren). ~~Personal Leave~~

~~Time cannot be used to extend a holiday weekend and cannot be used in cohesion with any other type of leave.~~

Personal leave is subject to the following conditions:

1. The leave must be taken at a time mutually agreed upon by the employee and the Town;
2. The Town may require the employee to request the leave in writing at least 48 hours prior to the time of the desired leave; and
- ~~3. No more than 4 hours of personal leave may be taken at one time.~~

Personal Leave requests must be approved by an employee's Department Head. Personal Leave Time requests can be denied by a Department Head if it is not feasible for that employee to be off at the requested time.

Section 27. Parental School Leave

A Town employee who is a parent, guardian, or person standing in loco parentis (in place of the parent) may take up to eight hours of unpaid leave annually to involve him or herself in school activities of his or her child(ren). This leave is subject to the three following conditions:

1. The leave must be taken at a time mutually agreed upon by the employee and the Town;
2. The Town may require the employee to request the leave in writing at least 48 hours prior to the time of the desired leave; and,
3. The Town may require written verification from the child's school that the employee was involved at the school during the leave time.

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

Section 28. Bereavement Leave

Regular, full-time employees will receive up to three (3) days leave at full pay each calendar year to attend the funeral of an immediate family member (spouse, parent, children, sibling, grandparent, grandchildren plus the various combinations of half, step, in-laws and adopted relationships that can derived from those named). Additional time to settle affairs of the family may be taken with the approval of the Department Head and should be charged to vacation or sick leave, accrued compensatory leave, or leave without pay.

Section 29. Employee of the Quarter Leave

Town employees awarded the Employee of the Quarter shall be given one day's worth of leave. The 8 hours (12 hours for Police Patrol) must be used within the next quarter of receiving the award and must be used to take a whole day of leave. The time cannot be split into increments or to extend a holiday. It cannot roll over and will not be paid out in the instance of an employee leaving his or her employment with the Town of Erwin either voluntarily or involuntarily.

Employee of the Quarter Leave is subject to the following conditions:

1. The leave must be taken at a time mutually agreed upon by the employee and the Town;
2. The Town may require the employee to request the leave in writing at least one week prior to the time of the desired leave; and

Employee of the Quarter Leave requests must be approved by an employee's Department Head. Employee of the Quarter Leave time requests can be denied by a Department Head if it is not feasible for that employee to be off at the requested time.

Section 30. Administrative Leave

A Town employee may be placed on administrative leave with or without pay pending investigations including but not limited to motor vehicle accidents, alleged inappropriate actions on the job, or any other matter deemed necessary by the Town. Administrative leave is not to be construed as disciplinary action.

ARTICLE VIII. SEPARATION AND REINSTATEMENT

Section 1. Types of Separations

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

Section 2. Resignation

An employee may resign by submitting the reasons for resignation and the effective date in writing to the immediate supervisor as far in advance as possible. In all instances, the minimum notice requirement is two weeks. Failure to provide minimum notice shall result in forfeit of payment for accumulated annual leave unless the notice is waived upon recommendation of the Department Head and approval by the Town Manager.

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

Section 3. Reduction in Force

If 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 permanent employee shall be separated because of a reduction in force while there are temporary or probationary employees serving in the same class in the department unless the regular employee is not willing to transfer to the position held by the temporary or probationary employee.

Section 4. Disability

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

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

Section 5. Voluntary Retirement

An employee who meets the conditions set forth under the provision of the North Carolina Local Government Employee's Retirement System may elect to retire and receive all benefits earned under the retirement plan.

Section 6. Death

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

Section 7. Dismissal

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

Section 8. Reinstatement

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

Section 9. Rehiring

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

ARTICLE IX. DISCIPLINARY ACTIONS

Section 1. Policy

A non-probationary employee may be reprimanded, suspended, demoted or dismissed as provided below; however, nothing contained herein shall replace, change or modify the employment-at-will status as first stated in Article 1 of these policies.

The Town generally administers a progressive disciplinary procedure in which discipline is administered in proportion to the degree of severity and frequency of unacceptable employee behavior. Progressive discipline is intended to allow the employee the opportunity to correct deficiencies in work behavior by clarifying and prescribing to the employee the appropriate behavior. All disciplinary actions are subject to the approval of the Town Manager.

Employees may be disciplined for improper personal conduct or unsatisfactory performance of job duties, as described in this Article. The Town may also discipline employees for performance problems and/or conduct not specifically identified in this Article.

Probationary employees who have not attained regular status and temporary employees may be dismissed immediately for unsatisfactory job performance or improper personal conduct violations. There is no right of appeal. Appropriate documentation of the dismissal will be included in the employee's personnel file.

Section 2. Procedure

Whenever, in the supervisor's judgment, employee performance, attitude, work habits, or personal conduct falls below the acceptable level, the supervisor shall inform the employee promptly and specifically of such performance problem(s) and give counsel and assistance. A reasonable period of time for improvement may be allowed before initiating disciplinary action and is within the discretion of the supervisor.

The Town generally follows the principles of progressive discipline. However, the supervisor, in consultation with the Town Manager, may determine the appropriate level of discipline, separate and apart from the progressive discipline, taking into consideration the particular incident. Disciplinary actions will be recorded in the employee's personnel file.

Disciplinary action may consist of any of the following, not necessarily in this order:

- Written Warning
- Written Warning with Condition(s) of Continued Employment
- Suspension
- Demotion
- Dismissal

Written Warning(s)

A documented discussion of specific work-related concerns indicating unacceptable personal conduct or performance deficiencies will be made with corrective measures to be followed. The receipt of a written warning should be acknowledged in writing by the employee. If the employee refuses to properly acknowledge the receipt of any written warning, the supervisor issuing the

written warning shall note the employee's refusal on the employee disciplinary report and have an additional supervisor sign the disciplinary report as a witness to the fact that the employee refused to sign the disciplinary report.

Written Warning with Condition(s) of Continued Employment

If an employee continues to perform his or her duties in an unsatisfactory manner, after the receipt of a written warning about deficiencies in the employees' work performance, or if the employee engages in improper personal conduct that involves a mitigating factor or a combination of mitigating factors deemed by management to warrant disciplinary action short of dismissal, the employee may be issued a written warning that contains conditions with which the employee must comply in order to maintain his or her employment with the Town. These conditions of employment may include, but are not limited to, performance requirements as well as a defined goal for the employee to attain in order to demonstrate that the employee is conducting him/herself in a manner that meets the expectations of the Town of Erwin.

The issuance of a written warning by the Town to an employee is for the convenience of the Town and is not a precondition of an adverse employment action. An employee may have an adverse employment action (including but not limited to suspension, demotion or dismissal) taken against them without prior written warning by the Town.

Suspension

If the behavioral infraction is extremely serious to the Town, other employees, or the public, the employee may be suspended without warning.

Demotion

An employee may also be demoted for unsatisfactory performance or for improper personal conduct without prior warnings(s). Before an employee is demoted for either reason, the supervisor shall submit a written summary of facts and circumstances leading to the decision to the Town Manager for approval to proceed. The report should include previous disciplinary action taken, previous written warnings and other documents that support the decision.

Dismissal

The supervisor recommending dismissal shall discuss the recommendation with the Town Manager. The Town Manager shall schedule and conduct a meeting with the employee in which the employee will receive notice of the recommended dismissal, including specific reasons for the recommendation, and summarize the information supporting that decision. The employee shall have an opportunity to respond to the recommended dismissal, to refute information supporting the dismissal action and to offer information or arguments to support his/her position. During this meeting no outside parties may participate. The Town Manager, or Human Resources Director, shall transmit to the employee written notice of the dismissal.

Section 3. Non-Disciplinary Suspension

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

employee of all duties and responsibilities and place the employee on unpaid or paid leave for the duration of the suspension. If the employee is reinstated following the suspension such employee shall not lose any compensation or benefits to which otherwise the employee would have been entitled had the suspension not occurred. If the employee is terminated following suspension, the employee shall not be eligible for any pay from the date of unpaid suspension.

Section 4. Rights of Appeal

In the case of a demotion or dismissal, a regular employee can appeal to the Town Manager in writing within seven (7) workdays following the effective date of the personnel action that is under appeal. The Town Manager will review the written reports utilized by the supervisor to take the personnel action under appeal and may request additional information and documentation to consider the appeal. The Town Manager may request meetings with the employee as well as others involved.

In deciding the issue on appeal, the Town Manager may confirm or modify the recommendation of the supervisor and enter such order as the Town Manager may deem appropriate. The Town Manager's written decision shall be forwarded to the employee within ten (10) workdays from the date the written appeal was received. The decision entered by the Town Manager shall be final.

Section 5. Administrative Guidelines

As mentioned above, the Town will determine the appropriate level of discipline for both unsatisfactory job performance and conduct issues. Examples of both unsatisfactory job performance and improper personal conduct which could result in discipline are listed below.

(A) Unsatisfactory Job Performance

Unsatisfactory job performance occurs when an employee fails to meet job requirements or performance standards as established by the Town Manager. This policy does not require that progressive warnings address the same type of unsatisfactory performance.

The following list is illustrative, and is not an exhaustive or exclusive list, of the types of unsatisfactory job performance that may lead to the termination of an individual's employment with the Town:

- 1) Inefficiency or incompetence or negligence in performing duties;
- 2) Poor manner of work performance;
- 3) Failure to produce work of acceptable quality, quantity or accuracy;
- 1) Physical or mental incapability for performing duties after reasonable accommodation;
- 2) Careless, negligent or improper use of Town property;
- 3) Failure to maintain harmonious working relationships with fellow employees and the public;
- 4) Habitual pattern of failure to report for duty at the assigned time and place;
- 5) Absence without approved leave;

- 6) Improper use of sick or other leave privileges;
- 7) Failure to complete work within time frames established;
- 8) Repeated or serious incident of unsafe behavior at work;
- 9) Failure to obtain/maintain current license or certificate required as a condition of the job;
- 10) Failure to wear/use appropriate safety equipment or otherwise to abide by safety rules.

(B) Improper Personal Conduct

An employee who engages in a single act of improper personal conduct is subject to dismissal from employment with the Town of Erwin regardless of whether the employee has previously received a warning of any kind during his/her career with the Town.

The following list is illustrative, and is not an exhaustive or exclusive list, of the types of improper personal conduct that will lead to the termination of an individual's employment with the Town:

- 1) Conduct unbecoming a Town employee;
- 2) Fraud, theft or other illegal activities;
- 3) Conviction of a felony or the entry of a plea of nolo contendere thereto;
- 4) Willful misuse or gross negligence in the handling of Town funds or missing Town funds;
- 5) Personal use of Town equipment or supplies;
- 6) Falsifying records for personal profit, to grant special privileges or to obtain employment;
- 7) Engaging in any action that would in any way seriously disrupt or disturb the normal operations of the Town;
- 8) Willful acts that would endanger the lives or property of others;
- 9) Willfully damaging Town property;
- 10) Possessing unauthorized weapons, alcoholic beverages, or illegal substances on the job;
- 11) Violence or other aggressive, threatening, intimidating, bullying or disruptive behaviors whether by means of communication devices or by means of physical visits to the grounds or home of the targeted individual, for the purpose of harassing an individual;
- 12) Insubordination;
- 13) Accepting gifts for "favors" or "influence";
- 14) Without proper authorization, disseminating or otherwise releasing in any manner information that is lawfully maintained by the Town as confidential information;

- 15) Professional misconduct;
- 16) Leaving the work area repeatedly for excessively long periods without proper authorization;
- 17) Willful violations of Federal/State law or regulations or Town policies;
- 18) Violation of the Town's policies prohibiting sexual harassment, unlawful discrimination, retaliation, workplace violence, and/or substance abuse;
- 19) Providing or maintaining false or improper records/documents;
- 20) Providing an untruthful statement or statements during an administrative investigation conducted by the Town and/or otherwise attempting to impede the ability of the Town to conduct an accurate and complete administrative investigation.

ARTICLE X. GRIEVANCE PROCEDURE AND ADVERSE ACTION APPEAL

Section 1. Policy

The Town of Erwin is committed to providing employees an effective and responsive grievance process. It is the policy of the Town to provide a just procedure for the presentation, consideration, and disposition of employee grievances. The purpose of this article is to outline the procedure and to assure all employees that a response to their complaints and grievances will be prompt and fair.

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

Section 2. Grievance Defined

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

Section 3. Purposes of the Grievance Procedure

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

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

Section 4. Procedure

When an employee has a grievance, the following successive steps are to be taken unless otherwise provided. The number of calendar days indicated for each step should be considered the maximum unless otherwise provided, and every effort should be made to expedite the process. However, the time limits set forth may be extended by mutual consent. The last step initiated by an employee shall be considered to be the step at which the grievance is resolved. A decision to rescind a disciplinary suspension, demotion, or dismissal must be approved by the Town Manager before the decision becomes effective.

No Representation. Since the grievance conference is not a legal process, but a facilitated discussion between two persons, neither the grievant nor the Town may be represented by legal counsel or any other person at the grievance conference.

Informal Resolution. Prior to the submission of a formal grievance, the employee and supervisor should meet to discuss the problem and seek to resolve it informally. Either the employee or the supervisor may involve the respective Department Head as a resource to help resolve the grievance. In addition, the employee or supervisor may request mediation from local mediation services or other qualified parties to resolve the conflict. Mediation may be used at any step in the process when mutually agreed upon by the employee and relevant Town supervisor or Manager. Mediation is the process where a neutral party assists the parties in conflict by identifying mutually agreeable solutions or understandings.

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

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

If the grievance is with an employee's supervisor, the grievance is to be presented directly to the Department Head. If the employee's grievance is with the Department Head, the grievance is to be presented directly to the Human Resource Director. If the employee's grievance is with the Town Manager, the grievance is to be made to the Human Resource Director, who will act as the mediating party in resolving the grievance.

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

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

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

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

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

Section 5. Role of the Human Resources Director

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

- A. to advise parties (including employees, supervisors, and Town Manager of their rights and responsibilities under this policy, including interpreting the grievance and other policies for consistency of application;
- B. to be a clearinghouse for information, applicable forms, and decisions in the matter, including maintaining files of all grievance documents;
- C. to give notices to parties concerning timetables of the process, etc.;
- D. to assist employees and supervisors in drafting statements;
- E. to facilitate the resolution of conflicts in the procedures or of the grievance at any step in the process; and
- F. to help locate mediation or other resources as needed.

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

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

Section 6. Grievance and Adverse Action Appeal Procedure for Discrimination

When an employee, former employee, or applicant believes that any employment action discriminates illegally (i.e., is based on an individual's race, religion, color, sex, national origin, sexual orientation, age, veteran status, marital status, political affiliation, non-disqualifying disability, genetic information, or on the basis of actual or perceived gender as expressed through dress, appearance or behavior), they have the right to appeal such action using the grievance procedure outlined in this Article. While such persons are encouraged to use the grievance procedure, they shall also have the right to appeal directly to the Town Manager. Employment actions subject to appeal because of discrimination include a promotion, training, classification, pay, disciplinary action, transfer, layoff, failure to hire, or termination of employment. An employee or applicant should appeal the alleged act of discrimination within thirty calendar days of the alleged discriminatory action.

ARTICLE XI. RECORDS AND REPORTS

Section 1. Public Information

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

- 1) Name;
- 2) Age;
- 3) Date of original employment;
- 4) 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) The office to which the employee is currently assigned;
- 8) Date and amount of each increase or decrease in salary with the Town;
- 9) Date and type of each promotion, demotion, transfer, suspension, separation, or other change in position classification with the Town;
- 10) Date and general description of the reasons for each promotion with the Town;
- 11) Date and type of each dismissal, suspension, or demotion for disciplinary reasons taken by the Town
- 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 are the basis of the dismissal.

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

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

Section 2. Access to Confidential Records

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

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

4. By order of a court of competent jurisdiction, any person may examine all material in the employee's personnel file.
5. An official of an agency of the State or Federal Government, or any political subdivision of the State, may inspect any portion of a personnel file when such inspection is deemed by the Town Manager to be necessary and essential to the pursuit of a proper function of the inspecting agency, but no information shall be divulged for the purpose of assisting in a criminal prosecution of the employee, or for the purpose of assisting in an investigation of the employee's tax liability. However, the official having custody of the personnel records may release the name, address, and telephone number from a personnel file for the purpose of assisting in a criminal investigation.
6. An employee may sign a written release to be placed in their personnel file that permits the record custodian to provide, either in person, by telephone, or by mail, the information specified in the release to prospective employers, educational institutions, or other persons specified in the release.
7. The Town Manager, with the concurrence of the Town Board of Commissioners, may inform any person of the employment, non-employment, promotion, demotion, suspension or other disciplinary action, reinstatement, transfer, or termination of a Town employee, and the reasons for that action. Before releasing that information, the Town Manager shall determine in writing that the release is essential to maintaining the level and quality of Town services. The written determination shall be retained in the Town Manager's office, is a record for public inspection, and shall become a part of the employee's personnel file.

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

Section 3. Personnel Actions

The Town Manager will prescribe necessary forms and reports for all personnel actions and will retain records necessary for the proper administration of the personnel system. There shall be one set of official personnel files, centrally located as designated by the Town Manager. Any document not located there is not an official part of that employee's personnel record.

Section 4. Records of Former Employees

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

Section 5. Remedies of Employees Objecting to Material in File

An employee who objects to material in their file may place a statement in the file relating to the material considered to be inaccurate or misleading. The employee may seek the removal of such material in accordance with established grievance procedures.

Section 6. Penalties for Permitting Access to Confidential Records

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

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

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

Section 8. Destruction of Records Regulated

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

ARTICLE XII. IMPLEMENTATION OF POLICIES

Section 1. Conflicting Policies Repealed

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

Section 2. Separability

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

Section 3. Amendments

This policy may be amended by action of the Board of Commissioners and by resolution appropriately approved. Notice of any suggested amendment to the policy, or any portion thereof, shall be provided to employees, and opportunities for employee comment and reaction shall be made available prior to the amendments going to the Board for action. Proposed amendments should be posted on bulletin boards in all employee work locations and/or in employee newsletters. Any revisions or amendments adopted in conformance with this procedure shall become effective as of the date of such adoption.

Adopted this 3rd Day of April, 2025