**TOWN OF WINGATE**
**PERSONNEL POLICY**

BE IT RESOLVED by the Board of Commissioners of the Town of Wingate 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 Wingate.

**Title** **Page**


**ARTICLE I. GENERAL PROVISIONS ..... 5**
Section 1. Purpose of the Policy ..... 5
Section 2. At Will Employment ..... 5
Section 3. Merit Principle ..... 5
Section 4. Responsibilities in the Administration of the Personnel Program ..... 5
Section 5. Application of Policies, Plan, Rules, and Regulations ..... 7
Section 6. Departmental Rules and Regulations ..... 7
Section 7. Definitions ..... 7

**ARTICLE II. POSITION CLASSIFICATION PLAN ..... 9**
Section 1. Purpose ..... 9
Section 2. Composition of the Position Classification Plan ..... 9
Section 3. Use of the Position Classification Plan ..... 9
Section 4. Administration of the Position Classification Plan ..... 9
Section 5. Authorization of New Positions and the Position Classification Plan ..... 9

**ARTICLE III. THE PAY PLAN ..... 11**
Section 1. Definition ..... 11
Section 2. Administration and Maintenance ..... 11
Section 3. Starting Salaries ..... 11
Section 4. Trainee Designation and Provisions ..... 11
Section 5. Probationary Pay Increases ..... 12
Section 6. Merit Pay ..... 12
Section 7. Merit Pay Bonus ..... 12
Section 8. Salary Effect of Promotions, Demotions, Transfers, and Reclassifications ..... 12
Section 9. Salary Effect of Salary Range Revisions ..... 13
Section 10. Transition to a New Salary Plan ..... 14
Section 11. Effective Date of Salary Changes ..... 14
Section 12. Fair Labor Standards Act and Overtime Pay Provisions ..... 14
Section 13. Stand-by and Call-back Pay ..... 15
Section 14. Payroll Deduction ..... 16
Section 15. Hourly Rate of Pay ..... 16
Section 16. Christmas Bonus ..... 16
Section 17. Pay for Interim Assignments in a Higher Level Classification ..... 16

**ARTICLE IV. RECRUITMENT AND EMPLOYMENT ..... 17**
Section 1. Equal Employment Opportunity Policy ..... 17
Section 2. Implementation of Equal Employment Opportunity Policy ..... 17

Section 3. Recruitment, Selection and Appointment ..... 17
Section 4. Probationary Period ..... 18
Section 5. Promotion ..... 19
Section 6. Demotion ..... 19
Section 7. Transfer ..... 19
Section 8. Residence of Employees ..... 19

**ARTICLE V. CONDITIONS OF EMPLOYMENT ..... 21**
Section 1. Work Schedule and Attendance ..... 21
Section 2. Political Activity ..... 21
Section 3. Outside Employment ..... 22
Section 4. Dual Employment ..... 22
Section 5. Volunteer Service ..... 22
Section 6. Employment of Relatives ..... 22
Section 7. Harassment Prohibited ..... 23
Section 8. Workplace Violence ..... 24
Section 9. Expectations of Ethical Conduct ..... 27
Section 10. Performance Evaluation ..... 27
Section 11. Safety ..... 27
Section 12. Use of Town Property and Equipment ..... 28
Section 13. Travel Reimbursement ..... 29
Section 14. Substance Abuse Policy ..... 29

**ARTICLE VI. EMPLOYEE BENEFITS ..... 42**
Section 1. Eligibility ..... 42
Section 2. Employee Group Health, Dental, Vision and Short Term Disability ..... 42
Section 3. Employee Group Life Insurance ..... 42
Section 4. Other Optional Insurance Plans ..... 42
Section 5. Social Security ..... 42
Section 6. Unemployment Compensation ..... 42
Section 7. Retirement ..... 42
Section 8. Supplemental Retirement Benefits ..... 43
Section 9. Worker's Compensation ..... 43
Section10. Law Enforcement Separation Allowance ..... 43
Section 11. Training Expenses ..... 44
Section 12. Tuition Assistance Program ..... 44
Section 13. Uniforms ..... 45
Section 14. Safety Equipment ..... 45

**ARTICLE VII. HOLIDAYS AND LEAVES OF ABSENCE ..... 46**
Section 1. Policy ..... 46
Section 2. Holidays ..... 46
Section 3. Holidays: Effect on Other Types of Leave ..... 46
Section 4. Holidays: Compensation When Work is Required
Or Regularly Scheduled Off for Shift Personnel ..... 47
Section 5. Vacation Leave ..... 47
Section 6. Vacation Leave: Use by Probationary Employees ..... 47
Section 7. Vacation Leave: Accrual Rate ..... 47
Section 8. Vacation Leave: Maximum Accumulation ..... 47
Section 9. Vacation Leave: Manner of Taking ..... 48

Section 10. Vacation Leave: Payment upon Separation ..... 48
Section 11. Vacation Leave: Payment upon Death ..... 48
Section 12. Sick Leave ..... 48
Section 13. Sick Leave: Accrual Rate and Accumulation ..... 49
Section 14. Transfer of Sick Leave from Previous Employer ..... 49
Section 15. Sick Leave: Medical Certification ..... 49
Section 16. Leave Prorated ..... 49
Section 17. Short Term Disability (Medical) and Family Leave ..... 50
Section 18. Short Term Disability (Medical) and Family Leave -Certification ..... 51
Section 19. Short Term Disability (Medical) and Family Leave -Retention and Continuation of Benefits ..... 51
Section 20. Funeral Leave ..... 51
Section 21. Leave Without Pay ..... 52
Section 22. Worker's Compensation Leave ..... 52
Section 23. Military Leave ..... 53
Section 24. Reinstatement Following Military Service ..... 53
Section 25. Civil Leave ..... 53
Section 26. Parental School Leave ..... 53

**ARTICLE VIII. SEPARATION AND REINSTATEMENT ..... 55**
Section 1. Types of Separations ..... 55
Section 2. Resignation ..... 55
Section 3. Reduction in Force ..... 55
Section 4. Disability ..... 55
Section 5. Retirement ..... 55
Section 6. Death ..... 56
Section 7. Dismissal ..... 56
Section 8. Reinstatement ..... 56
Section 9. Rehiring ..... 56

**ARTICLE IX. UNSATISFACTORY JOB PERFORMANCE AND DETRIMENTAL PERSONAL CONDUCT ..... 57**
Section 1. Disciplinary Action for Unsatisfactory Job Performance ..... 57
Section 2. Unsatisfactory Job Performance Defined ..... 57
Section 3. Communication and Warning Procedures Preceding Disciplinary Action for Unsatisfactory Job Performance ..... 57
Section 4. Disciplinary Action for Detrimental Personal Conduct ..... 58
Section 5. Detrimental Personal Conduct Defined ..... 58
Section 6. Pre-dismissal Conference ..... 59
Section 7. Non-Disciplinary Suspension ..... 60

**ARTICLE X. GRIEVANCE PROCEDURE AND ADVERSE ACTION APPEAL ..... 61**
Section 1. Policy ..... 61
Section 2. Grievance Defined ..... 61
Section 3. Purposes of the Grievance Procedure ..... 61
Section 4. Grievance Procedure ..... 61
Section 5. Grievance and Adverse Action Appeal Procedure for Discrimination ..... 63

**ARTICLE XI. RECORDS AND REPORTS ..... 64**

Section 1. Public Information ..... 64
Section 2. Access to Confidential Records ..... 65
Section 3. Personnel Actions ..... 65
Section 4. Records of Former Employees ..... 66
Section 5. Remedies of Employees Objecting to Material in File ..... 66
Section 6. Penalties for Permitting Access to Confidential Records ..... 66
Section 7. Examining and/or Copying Confidential Material Without Authorization ..... 66
Section 8. Destruction of Records Regulated ..... 66

**ARTICLE XII. IMPLEMENTATION OF POLICIES ..... 67**
Section 1. Conflicting Policies Repealed ..... 67
Section 2. Separability ..... 67
Section 3. Amendments ..... 67
Section 4. Effective Date ..... 67

## ARTICLE I. GENERAL PROVISIONS

### Section 1. Purpose of the Policy

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

### Section 2. At Will Employment

The Town of Wingate is an "at will" employer. Nothing in this policy creates an employment contract or term between the Town and its employees. No person has the authority to grant any employee any contractual rights of employment.

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

The Town reserves the right to modify the provisions of this resolution at any time without notification to employees. Notwithstanding any of the provisions within this policy, employment may be terminated at any time with or without cause and with or without advance notice.

### Section 3. Merit Principle

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

### Section 4. Responsibilities in the Administration of the Personnel Program

#### Responsibilities of the Town Board of Commissioners

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

#### Responsibilities of the Town Manager

The Town Manager shall be accountable to the Town 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.

In addition, the Town Manager will:

a) recommend rules and revisions to the personnel system to the Town Board of Commissioners for consideration;

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

c) prepare and recommend necessary revisions to the pay plan;

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

e) establish and maintain 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) develop and administer such recruiting programs as may be necessary to obtain an adequate supply of competent applicants to meet the needs of the Town;

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

h) perform such other duties as may be required by law or assigned by the Town Board of Commissioners not inconsistent with this Policy; and

i) serve in the role of Human Resources Officer.

**Responsibilities of Supervisors:**

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

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

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

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

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

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

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

g) making proper documentation and maintaining current files.

**Responsibilities of Employees:**

Employees of the Town of Wingate shall be expected to:

a) report to work on time and remain on the job until the end of the tour of duty;

b) perform duties to the best of their abilities and contribute a full day's work for a full day's pay;

c) work well with other employees and citizens and accept additional assignments during peak workloads and emergency situations;

d) request prior approval for leaves of absence or before leaving the worksite;

e) refrain from spreading rumors or engaging in other activities which have a disruptive influence on morale or work progress.

**Section 5. Application of Policies, Plan, Rules, and Regulations**

The personnel policy and all rules and regulations adopted pursuant thereto shall be binding on all Town employees. The 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 6. Departmental Rules and Regulations**

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

**Section 7. Definitions**

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

**Full-time employee.** An employee who is in a position for which an average work week equals at least 37.5 hours, and continuous employment of at least 12 months, as required by the Town.

**Part-time employee.** An employee who is in a position for which an average work week of less than 30 hours and continuous employment of at least 12 months are required by the Town.

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

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

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

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

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

## ARTICLE II. POSITION CLASSIFICATION PLAN

### Section 1. Purpose.

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

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

The classification plan shall consist of:

a) a grouping of positions in classes which are approximately equal in difficulty and responsibility which call for the same general qualifications, and which can be equitably compensated within the same range of pay under similar working conditions;

b) class titles descriptive of the work of the class;

c) written specifications for each class of positions; and

d) an allocation list showing the class title of each position in the classified service.

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

The classification plan is to be used:

a) as a guide in recruiting and examining applicants for employment;

b) in determining lines of promotion and in developing employee training programs;

c) in determining salary to be paid for various types of work;

d) in determining personnel service items in departmental budgets; and

e) in providing uniform job terminology.

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

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

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

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

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

## ARTICLE III. THE PAY PLAN

### Section 1. Definition

The pay plan includes the basic salary schedule and the "Assignment of Classes to Grades" adopted by the Town Board of Commissioners. The salary schedule consists of a hiring rate, minimum (normal post probationary rate), midpoint, and maximum rate of pay for all classes of positions.

### Section 2. Administration and Maintenance

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

An employee appointed to a part-time permanent position will be paid a rate within the same salary range as a full-time employee in the same classification and at an appropriate rate established by the Town Manager.

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 public employment in the area, changes in the cost of living, the financial conditions of the Town, and other factors. To this end, from time to time the Town Manager 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 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 minimum, midpoint, and maximum rates change according to the market subject to approval by the Town Board of Commissioners.

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 positions approved in the position classification plan normally will be employed at the hiring salary rate for the classification in which they are employed; however, exceptionally well qualified applicants may be employed above the minimum rate of the established salary range upon recommendation of the department head and approval of the Town Manager.

### Section 4. Trainee Designation and Provisions

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

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

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

**Section 5. Probationary Pay Increases**

Employees hired or promoted into the hiring rate of the pay range shall receive a salary increase within the pay range of approximately 5% upon successful completion of the six-month probationary period.
Employees serving a twelve-month probationary period will be considered for this increase after six months of employment; employees with a twelve-month probationary period who receive an increase at the six month review will not be eligible for an increase at the end of the twelve-month probationary period.

Employees hired or promoted at or above 5% of the minimum of the salary range are not eligible for a probationary increase.

**Section 6. Merit Pay**

Upward movement within the established salary range for an employee is not automatic, but rather based upon specific performance-related criteria. Procedures for determining performance levels and performance pay increases or other performance-related movement within the range shall be established in procedures approved by the Town Manager. Funding for merit pay increases are subject to annual review and appropriation by the Board of Commissioners.

**Section 7. Merit Pay Bonus**

Employees who are at the maximum amount of the salary range for their position classification are eligible to be considered for a merit bonus at their regular performance evaluation time. Merit bonuses shall be awarded based upon the performance of the employee as described in the performance evaluation program and in the same amounts as employees who are within the salary range. The merit bonus does not become part of base pay. Funding for all merit pay increases is subject to annual review and appropriation by the Board of Commissioners.

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

**Promotions.** The purpose of the promotion pay increase is to recognize and compensate the employee for taking on increased responsibility. When an employee is promoted, the employee's salary shall normally be advanced to the minimum rate of the new position, or to a salary which provides an increase of 5**%** over the employee's salary before the promotion, whichever is greater. In the event of highly skilled and qualified employees, shortage of qualified applicants, or other reasons related to the merit principle of employment, the Town Manager may set the salary at an

appropriate rate in the range of the position to which the employee is promoted that best reflects the employee's qualifications for the job and relative worth to the Town, taking into account the range of the position and relative qualifications of other employees in the same classification. In no event, however, shall the new salary exceed the maximum rate of the new salary range. In setting the promotion salary, the Town Manager shall consider internal comparisons with other employees in the same or similar jobs.

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

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

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

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

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

Subject to the availability of funds and approval of the Town Board of Commissioners, when an individual class of positions is assigned to a higher salary range, employees in that class shall normally receive a pay increase of 5%, or to the minimum of the new range, whichever is higher. If the employee has passed probation, the employee's salary shall be advanced at least to the probation completion amount in the new range. When a class of positions is assigned to a lower salary range, the salaries of employees in that class will remain unchanged. If this assignment to a lower salary range results in an employee being paid at a rate above the maximum rate established for the class, the salary of that employee shall be maintained at that level until such time as the employee's salary range is increased above the employee's current salary.

Subject to the availability of funds and approval of the Town Board of Commissioners, general salary range adjustments (market adjustments) to the entire salary schedule will be implemented by adjusting the Town's overall salary schedule up (or down) by the same percentage amount. General salary range adjustments will be approved by the Town Board of Commissioners, normally during the annual budget review; employees may or may not receive the rate adjustment depending on the financial condition of the Town.

## Section 10. Transition to a New Salary Plan

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

1) No employee shall receive a salary reduction as a result of the transition to a new salary plan.

2) All employees being paid at a rate lower than the 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 have their salaries maintained at that salary level with no increases until such time as the employees' salary range is increased above the employees' current salary.

## Section 11. Effective Date of Salary Changes

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

## Section 12. Fair Labor Standards Act and Overtime Pay Provisions

Employees of the Town can be requested and may be required to work in excess of their regularly scheduled hours as necessitated by the needs of the Town and determined by the department head. Overtime work should normally be approved in advance by the department head, Town Manager or other designee. The Town Manager must approve overtime worked in excess of four hours beyond the normal schedule.

To the extent that local government jurisdictions are so required, the Town will comply with the Fair Labor Standards Act (FLSA). The Town Manager 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. Department heads are responsible for maintaining accurate time and attendance records.

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

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

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

Compensatory leave balances may not exceed 80 hours. Any overtime worked after the 80 hour limit is exceeded will be compensated in pay. The Manager will be notified whenever a compensatory balance has reached 80 hours. With the prior approval of the Town Manager, department heads my select to pay employees for overtime work according to FLSA requirements rather than provide compensatory time off if it is determined that is not feasible to allow the compensatory time off.

Non-exempt employees will receive payment for compensatory time earned but not taken when they leave employment with the Town.

**Exempt Employees**

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

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

In declared disaster or emergency situations requiring long and continuous hours of work, exempt employees may be compensated at a rate of up to time and one half and/or be granted time off with pay for rest and recuperation to ensure safe working conditions for the duration of the emergency period, when authorized by the Town Manager.

**Section 13. Stand-by and Call-back Pay**

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

**Stand-by.** Stand-by (“on-call”) time is defined as that time when an employee must carry a pager or other communication device and must respond immediately to calls for service. Non-exempt employees required to be on "stand-by" duty will be paid for four hours of work at straight time for each week of stand-by time they serve.

**Call-back.** Non-exempt employees will be guaranteed a minimum payment of two hours of wages or compensatory time for being called back to work outside of normal working hours. Hours actually worked while on call-back are calculated beginning when the employee reports to the work site and are added to the regular total of hours worked for the week. "Call-back" provisions do not apply to previously scheduled overtime work (scheduled in advance).

**Section 14. Payroll Deductions**

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

**Section 15. Hourly Rate of Pay**

Employees working in a part-time or temporary capacity with the same duties as full-time employees will normally work at a rate in the same salary range as the full-time employees. Exceptions must be approved by the Town Manager.

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

**Section 16. Christmas Bonus**

Subject to the availability of funds, budgetary constraints and approval of the Board of Commissioners as a part of the annual budget, full and part-time employees will receive a lump sum Christmas bonus equal to one week's salary. Normally this payment will be paid the last pay period of November or the first pay period in December. Appropriate federal state, retirement, etc. deductions will be made.

**Section 17. Pay for Interim Assignments in a Higher Level Classification**

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

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

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

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

## ARTICLE IV. RECRUITMENT AND EMPLOYMENT

### Section 1. Equal Employment Opportunity Policy

It is the policy of the Town to foster, maintain and promote equal employment opportunity. The Town shall select employees on the basis of the applicant's qualifications for the job and award them with respect to compensation and opportunity for training and advancement, including upgrading and promotion, without regard to age, sex, race, color, religion, national origin, disability, political affiliation, marital status or genetic information. Applicants with physical disabilities shall be given equal consideration with other applicants for positions in which their disabilities do not represent an unreasonable barrier to satisfactory performance of essential duties with or without reasonable accommodation.

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

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

### Section 3. Recruitment, Selection and Appointment

**Recruitment Sources.** When position vacancies occur, the 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 recruitment sources, including organizations and news media as necessary to inform the community and create a quality and diverse pool of applicants. In addition, notice of vacancies shall be posted at designated conspicuous Town sites. Individuals shall be recruited from a geographic area as wide as necessary and for a period of time sufficient to ensure that well-qualified applicants are obtained for Town service. The North Carolina Employment Security Commission may be used as a recruitment source. In rare situations because of emergency conditions, high turnover, etc., the Town may hire or promote without advertising jobs upon approval of the Town Manager.

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

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

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

**Selection.** The Town Manager or his designee shall make such investigations and conduct such examinations as necessary to assess accurately the knowledge, skills, and experience qualifications required for the position, including drug tests, physical exams, driving record 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 on the selected candidate, 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.

An offer of employment shall be conditional pending the outcome of a background investigation, including a criminal history and/or driving record report, drug screen and/or physical examination as appropriate for the position.

All employees shall, within three days of employment, complete an “I-9” form and provide proof that they are legally authorized to work in the United States. Immigration status for all applicants for employment shall be ascertained by using the Federal E-Verify system.

**Section 4. Probationary Period**

An employee appointed or promoted to a permanent position shall serve a probationary period. Employees shall serve a six-month probationary period, except that employees in sworn police positions shall serve a twelve-month probationary period. Employees hired as “trainees” shall remain on probation until the provisions of their traineeship are satisfied. During the probationary period, supervisors shall monitor an employee's performance and communicate with the employee concerning performance progress**.** Employees serving a twelve-month probation shall have a probationary review at the end of six months as well as before the end of twelve months.

An important purpose of the probationary period is to provide an opportunity for the appointee to adjust to the new job. Likewise it serves as a trial period during which the employee demonstrates his or her ability to perform the work, to accept additional responsibility, to demonstrate good work habits and to 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 shall be documented in the employee's personnel file. The supervisor shall recommend in writing whether the probationary period should be completed, extended, or the employee transferred, demoted, or dismissed. With approval of the Town Manager probationary periods may be extended for a maximum of six additional months.

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

A 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 may be dismissed. Promoted and demoted employees who are on probation retain all other rights and benefits, such as the use of the grievance procedure.

Upon successful completion of the six month probationary period, the employee is eligible to be considered for a probationary pay increase as outlined in Article III, and to use accrued leave as outlined in Article VII.

**Section 5. Promotion.**

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

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

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

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

Therefore, in most situations except where previous Town experience is essential, or exceptional qualifications of an internal candidate so indicate, the Town will consider external and internal candidates rather than automatically promoting from within. Candidates for promotion shall be chosen on the basis of their qualifications and their work records. Internal candidates shall apply for promotions using the same application process as external candidates.

**Section 6. Demotion**

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

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

**Section 7. Transfer**

Transfer is the movement of an employee from one position to a position in a class in the same salary range. If a vacancy occurs and an employee in another department is eligible for a transfer, the employee shall apply for the transfer using the usual application process. A department 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 Policy. Notwithstanding the employee's right to file a grievance, the Town reserves the right to transfer employees either temporarily or permanently when doing so will serve the Town's best interest.

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

**Section 8. Residence of Employees**

Employees are not required to live within the corporate limits of the Town, but all employees shall

establish residences within such proximity of the Town that they can respond to any emergency requiring their presence on duty, whether on an overtime basis or otherwise, within 45 minutes after notification.

## ARTICLE V. CONDITIONS OF EMPLOYMENT

### Section 1. Work Schedule and Attendance

Department heads shall establish work schedules, with the approval of the Town Manager which meet the operational needs of the department in the most cost effective manner possible. The normal work schedule for most non-exempt full-time employees will be forty hours per week. The normal work schedule for sworn law enforcement personnel will be set as 171 hours in a 28 day schedule.

Because Town services are essential and continuous, an employee shall avoid unnecessary absences and tardiness. Attendance and punctuality are important responsibilities of the employee. Frequent unexcused absences or tardiness for any reason other than reasons permitted under applicable law will subject an employee to disciplinary action up to and including dismissal.

The employee is required to call his supervisor by the start of the employee's work day to advise him/her when illness prevents reporting to work, or when the employee expects to be late for work because of unusual and unavoidable circumstances. Whenever possible the employee should give as much prior notice as possible to allow the supervisor to make work adjustments necessitated by the absence.

If an employee has transportation related issues due to weather, he/she may take vacation leave, leave without pay or, make up the lost time with the approval of the department head if work circumstances allow. Some departments, because of the essential nature of the services provided, cannot permit employees to report late or leave early for weather-related conditions.

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

### Section 2. Political Activity

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

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

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

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

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

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

f) Be a candidate for the Board of Commissioners or partisan election. However, if the employee is a candidate for non-partisan election, (except the Board of Commissioners), the employee must take a leave of absence without pay 30 days prior to the primary election. If successful in any primary election, the leave without pay must be extended until the day after the general election. If successful, the NC General Statutes concerning dual office holding shall apply.

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. The department head will review such employment for possible conflict of interest and then submit a record of the employment to the Town Manager for review and approval. Conflicting and/or unreported outside employment are grounds for disciplinary action up to and including dismissal. Documentation of the approval of outside employment will be placed in the employee's personnel file.

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

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

An employee who sustains an injury or illness in connection with outside employment shall not be entitled to receive Town worker's compensation benefits or accrued Town sick leave**.**

**Section 4. Dual Employment**

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

**Section 5. Volunteer Service**

The Town supports and permits employees to participate as members of a volunteer emergency service or other volunteer activities so long as the volunteer activities do not interfere with the employee's responsibilities in the Town service. However, no employee will be required or will be allowed to volunteer with the Town to perform the same or similar work performed as a regular employee.

**Section 6. Employment of Relatives**

The Town prohibits the hiring and employment of immediate family in full or part-time positions 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 and disciplinary action.

For the purposes of this Article, immediate family shall be defined as spouse, child, parent, sibling, and in-laws. The definition for this Article also includes individuals living in the same household who share a relationship comparable to immediate family members. The Town also prohibits the employment of any person into a position who is an immediate family member of the Mayor or a Town Board of Commissioners Member. Otherwise, the Town will consider employing family members or related persons in the service of the Town, provided that such employment does not:

1) result in a relative supervising relatives;

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

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

4) create the potential or perception of favoritism.

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

**Section 7. Harassment Prohibited**

The Town prohibits harassment in any form that is based on sex, race, color, religion, national origin, age, disability, or genetic information. Harassment is defined as conduct that culminates in tangible employment action or is sufficiently severe or pervasive as to create a hostile work environment.

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

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

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

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

Sexual harassment includes repeated offensive sexual remarks, continual or repeated comments about an individual's body and offensive sexual language, and the display in the workplace of sexually suggestive pictures or objects. Any employee who believes that he or she may have a complaint of harassment may follow the Grievance Procedure described in this Policy or may file the complaint directly with the Town Manager. The Town Manager will ensure that an investigation is conducted into any allegation of harassment and advise the employee and appropriate management officials of the outcome of the investigation.

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

## Section 8. Workplace Violence

Wingate has established a zero tolerance for workplace violence and/or the threat of workplace violence by employees. It is Wingate's intent to provide a safe workplace that is free from violence for all employees, in keeping with the Federal Occupational Safety and Health Act of 1970, which requires employers to provide their employees with a safe and healthy work environment. Violent acts against employees, whether committed while on-duty or off-duty, have the potential to impact an employee's ability to perform assigned duties. Wingate will not tolerate any type of workplace violence committed by or against employees. Employees are prohibited from making threats or engaging in violent activities. Law enforcement officers are exempt from this Section to the extent necessary to perform their law enforcement duties.

### 1. Prohibited Conduct

This list of behaviors, while not inclusive, provides examples of conduct that is prohibited:

a. Causing physical injury to another person;
b. Making threatening remarks;
c. Aggressive or hostile behavior that creates a reasonable fear of injury to another person or subjects another individual to emotional distress
d. Intentionally damaging Wingate's property or property of another employee;
e. Possession of weapon, explosive or other device designed to injure or destroy persons or property while on Wingate's property or while on Town business;
f. Carrying a weapon, explosive or other devise designed to injure or destroy persons or property in an Wingate owned vehicle;
g. Committing acts motivated by, or related to, sexual harassment or domestic violence;
h. Harassing surveillance, also known as stalking, the willful, malicious and repeated following of another person and making credible threat with intent to place the other person in reasonable fear of his/her safety;
i. Intimidating or attempting to coerce an employee to do wrongful acts that would affect the business interests of the Town.

### 2. Manager and Supervisor Roles and Responsibilities

a. Ensure all employees review this policy.
b. Facilitate, support and track the attendance of employees at mandatory workplace violence training, as available.
c. Learn to recognize the signs of conflict, understand Town policies, and take appropriate action.
d. Take appropriate steps to resolve differences through conflict resolution, mediation, or other communications techniques.
e. Report all acts and threats of violence.
f. Take the necessary action to maintain or restore a safe working environment.
g. Without endangering personal safety, take all reasonable steps to protect employees from the source of violence.
h. Properly document and investigate all incidents of violence or threatened violence.
i. Take the necessary disciplinary action and document.
j. Make information available on work place violence and prevention.

### 3. Role and Responsibilities of Employees

Employees are expected to treat others with respect and consideration. They are expected to show

good judgment in the areas of inter-personal relationships and avoid behavior which may be interpreted as violent, or offensive, which violates another person's right to a workplace free of intimidation and violence.

Employees shall cooperate in every investigation of workplace violence. This includes, but is not limited to: coming forward with evidence, whether favorable or unfavorable to a person accused of violence in the workplace, and the employee shall fully and truthfully answer questions during the course of an investigation on violence and or intimidation.

Employees will:

a. Attend workplace violence training as offered.
b. Resolve differences through conflict resolution, mediation, or other communications techniques, as appropriate and when possible.
c. Report to their immediate supervisor, or through the supervisory chain, acts of violence or threats of violence. The initial report shall be done on a Supervisor's Workplace Violence Investigation Form. Reports should include statements from the victim or any other witnesses to the incident.
d. Refrain from exhibiting violent behaviors in the workplace.
e. Report to their direct supervisor, their department head, the Personnel Officer if they become aware of any signs of potential violence. Failure to report knowledge of potential violations by an employee of any provision of this policy may lead to disciplinary action up to and including termination.

**4. Reporting Procedures**

All workplace violence events or potentially dangerous situations must be reported immediately to a supervisor, the Personnel Officer, and/or the Safety Officer/Risk Manager. Whoever is informed directly has an obligation to ensure that the Personnel Officer, The Safety Officer/Risk Manager and the Town Manager are promptly informed of the incident. Injuries resulting from a workplace violence incident <u>must be</u> reported to the Safety Officer in accordance with OSHA standards.

Reports may be made anonymously and all reported incidents will be investigated. Reports or incidents warranting confidentiality will be handled appropriately and information will be disclosed to others only on a need-to-know basis.

**5. No Retaliation**

Wingate forbids retaliation against any person for reporting or complaining about a violation of this policy or for cooperating in any investigation pursuant to the policy or for filing a complaint relating to workplace violence, assisting in making a complaint, or cooperating in any investigation with or by Wingate. Any such retaliation will be considered a violation of this policy. If an employee feels he or she has been the subject of retaliation, he or she is required to notify a supervisor or the Personnel Officer.

**6. Risk Reduction Measures**

<u>Hiring</u>
Wingate takes reasonable measures to conduct background investigations to review candidates' backgrounds and reduce the risk of hiring individuals with a history or violent behavior.

Safety
Wingate conducts inspections of the premises to evaluate and determine any vulnerability to workplace violence or hazards. Any necessary corrective action will be taken to reduce all risks.

Individual Situations
While there is no expectation that employees be skilled at identifying potentially dangerous persons, employees are expected to exercise good judgment and to inform their supervisor if any employee exhibits behavior which could be a sign of a potentially dangerous situation.

**7. Recognizing Inappropriate Behavior**

Inappropriate behavior is often a warning sign of potential hostility or violence, when left unchecked it can escalate to higher levels. Employees who exhibit the following behaviors should be reported and disciplined in accordance with this policy:

- Unwelcome name-calling, obscene language, and other abusive behavior
- Intimidation through direct or veiled verbal threats
- Throwing objects in the workplace due to anger regardless of the size or type of object being thrown or whether a person is the target of a thrown object
- Physically touching another employee in an intimidating, malicious, or sexually harassing manner. That includes such acts as hitting, slapping, poking, kicking, pinching, grabbing, and pushing.

Other behaviors may include:

- Bringing or threatening to bring weapons, explosives or other devices designed to injure or destroy persons or property to the workplace or carrying such a weapon, explosive or device in a Wingate vehicle
- Displaying overt signs of extreme stress, resentment, hostility, or anger
- Making threatening remarks
- Sudden or significant deterioration of performance
- Displaying irrational or inappropriate behavior
- Irrational beliefs and ideas
- Verbal, nonverbal or written threats or intimidation
- Expressions of a plan to hurt himself/herself or others
- Externalization of blame
- Unreciprocated romantic obsession
- Taking up much of supervisor's time with behavior or performance problems
- Fear reaction among coworkers/clients
- Drastic change in belief systems, which are those beliefs which govern thoughts, words, and actions, such as religious beliefs.
- Displays of unwarranted anger
- New or increased source of stress at home or work
- Inability to take criticism
- Feelings of being victimized
- Intoxication from alcohol or other substances
- Expressions of hopelessness or heightened anxiety
- Productivity and/or attendance problems
- Violence towards inanimate objects
- Stealing or sabotaging projects or equipment

- Lack of concern for the safety of others or self

**8. Dangerous/Emergency Situations**

Employees who confront or encounter an armed or dangerous person should not attempt to challenge or disarm the individual. Employees should remain calm. If a supervisor can be safely notified of the need for assistance without endangering the safety of the employee or others, such notice should be given. Otherwise, cooperate and follow the instructions given.

**9. Enforcement**

Threats, threatening conduct, or any other acts of aggression or violence in the workplace will not be tolerated. Violent conduct has a potential adverse impact on the employee's ability or the ability of another employee to perform assigned duties and responsibilities. Any employee determined to have committed such acts, or to have otherwise violated this policy, either while on duty or when off-duty, will be subject to disciplinary action, up to and including termination. Non-employees engaged in violent acts on or off Wingate property will be reported to the proper authorities.

**Section 9. Expectation of Ethical Conduct**

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

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. This includes treating fellow employees and citizens with respect and courtesy.

No official or employee of the Town shall solicit or accept any gift, favor, or thing of value (more than $50) that may tend to influence such employee in the discharge of the employee's duties, or grant in the discharge of duty an improper favor, service, or thing of value.

**Section 10. Performance Evaluation**

The supervisor will evaluate performance beginning with the employee's first day on the job and will communicate frequently with the employee about performance expectations and employee progress. A formal evaluation will be completed for an employee before the end of the probationary period and at a least once a year thereafter. These performance evaluations shall be documented in writing and placed in the employee's personnel file.

**Section 11. 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.

Each supervisor shall be responsible for providing safe working procedures and environment including the use of required personal protective equipment, informing and training employees on safe work habits, correcting identified unsafe practices and conditions, conducting accident investigations and preparing reports.

Employees shall develop and maintain safe work habits, properly use all required personal protective equipment, identify and report any potential unsafe working conditions or practices, assist with accident investigations, properly care for all safety equipment, know the location and use of fire extinguishers and location of fire exits, attend any required safety training, and promptly report all accidents.

**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, unless approved by the Town Manager. All offices, desks, files, lockers, etc. are considered Town property and are provided to the employee for the employee's use in his/her employment. The Town reserves the right to inspect all areas and articles that are on Town property. Any information or article which an employee considers private and/or personal should not be kept on Town property.

No employee shall purchase for personal use any equipment or supplies through Town purchase accounts.

All Town property issued to the employee shall be returned to the employee's supervisor upon termination.

**Vehicles**

Employees driving any Town vehicle shall have a valid, appropriate operator's license for the vehicle operated, shall abide by all laws and regulations for the operation of vehicles, and operate the vehicle in a safe and responsible manner. Vehicles are to be used only for official Town business. Personal use of Town vehicles is strictly prohibited.

Employees are expected to care for vehicles and equipment owned by the Town in the same responsible manner in which he/she should care for his/her own.

For bona fide non-compensatory business reasons, the Town may require certain employees to commute to and from work in Town vehicles that are not exempted by IRS regulations. In accord with federal and state law, an employee may not use the Town-owned vehicle for personal use other than commuting. Under these conditions the Town will account for commuting use as specified and required in IRS regulations.

**Electronic Communications**

The Town may maintain electronic communications systems (e.g. voicemail, email, internet access) and may provide access to telephones, computers, cell phones or other electronic equipment to assist employees while conducting business for the Town. This equipment is for business use and may only be used to carry out the employee's required duties. For some positions, based on business necessity, the Town may provide a stipend for employees who use their personal cell phones for business purposes.

Under no circumstances may employees use Town electronic equipment to send or receive any material that might be considered offensive including but not limited to pornography, comments or images which could be considered offensive to someone based on sex, race, religion, national origin, age or disability. Any violation of this policy provision will result in disciplinary action up to

and including dismissal.

If an employee receives any material that might be considered inappropriate or personal, the employee will immediately notify the supervisor so that the material can be removed and the sender notified not to send any future inappropriate material.

Under North Carolina law, email sent or received by the Town, except in very limited circumstances, is considered a public record and is subject to inspection on request. The Town reserves the right to inspect or audit any documents, emails or messages sent or received on the Town's equipment. Except as authorized by the Town, employees may not read or listen to any electronic communication intended for others.

**Section 13. Travel Reimbursement.**

Employees may, from time to time, be involved in out-of-town travel to attend schools, business meetings, conferences, etc. with the prior approval of the Town Manager or his designee. Employees attending meetings, conferences, etc., where lodging is offered and available at the institution, shall be required to use such accommodations. Otherwise, the actual costs of reasonable lodging expenses will be reimbursed.

Meals will be reimbursed at a reasonable cost as determined by the Town Manager and are normally reimbursable only when incurred on out-of-town travel or when the meal itself is the occasion of a business meeting. All travel claims must be supported by detailed documentation, usually in the form of receipts or similar vouchers.

The Town will reimburse an employee for use of their personal vehicle when such use has the prior approval of the Town Manager. The rate of reimbursement will be equal to the amount allowed as a tax deduction by the IRS at the time of use.

The Town Manager may deny reimbursement of any questionable, unsupported, or excessive expense claims submitted by employees.

Any violations of the provisions in this section shall be deemed improper conduct and may subject the employee to discharge or other disciplinary action.

**Section 14. Substance Abuse Policy**

## Purpose

The Town of Wingate, hereinafter "Town", desires to prevent, to the extent possible, the accidents, injuries, mistakes and general poor performance attributable to impaired employees by administering a fair and consistent policy to promote and maintain a drug and alcohol free work environment.

## I. Definitions

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| **Applicant** | **An individual who is not currently an employee of the Town who is applying for a position or an existing employee who applies for a transfer or promotional opportunity following their initial appointment to a position at Wingate.** |

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| **Chain of Custody** | **Procedures designed to ensure the proper handling, labeling, identification, confidentiality, and documentation of test samples.** |
| **Commercial Drivers License (CDL)** | **A Class A commercial driver's license is required in order to operate any commercial motor vehicle which:**<br>• **Has a combined gross vehicle weight rating of 26,001 or more pounds;**<br>• **Has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds;**<br>• **Is designed to transport 16 or more passengers, including the driver; or**<br>• **Requires a HAZMAT placard regardless of the vehicle weight.**<br><br>**A driver of a commercial motor vehicle for the purposes of this policy means anyone who operates a commercial motor vehicle, whether full-time, part-time, casual, intermittent, occasional, volunteer, leased, or independent.** |
| **Current Use of Drugs** | **According to the Americans with Disabilities Act, the term "currently engaging" is not intended to be limited to the use of drugs on the day of, or within a matter of days or weeks before, the employment action in question. Rather, the provision is intended to apply to the illegal drug use that has occurred recently enough to indicate that the individual is actively using drugs illegally.** |
| **Designated Collection Facility** | **A laboratory approved and certified by the US Department of Health and Human Services or the College of American Pathologists.** |
| **Drug** | **A controlled substance as defined in North Carolina General Statute 90-87(5) or a metabolite thereof. These substances include but are not limited to marijuana, cocaine, heroin, and prescription drugs, opiates, amphetamines and "designer drugs" or "look-alikes".** |
| **Drug Test** | **An analysis conducted by a designated collection facility to determine blood alcohol or drug level, using appropriate methods as identified in 49 CFR Part 382 and following a chain of custody and other procedural guidelines.** |
| **Employee Assistance** | **A program available to all Wingate employees and their family members that is designed to assist with the** |

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| **Program (EAP)** | **assessment, evaluation, counseling, referral and follow up programs for drug and alcohol related issues, in addition to providing assistance with other non-related issues. The continuation and availability of this program is subject to budgetary approval annually with each new fiscal year.** |
| **Federal Motor Carrier Safety Administration (FMCSA)** | **The FMCSA adopted regulations requiring certain commercial motor vehicle operators to be tested for alcohol and drugs in order to reach the goal of an alcohol and drug free transportation environment. The FMCSA's alcohol and drug testing rules apply to every person and to all employees who operate a commercial motor vehicle at Wingate and is subject to the requirements of a commercial driver's license.** |
| **Medical Review Officer (MRO)** | **A physician responsible for reviewing all test results for confirmation prior to communicating same to the employer. The MRO must protect the confidentiality of the individual involved.** |
| **Omnibus Transportation Employee Testing Act of 1991** | **A federal law that requires alcohol and drug testing for covered employees in transportation industries. Covered employees with Wingate are those required to hold a Commercial Driver's License (CDL) to perform their job duties and those who hold a CDL that is not a requirement of their current position, but may be called to use that CDL outside their regular job duties.** |
| **Random Testing** | **Unannounced drug testing conducted on an employee selected randomly that provides an equal probability that any employee from a group of employees will be selected. Random drug testing is performed on employees holding a CDL and those employees who work in a safety sensitive position.** |
| **Reasonable Suspicion** | **The belief that an employee is currently using or has recently used drugs or alcohol in violation of Wingate's policy. This belief shall be based upon specific and objective facts and reasonable inferences.** |
| **Safety Sensitive Position** | **A position in which an employee is entrusted with preserving the public health and safety or the safety of other employees. A list of safety sensitive positions shall be on file in the Human Resources Department. The following characteristics apply to safety sensitive positions:**<br>**1. Positions requiring the operation of heavy** |

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| | **equipment, trucks, or automobiles while in the performance of duties for Wingate;**<br>**2. Positions working around large equipment or with potential for hazards while in the performance of duties for Wingate;**<br>**3. Any position that poses a great risk of a direct and imminent threat of physical harm to other employees, members of the public, or damage to the environment while in performance of duties for Wingate.** |
| **Substance Abuse** | **Any use of illegal drugs or controlled prescription drugs obtained unlawfully; or excessive use of lawfully obtained drugs or over the counter drugs or any use of alcohol when such use impairs job performance, alters work behavior, and/or creates a risk to the health and/or safety of the employee or others.** |

**II. Covered Workers**

Any individual who conducts business for this organization, is applying for a position or is conducting business on the organization's property is covered by this drug-free workplace policy. Our policy includes, but is not limited to all full and part time employees of this organization and applicants.

**III. Applicability**

Our drug-free workplace policy is intended to apply whenever anyone is representing or conducting business for the Town of Wingate. Therefore, this policy applies during all working hours, whenever conducting business or representing the Town, while on call or on standby duty and while on Town property.

**IV. Shared Responsibility**

A safe and productive drug-free workplace is achieved through cooperation and shared responsibility. Both employees and management have important roles.

**A. <u>Responsibility of Employees</u>**

1. Town employees are expected and required to report to work on-time and fit for duty in appropriate mental and physical condition for work. All Wingate employees, regardless of job assignment, are subject to direct contact with the public and at no time should be impaired by any substance to any degree.
2. Town employees who have a reasonable basis to believe that another employee is illegally using or selling drugs or narcotics or violating any section of this policy shall immediately report the facts and circumstances to their supervisor.
3. Submit immediately to reasonable requests for testing when requested by a superior.

4. Notify his/her supervisor before beginning work when taking any medication of drugs, prescription of nonprescription, which may interfere with the safe and effective performance of duties or operation of Wingate's equipment.
5. Provide within 24 hours of request a current valid prescription in the employee's name for any drug or medication identified when a drug screen/analysis is positive.

**Reporting of Drug/Alcohol Arrests and/or Convictions:**

Town employees shall notify their supervisor and the Personnel Officer within five (5) calendar days of any drug or alcohol related offense or conviction. If that offense or conviction results in the immediate suspension or revocation of driving privileges, however, the employee must report that revocation or suspension immediately upon returning to work if the employee's position at the Town requires the employee to drive a Town vehicle as part of the employee's job duties.

Failure to comply with these responsibilities or other reasonable request by a responsible supervisor or other Town representative may result in immediate disciplinary action up to and including dismissal.

**B. Responsibility of Directors and Supervisors**

1. Inform employees of drug-free workplace policy through the dissemination of this policy and all future policy revisions.
2. Attend and utilize all training.
3. Comply with this policy and enforce the policy fairly and consistently.
4. Prevent any employee reasonably believed to be under the influence of drugs or alcohol from working and arrange for testing, if appropriate.
5. Inform local law enforcement if an employee is observed to be in possession of illegal drugs.
6. Observe employee performance.
7. Investigate reports of dangerous practices.
8. Document negative changes and problems in performance.
9. Counsel employees as to expected performance improvement.
10. Inform employees experiencing unexplained changes in work performance or behavior of the availability of the Employee Assistance Program encouraging voluntary referral or mandatory referral, when warranted and as necessary and appropriate, within established guidelines.
11. Clearly state consequences of policy violation.
12. Take appropriate actions to investigate any allegations of impairment or other violations of this policy, in consultation with Human Resources.
13. Maintain confidentiality in all matters relating to this policy; access to confidential employee information is limited to those who have a legitimate need to know I compliance with relevant laws and management policies.

**Supervisor Restrictions – Supervisors shall not:**

1. Forcibly detain any employee.
2. Search any employee's person, personal belongings, possessions or personal vehicles. A search may only be conducted in the event of exigent circumstances or life threatening conditions.

Failure to comply with these responsibilities, restrictions or failure to take other reasonable actions

related to maintaining a drug-free workplace may result in disciplinary action up to and including dismissal.

## V. Prohibited Behaviors

A. It is a violation of our drug-free workplace policy to use, possess, sell, trade, and/or offer for sale alcohol, illegal drugs or intoxicants.

B. With regards to the use of alcohol, an employee will not:
   - Consume alcohol while on duty;
   - Consume alcohol within four (4) hours of reporting to duty;
   - Consume alcohol up to eight (8) hours following an accident or until the completion of post accident testing; whichever is sooner.

C. The illegal or unauthorized use of prescription drugs is prohibited. It is a violation of our drug-free workplace policy to intentionally misuse and/or abuse prescription medications. Appropriate disciplinary action will be taken if job performance deterioration and/or accidents occur.

## VI. Prescription Drugs

Prescriptions and over-the-counter drugs are not prohibited when taken in standard dosage and/or according to a physician's prescription. Any employee taking prescribed or over-the-counter medications will be responsible for consulting the prescribing physician and/or pharmacist to determine whether the medication may interfere with safe performance of his/her job. If the use of a medication could compromise the safety of the employee, fellow employees, or the public, it is the employee's responsibility to use appropriate personnel procedures (such as requesting leave, requesting a change of duty, notify supervisor, etc.) to avoid unsafe work practices. If necessary, the supervisor may temporarily re-assign the employee to duties that can be safely performed while the employee is taking the prescribed medication.

## VII. Drug and Alcohol Testing

To ensure the accuracy and fairness of our testing program, all testing will be conducted according to N. C. Gen. Stat. § 95-232, and will include a screening test; a confirmation test; a split sample which shall be retained by the laboratory that conducts the confirmatory examination; and review by a Medical Review Officer. In addition, testing will include an opportunity for employees who test positive to provide legitimate medical explanation, such as a physician's prescription, for the positive result; and a documented chain of custody.

All drug testing information will be maintained by Human Resources in separate confidential records.

### A. Employees Subject to Testing

Every employee of the Town of Wingate as a condition of employment will be required to participate in reasonable suspicion, return to duty and follow-up testing upon request of management in accordance with this policy. Employees in safety sensitive positions and/or commercial vehicle drivers required to hold a commercial driver's license will additionally be required to participate in pre-employment, post-accident and random testing, as per the requirements of this policy. A driver, as defined by the Federal Motor Carriers Safety

Administration (FMCSA), is any person who operates a commercial motor vehicle and is subject to commercial driver's license requirements. A driver means anyone who operates a commercial motor vehicle, whether full-time, part-time, casual, intermittent, occasional, volunteer, leased or independent. This also refers to other employees who may not have driving a commercial motor vehicle as part of the regular job duties, but who sometimes operate a CMV.

**B. <u>What we Test For</u>**

The Town of Wingate will test for substances in accordance with state and federal regulations; including, but not limited to:

- Amphetamines (including ecstasy)
- Marijuana; cannabis; THC
- Cocaine
- Opiates
- Phencyclidine (PCP)
- Alcohol

Testing for the presence of alcohol will be conducted by analysis of breath. Testing for the presence of metabolites of drugs will be conducted by the analysis of urine. Any employee who tests positive will be terminated. Wingate has a zero tolerance policy.

An employee's request for referral to an approved employee assistance provider will not be granted if the request is submitted after the employee is notified of the requirement to submit to testing.

Consequences for the following behaviors relating to drug and alcohol testing are the same as if an employee tested positive:

- employee attempts to or adulterates or dilutes the specimen;
- employee substitutes the specimen with that from another person or sends an imposter;
- employee refuses to sign the required forms or refuses to cooperate in the testing process in such a way that prevents completion of the test;
- inability to produce sufficient quantities of saliva or urine to bested without a valid medical reason;
- failure to immediately report to the collection sight when directed to do so.

More information on each testing condition follows.

**C. <u>Reasons for Drug Testing</u>**

In keeping with the Town's mission of serving and protecting employees and the public, the Town will test applicants and employees under the following conditions.

**1. Pre-Employment Testing**

Individuals who seek employment for a safety-sensitive position will be required to undergo a drug test for controlled substances prior to appointment. Employees selected for promotion or transferring to a safety sensitive position in any department will be required to undergo a drug test. Refusal to take the test will result in disqualification for consideration for employment, promotion or

transfer into the position sought.

Human Resources will refer applicants to the testing facility within a specified time frame as part of the pre-employment screening process. Applicants will be required to present identification when reporting to the testing facility. Applicants will be notified in writing of positive test results and receive notice of the right to re-test.

**2. Reasonable Suspicion**

Reasonable suspicion is defined as the belief, based on the totality of the circumstances, that an employee is using or has used drugs or alcohol in violation of Wingate's policy. This belief will be based on specific and objective facts and reasonable inferences. Employees may be required to undergo drug testing whenever an employee's conduct on the job suggests a reasonable suspicion of the influence of drugs or alcohol. A recommendation that an employee be tested based on reasonable suspicion must be individually corroborated and documented and based on specific, objective facts and reasonable inferences presented by two trained Wingate officials.

Some factors that may constitute reasonable suspicion include, but are not limited to:

- Direct observation of drug use or possession
- Direct observation of the physical symptoms of being under the influence of drugs (e.g.; slurred speech, odor of alcohol on body or breath, incoherence, loss of coordination, etc.)
- Impairment of motor functions, coordination, speech
- Pattern of abnormal or erratic conduct or behavior
- Arrest/conviction of a drug-related offense
- ID of employee as focus of criminal investigation involving illegal drugs
- Tips from reliable or credible sources
- Anonymous tips only if they can be independently corroborated

**Procedures:**

i. Supervisors are required to state, and to record for the file, the specific facts, symptoms, or observations which formed the basis for their recommendation that an employee should be required to have a drug test. <u>Testing for reasonable suspicion requires corroboration and documentation by two trained supervisory level employees</u>.

ii. When available, supervisors should confer with the Personnel Officer or the Town Manager prior to requiring testing; however, the corroboration of two trained supervisors for circumstance that meet the guidelines for reasonable suspicion is enough to proceed with the testing.

iii. Once a supervisor suspects an employee may be under the influence of drugs or alcohol, the employee should be prevented from operating equipment or vehicles or performing other potentially hazardous duties. The Supervisor should immediately seek another trained supervisor to observe the employee in order to corroborate the suspicion. If both supervisors concur, the employee being referred should be escorted to the testing facility within two (2) hours by the supervisor or another designated Wingate official.

iv. Once the test sample is obtained, the supervisor and/or Town official shall escort the employee home or obtain transportation for the employee using every available means to ensure the employee reaches their destination safely. If the employee refuses

transportation and insists on being returned to their vehicle to drive themselves, the supervisor should contact local law enforcement.

v. While awaiting test results, an employee may not return to work and may be placed on either leave with pay, disciplinary suspension without pay, or non-disciplinary suspension with pay depending on the circumstances leading up to the reasonable suspicion testing and in accordance with the Town's personnel policy.

**3. Post Accident**

Under the Town's authority, an employee in a safety sensitive position who is involved in a work place accident or observed performing an unsafe workplace practice may be required to take a drug and alcohol test when warranted by the nature of the situation, as recommended by the supervisor and with the approval of the Department Head and the Personnel Officer.

With regards to motor vehicle accidents, the Town requires that any employee in a safety sensitive position, and any employee with a CDL requirement, as required by the FMCSA, who is involved in a motor vehicle accident will be required to take a drug and alcohol test following a vehicular accident under the following conditions:

i. The accident involves a fatality; or
ii. The driver receives a moving traffic violation arising from the accident that requires a vehicle being towed or an injury requiring medical attention away from the scene.

In the interest of safety, it is the Town's policy to immediately transport the employee involved in the accident to the testing facility accompanied by the supervisor, the safety officer or another designated Town official. In the event the employee is injured and transported for medical treatment, the testing will be performed within the required time frame. The employee will not be allowed to return to their regular duties pending receipt of test results, but may be allowed to perform alternate duties that do not involve driving or pose any safety risk as assigned by the supervisor while awaiting results.

**4. Random Testing**

Employees in identified safety-sensitive positions and employees whose positions may require the employee to drive a commercial motor vehicle and who hold a commercial drivers license will be subject to random testing for alcohol and/or controlled substances as per the established Random Drug/Alcohol Testing Program.

The Town contracts with a certified medical provider for this purpose and participates in a consortium for CDL drivers. The third party medical provider maintains separate random testing employee "pools" for both safety sensitive and CDL positions, as per the FMCSA. Under the selection process used by the third party provider, each employee subject to random testing shall have an equal chance of being tested each time selections are made.

Once notified of their selection for random testing by the safety officer, an HR representative, or supervisor, employees must complete notification of rights form and then must report immediately to the testing facility. Employees will be required to present identification upon arrival. A random test may include tests for alcohol using a Breath Analysis Test and/or controlled substances using a urine test. If an employee is selected for random testing, their name is returned to the selection pool from which it was drawn to ensure all drivers have an equal chance of being selected at any

time.

The FMCSA requires that random testing for alcohol for CDL holders must be performed immediately before, during or immediately following the performance of a safety-sensitive function.

**5. Return to Duty and Follow-Up Testing**

Employees who have sought voluntary counseling for substance abuse will be required to undergo drug testing prior to returning to work with additional follow up testing required after returning to work as dictated by a substance abuse professional.

**6. Voluntary Testing**

Testing conducted on an employee where the employee volunteers to be tested (for example, where the employee wants to refute an allegation of drug use) is acceptable.

**D. Consent to be Tested**

Before a drug test is administered, the employee or applicant will be asked to sign a consent form authorizing the test and permitting the release of test results to appropriate Town officials only after the employee has been notified of the results. The consent form provides space for employees and applicants to acknowledge that they have been notified of the Town of Wingate's drug and alcohol testing policy. A refusal to sign the consent form by a current employee will result in termination of employment. Applicants who refuse to sign will not be considered for employment.

**E. Notification of Rights**

Prior to testing, the Town shall provide the applicant or employee written notice of their rights and responsibilities under the Controlled Substance Examination Regulation Act.

**F. Confidentiality of Results**

All information received by the organization through the drug-free workplace program is confidential communication. Access to this information is limited to those who have a legitimate need to know in compliance with relevant laws and management policies.

**G. Actions Following Receipt of Test Results**

**1. Negative Test Results**

i. The employee may return to work, providing he/she is otherwise able and there are no other disciplinary considerations based on job performance or violations of the law.

**2. Positive Test Results**

i. In the event of a positive test result, the Medical Review Officer will contact the employee and conduct an interview to determine if there are any legitimate reasons for the positive result (such as over the counter or prescription medications). The MRO is required to attempt to contact the employee three times; once the MRO tries three times is unable to contact the employee, the MRO will release the test to the employer and mark it that they could not contact the donor.

ii. If the MRO determines there is a legitimate medical explanation for the presence of drugs, the result may be reported as negative. A second examination of the sample utilizing gas chromatography with mass spectrometry test shall be performed for current employees in the event of a positive result. A second examination of the sample utilizing gas chromatography with mass spectrometry test shall be performed for prospective employees in the event of a positive result unless the prospective employee signs a written waiver at the time or after the person receives the preliminary test result. Any request for a same sample retest must be made to the MRO of the 3rd party Program Administrator for the Authority, in whatever form it requires, no later than within 90 days from the time the results of the confirmed positive examination are mailed or otherwise delivered to the examiner. Employees will not be allowed to return to work until the results of the re-test are obtained. The status of an employee while out of work under these circumstances shall be recorded in keeping with the Personnel Policy. If there is no medical reason as determined by the MRO, the positive results stand.

iii. The second test shall be done in accordance with the requirements of North Carolina General Statute, 95-232(c1).

**H. <u>Consequences</u>**

One of the goals of our drug-free workplace program is to encourage employees to voluntarily seek help with alcohol and/or drug problems. If, however, an employee of Wingate violates this policy, the consequences are serious.

**1. Applicants**

Applicants, including employees seeking promotion, demotion or transfer to certain safety sensitive positions, who refuse testing or who test positive will no longer be considered as candidates for employment, promotion, demotion or transfer for that position.

Applicants will be informed in writing if they are rejected on the basis of a confirmed positive drug test. Individuals who are denied employment because of a positive drug test may not reapply.

**2. Employees**

The Town of Wingate maintains zero tolerance. Employees found in violation of the drug-free workplace policy will be subject to immediate termination.

**VIII. Treatment and Counseling for Substance Abuse Problems**

The Town recognizes that alcohol and drug abuse and addiction are treatable illnesses and that early intervention and support improve the success of rehabilitation. To support employees, the Town's drug-free workplace policy:

- Encourages employees to seek help if they are concerned that they or their family members may have a drug and/or alcohol problem.
- Encourages employees to utilize the services of qualified professionals in the community to assess the seriousness of suspected drug or alcohol problems and identify appropriate sources of help.
- Offers all employees and family members assistance with alcohol and drug problems through the Employee Assistance Program.

- Allows the use of accrued paid leave while seeking treatment for alcohol and other drug problems.

Employees will not be penalized for seeking help on their own; however, an employee's request for referral to an approved Employee Assistance Program provider or other community resource will not be granted if the request is submitted *after* the employee is notified of the requirement to submit to testing.

**A. Mandatory Referrals**

Employees are not required to seek drug treatment, but if a supervisor observed marked deterioration in work performance or unacceptable personal conduct then the employee may be asked to seek an approved employee assistance provider or receive a mandatory referral to the employee assistance program, if available, for drug counseling and/or treatment if he/she is to maintain employment with Wingate.

i. As appropriate for qualified employees, the Town will normally refer the employee to an employee assistance provider approved by the organization, or may refer the employee to an employee assistance program, if available.

ii. When such referral is made by the Town, the employee will be responsible for any expense not covered under the group health care plan and failure to participate and comply will result in termination.

iii. The Town's approved employee assistance provider or the employee assistance program provider will assess the employee's level of substance use and make recommendations to the employee and the Town about the appropriate level of treatment necessary for rehabilitation.

iv. The Town's approved employee assistance provider will assist in selecting an appropriate treatment program for the employee.

v. Failure of the employee to enter or to continue participation in the program recommended by the Wingate approved employee assistance provider, or failure to follow the treatment recommendations of the approved program, will result in termination.

vi. To continue employment when a referral is made under this section an employee must participate in the program specifically approved by Wingate. Participation in a program not pre-approved by Wingate will not be acceptable to continue employment.

vii. Employees must sign a release form to ensure information on attendance for rehabilitation and at subsequent treatment or evaluation programs is provided to the Town. Periodic verification of attendance in treatment programs to designated Town officials will be required. Failure to sign the appropriate releases constitutes failure to participate in treatment and may result in termination.

viii. The employee may use accumulated sick leave and/or vacation leave while participating in the treatment program with sick leave being used first and until exhausted; if no leave is available, the employee may be granted leave-without-pay.

ix. In either case, annual or sick leave and leave-without-pay separately or in combination may not exceed 30 days without an extension approved by the Town Manager or his/her designee. (In some cases, if all conditions are met, provisions of the Family Medical Leave Act of 1993 could apply, making the employee eligible for a total of twelve (12) weeks of leave without pay. The employee should check with his/her supervisor.)

**B. Reinstatement: Conditions for Return to Work**

The Town's Human Resources Department will work with the treatment agency and will make a recommendation to Town management concerning the employee's treatment progress and conditions for return to work, if any. The decision to return to work will be made by the Town, with the advice of the Town's approved facility and the involved treating agent.

If recommended by the Town approved facility and treatment agencies and accepted by the Town, employees may be allowed to return to work. Reinstatement may be either to full or restricted duties. Employees may be required to meet several conditions including:

I. Periodic unannounced follow-up testing for up to one year. Minimum six (6) tests in the next twelve (12) months.
II. Random pool testing, if position is classified as Safety Sensitive, or subject to Federal Motor Carrier Safety Administration Regulations.
III. Periodic confirmation by approved counseling or treatment facilities programs that the employee is receiving treatment.
IV. The Town will require the employee to sign an agreement acknowledging acceptance of these and other reasonable conditions prior to the return to work.

Participation in a treatment program will not excuse continued performance deficiencies, or relieve the employee of any other obligations of employment. Disciplinary action, up to and including termination as provided under the Personnel Policy, may result if performance continues to be unsatisfactory.

## IX. Education and Training

Communicating our drug-free workplace policy and educating employees regarding the dangers of drug and alcohol use is critical to our success in maintaining a drug-free workplace. To ensure employees are aware of their role in supporting a drug-free workplace program, employees will 1) be provided a copy of this policy during their initial new-employee orientation; 2) employees will receive any updates of this policy; and 3) The Town will provide periodic training for employees about the dangers of alcohol and drug use, at which time an additional copy of this policy will be distributed. In addition, supervisors will receive periodic training to assist with recognizing and managing employees with potential alcohol and other drug problems.

## X. Notification to Grant Agencies

The Town will notify the federal grant agency within ten (10) days of receiving notice in the event that any employee who is working directly in an activity funded in whole or in part by a federal grant is convicted if a drug related violation on the Town's premises.

## ARTICLE VI. EMPLOYEE BENEFITS

### Section 1. Eligibility

All full-time employees of the Town are eligible for employee insurance benefits after 90 days of employment as provided for in this Article. These benefits are subject to change at the Town's discretion and annual budget appropriations. Part-time and temporary employees are provided legally required benefits only except as provided in individual sections below.

### Section 2. Employee Group Health, Dental, Vision and Short Term Disability Programs

The Town provides group health, dental, vision and short term disability programs for full-time employees and their families as specified under the terms of the group insurance contract.

The Town pays the entire cost of health, dental, vision and short term disability for full-time employees. Full-time employees may, if they so desire, purchase available group health, dental and/or vision coverage through the Town for qualified dependents within the stipulations of the insurance contract. Employees will pay the total cost of dependent coverage.

New insurance participants may have waiting periods for pre-existing conditions reduced or waived by providing proof of previous insurance coverage with no break in coverage longer than 63 days immediately prior to coverage under the Town's insurance program as provided for in the Health Insurance Portability and Accountability Act (HIPAA).

### Section 3. Employee Group Life Insurance

The Town provides group life insurance for each full-time employee subject to the stipulations of the insurance contract. Life insurance through the Town's group life insurance program is not available for dependents but may be available through optional insurance programs paid for entirely by the employee.

### Section 4. Other Optional Insurance Plans

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

### Section 5. Social Security

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

### Section 6. 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 7. Retirement

Each employee who is expected to work for the Town more than 1,000 hours annually will be

enrolled in the North Carolina Local Governmental Employees' Retirement System immediately upon employment.

Employees contribute six percent of salary each payroll with an actuarial match by the Town as determined by the North Carolina Local Governmental Employee's Retirement System.

**Section 8. Supplemental Retirement Benefits**

The Town provides supplemental retirement benefits for its full-time employees. As prescribed by North Carolina State Law, the Town will contribute a percentage of salary to the State 401-K plan for each sworn law enforcement officer (currently 5%).

The Town will provide 2.5% to every non-sworn full time employee; this rate is not affected by employees' volunteer contributions. This rate is subject to change and must be appropriated in the annual budget ordinance.

**Section 9. Worker's Compensation**

All employees of the Town are covered by the North Carolina Worker's Compensation Act and are required to report all injuries arising out of and in the course of employment to their immediate supervisors at the time of the injury in order that appropriate action may be taken at once.

Responsibility for claiming compensation under the Worker's Compensation Act is on the injured employee, and such claims must be filed by the employee with the North Carolina Industrial Commission within two years from date of injury.

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

Before returning to work, a statement from the attending physician must be submitted to the department head 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.

**Section 10. Law Enforcement Separation Allowance**

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

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

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

a) The officer shall have completed 30 or more year of creditable service, or have attained 55 years of age and completed five or more years of creditable service (as defined in General Statute 143-166.42); and

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

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

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

a) The death of the officer;

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

c) The first day of re-employment in any position in any local government in North Carolina.

**Section 11. Training Expenses**

An employee of the Town who enters into a job-related training or education program with the prior approval of the department head and Town Manager may be reimbursed for registration fees, tuition, books, living expenses and travel expenses upon successful completion of the course. See Article V, Section 11 for information on travel expense reimbursement.

**Section 12. Tuition Assistance Program**

The Town wishes to encourage and support Town employees desiring to improve their knowledge base and enhance their value to the Town through successful completion of college level course work in curricula germane to their areas of employment. Full-time regular employees 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.

Employees may be reimbursed eligible expenses up to a total of five hundred dollars ($500) per fiscal year.

Requests for tuition assistance shall be submitted to the department head prior to course registration and are subject to the review and approval of Town Manager. The Town Manager will resolve any uncertainties surrounding the acceptability of the institution or organization offering courses and the suitability of any course with respect to positional enhancement before enrollment by the employee. Tuition reimbursement funds are subject to availability of funds.

The Town will reimburse course tuition, registration, fees, text books, laboratory fees, and student fees up to the maximum allowable amount subject to the following terms and conditions:

(a) Courses must be offered by an accredited North Carolina college, university or community college,

(b) Course work must be directed toward enhancement of the base of knowledge in the area of the employee's position or prepare the employee for advancement within the organization,

(c) Course work must not interfere with employee's availability to work.

(d) The employee must achieve a minimum GPA of 2.0 on a 4-point scale.

Prior to enrollment, the employee must make arrangements with the department head to make-up any missed work that occurs during the time that the employee is attending class.

**Section 13. Uniforms**

Employees required to wear uniforms while on duty shall be furnished such uniforms by the Town. The employee must maintain uniforms in a clean and presentable manner. Town employees shall not permit any unauthorized person to wear Town uniforms.

**Section 14. Safety Equipment**

The Town provides protective clothing and equipment necessary for the performance of an employee's duties. If the job requires the employee to wear safety shoes, eye protection, or hard hats, these will be provided for your use on the job. Failure to wear personal protective equipment will subject the employee to disciplinary action, up to and including dismissal.

## ARTICLE VII. HOLIDAYS AND LEAVES OF ABSENCE

### Section 1. Policy

The policy of the Town is to provide vacation leave, sick leave, and holiday leave to all full-time and part-time employees and to provide proportionately equivalent amounts to employees having average work weeks of different lengths.

### Section 2. Holidays

The following days, and other such days as the Town Board of Commissioners may designate, are holidays with full pay for full and part-time employees of the Town:

| | |
|---|---|
| New Year's Day | Memorial Day |
| Independence Day | Good Friday |
| Martin Luther King Birthday | Labor Day |
| President's Day | Thanksgiving Thursday & Friday |
| Veterans Day | |

Christmas Holidays will be determined by the following schedule

| **Christmas Falls on a:** | **Days Off:** |
|---|---|
| Monday | Friday, Monday, & Tuesday |
| Tuesday | Monday, Tuesday, & Wednesday |
| Wednesday | Tuesday, Wednesday, & Thursday |
| Thursday | Wednesday, Thursday, & Friday |
| Friday | Thursday, Friday, and Monday |
| Saturday | Thursday, Friday & Monday |
| Sunday | Friday, Monday & Tuesday |

When a holiday other than Christmas Day falls on Saturday, the preceding Friday will be observed as the holiday; when the recognized holiday falls on Sunday, the following Monday will be the 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 paid leave.

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

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

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

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

Employees required to perform work on regularly scheduled holidays may be granted compensatory time off or paid at their regular rate for hours actually worked in addition to any holiday pay to which they are entitled. Holiday compensatory time shall be granted whenever feasible and should be taken within three months from the time it is earned. Employees shall receive holiday compensation in hours or pay based on the pro rata amount identified in Section 16 of this Article.

**Section 5. Vacation Leave**

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

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

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

Employees serving a probationary period following initial employment may accumulate vacation leave but shall not be permitted to take vacation leave during the first six months of employment unless approved by the Town Manager.

**Section 7. Vacation Leave: Accrual Rate**

Full-time employees of the Town shall accrue annual leave on the following schedule, prorated proportionally for employees working other than the basic forty-hour work schedule. (See Section 16 of this Article for more information.)

| Years of Service | General Employees Earnings per Month | General Employees Earnings per Year |
|---|---|---|
| 0-5 years | 8 hours | 96 hours – 12 days |
| 5-15 years | 12 hours | 144 hours – 18 days |
| 15 or more years | 13.34 hours | 160 hours – 20 days |

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

Vacation leave may be accumulated without any applicable maximum until the pay period containing June 30 of each fiscal year. During the pay period containing June 30, any employee with a balance exceeding 240 hours shall have the excess accumulation transferred to sick leave so that only a balance of 240 hours is carried forward to July 1.

Regardless of accumulated balance if an employee separates from service, the payment for accumulated vacation leave shall not exceed 240 hours. Employees are not eligible to receive pay for vacation time not taken except at separation.

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

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

Employees shall be granted the use of accrued vacation leave upon request in advance at those times designated by the department head which will least obstruct normal operations of the Town. Department heads are responsible for insuring that approved vacation leave does not hinder the effectiveness of service delivery.

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

An employee who has successfully completed six months of the probationary period will normally be paid for accumulated vacation leave upon separation not to exceed 240 hours provided notice is given to the supervisor at least two weeks in advance of the effective date of resignation, thirty days 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 that separate as a result of failure in performance of duties or personal conduct forfeit all unpaid accrued vacation leave.

**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 a maximum of 240 hours

**Section 12. Sick Leave**

Sick Leave with pay is a privilege granted to employees by the Town, not a right, and may be used only for the purposes described in this Policy. Sick Leave may be used for the following reasons: sickness, non-job related bodily injury, the first seven days of Worker’s Compensation Leave, required physical or dental examinations or treatment, exposure to a contagious disease, when continuing work might jeopardize the health of others, or to care for a member of the immediate family who is seriously ill.

For the purpose of this benefit, immediate family is defined as spouse, parent or child. Sick leave may not be used to care for a healthy child. Time taken to care for an ill family member will be administered according to the provisions in Sections 17-19 Short Term Disability (Medical) and Family Leave, if FMLA applies.

Notification of the need to take sick leave should be submitted to the employee's supervisor prior to the leave or not later than the beginning of the scheduled work day.

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

Full-time employees of the Town shall accrue sick leave at a rate of one day per month of service prorated proportionally for employees working other than the basic forty-hour work schedule. See Section 16 of this Article for additional information

Sick leave will be cumulative for an indefinite period of time and may be converted upon retirement for service credit consistent with the provisions of the North Carolina Local Governmental Employees Retirement System.

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

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

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

The sick leave will be treated as though it were earned with the Town of Wingate and may be used as any other accrued sick leave by the employee.

The sick leave amount must be certified by the previous employer and it is the employee's responsibility to provide documentation from his or her previous employer within three (3) months of employment. Transferred sick leave will be credited to the employee upon successful completion of the six months of employment.

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

The employee's supervisor may require a physician's certificate stating the nature of the employee's illness and the employee's capacity to resume duties, for each occasion on which an employee uses sick leave or whenever the supervisor observes a "pattern of absenteeism." The 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 employees with more or fewer hours than the basic work week (40 hours) shall be determined by the following formula:

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

2) The proportion obtained in step 1 shall be multiplied by the number of hours of leave earned annually by employees working the basic work week (40 hours).

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

**Section 17. Short Term Disability (Medical) and Family 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, but less comprehensive than, FMLA as described below.

The short term disability and family 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 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 healthy newborns or healthy children. Unpaid leave will be granted only when the employee has exhausted all appropriate types of paid leave. Additional time away from the job beyond the 12 week period may be approved in accordance with the Town's Leave without Pay policy.

If a husband and wife both work for the Town and each wishes to take leave for the birth of a child, 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 this policy.

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

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

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

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

c) the serious health condition of the employee.

A serious health condition is defined as a condition which requires inpatient care at a hospital, hospice, or residential medical care facility, or a condition which requires continuing care by a licensed health care provider. This policy covers illness of a serious and long-term nature resulting in recurring intermittent or lengthy absences.

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

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

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

**Section 18. Short Term Disability (Medical) and Family Leave Certification**

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

This certification should be furnished at least 30 days prior to the needed leave unless the employee's or family member's condition is a sudden one. The certification should be furnished as soon as possible (no longer than 15 days from the date of the employee's request). The certification and request must be made to the department 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 in writing and been granted additional time under the Town's Leave Without Pay or other applicable policies.

**Section 19. Short Term Disability (Medical) and Family Leave: Retention and Continuation of Benefits**

Until the Town has 50 employees the provisions of the Federal Family Medical Leave Act do not apply. However the Town elects to provide some of the same provisions as specified below.

When an employee is on leave under this policy, the Town will continue the employee's benefits during the period of paid leave 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 Short Term Disability (Medical) and Family leave period.

During periods of unpaid leave, as outlined in the Leave Without Pay Policy, the employee will be responsible for paying the premium for his/her insurance benefits. Optional and dependent insurance and payroll deductions are the responsibility of the employee and the employee must make those payments for continued coverage of benefits by the first of each month.

After using all paid leave for which the employee qualifies, the employee may use Leave without Pay for the remainder of the twelve weeks under this policy. An employee ceases to earn holiday or leave credits on the date leave without pay begins.

**Section 20. Funeral Leave**

Sick Leave may be used to attend the funeral in the employee’s immediate family but may not exceed three days for any one occurrence, except by special permission of the Town Manager.

For the purposes of this benefit immediate family will be spouse, child or parent, guardian, sibling,

grandparents, and grandchildren to include half, step and adopted relationships.

Additional time or time to attend funerals of other family members may be charged to vacation leave, compensatory time or leave without pay

**Section 21. Leave Without Pay**

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

The employee shall apply in writing to the Town Manager 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 department head shall be notified immediately. Failure to report at the expiration of a leave of absence, unless an extension has been requested and granted, shall be considered a resignation.

An employee shall retain all unused vacation and sick leave while on Leave Without Pay. An employee ceases to earn holiday or leave credits on the date leave without pay begins. The employee may continue to be eligible for benefits under the Town's group insurance plans subject to any regulation adopted by the Town and the regulations of the insurance carrier. If the Leave Without Pay is for a circumstance that coincides with Short Term Disability (Medical) and Family Leave or the Uniformed Services Employment and Re-Employment Rights Act (USERRA) then the provisions of those policies will apply.

**Section 22. Worker's Compensation Leave**

A regular employee absent from duty because of sickness or disability covered by the North Carolina Workers' Compensation Act may elect to use accrued sick leave or vacation during the first waiting period. An employee must serve a waiting period of seven days during which the employee may use leave. Once the waiting period is over, workers' compensation covers two thirds of regular pay.

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 re-instated for all time covered by paid leave.

An employee shall retain all unused vacation and sick leave while on Worker's Compensation Leave.

Upon return to work after an extended period of worker's compensation, regular employees shall be entitled to purchase any retirement time lost due to the worker's compensation. Payment must be made in a lump sum within six months after return from worker's compensation absence to avoid paying a penalty.

**Section 23. Military Leave**

The Town will fully comply with the requirements of the Uniformed Services Employment and Re-Employment Rights Act (USERRA) and other related federal regulations.

Full and part-time employees who are members of an Armed Forces Reserve organization or National Guard shall be allowed two calendar weeks per year for military training. This time is leave without pay; however, the employee may elect to use vacation leave to cover part or all of the military leave. Temporary employees will be granted time of without pay to meet their military reserve or National Guard training obligations.

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

**Section 24. Reinstatement Following Military Service**

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

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

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

2) 31 days-180 days absence - notification to the supervisor must be submitted within 14 days.

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

**Section 25. Civil Leave**

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

**Section 26. Parental School Leave**

A Town employee who is a parent, guardian, or person standing in loco parentis (in place of the parent) may take up to four hours of unpaid leave annually to involve him or herself in school

activities of his or her child(ren). 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 toward the fulfillment of this provision by the Town.

## ARTICLE VIII. SEPARATION AND REINSTATEMENT

### Section 1. Types of Separations

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

### Section 2. Resignation

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

Two consecutive days of absence without contacting the supervisor shall be considered to be a voluntary resignation.

### Section 3. Reduction in Force

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

### Section 4. Disability

The Town will comply with the Americans with Disabilities Act and will make all responsible efforts to provide reasonable accommodation to employees who may be or become disabled. An employee who cannot perform the essential duties of a position because of a physical or mental impairment may be separated for disability. Action may be initiated by the employee or the Town, but in all cases it shall be supported by medical evidence as certified by a competent physician. The Town may require an examination at its expense and performed by a physician of its choice. Before an employee is separated for disability, a reasonable effort shall be made to locate alternative positions within the Town’s service for which the employee may be suited.

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. Retirement

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

**Section 6. Death**

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

**Section 7. Dismissal**

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

**Section 8. Reinstatement**

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

Back pay and benefits will be awarded to employees who are terminated for disciplinary reasons and who are reinstated following an appeal process.

**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.

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

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

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

### Section 2. Unsatisfactory Job Performance Defined

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

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

1) Demonstrated inefficiency, negligence, or incompetence in the performance of duties;

2) Physical or mental incapacity to perform duties after reasonable accommodation;

3) Discourteous treatment of the public or other employees;

4) Absence without approved leave;

5) Improper use of leave privileges;

6) Failure to report for duty at the assigned time and place;

7) Failure to complete work within time frames established in work plan or work standards;

8) Failure to meet work standards over a period of time; or

9) Failure to maintain certifications required by the job.

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

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

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

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

2) If performance does not improve, a written recommendation should be sent to the Town Manager for disciplinary action such as suspension, demotion, or dismissal.

Disciplinary suspensions are for the purpose of communicating the seriousness of the performance deficiency, not for the purpose of punishment, and should not generally exceed three days (24 hours) for non-exempt employees. Suspensions for exempt employees shall be for one full work week in accordance with FLSA requirements to maintain exempt status. Under FLSA suspensions of less than a week are authorized for major safety violations or infractions of workplace conduct rules (detrimental personal conduct). An employee who is suspended for disciplinary reasons will receive no compensation for the period of suspension.

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

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

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

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

1) avoid undue disruption of work;

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

3) for other serious reasons.

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

**Section 5. Detrimental Personal Conduct Defined**

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

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

1) Fraud or theft;

2) Conviction of a felony or the entry of a plea of nolo contendere thereto;

3) Falsification of records for personal profit, to grant special privileges, or to obtain employment;

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

5) Willful or wanton damage or destruction to property;

6) Willful or wanton acts that endanger the lives and property of others;

7) Violation of the zero tolerance policy for workplace violence as stated herein;

8) Brutality in the performance of duties;

9) Violation of the zero tolerance substance abuse policy as stated herein;

10) Engaging in incompatible employment or serving a conflicting interest;

11) Request or acceptance of gifts in excess of $50.00;

12) Engaging in political activity prohibited by this Policy and NCGS §160A-169;

13) Harassment of an employee and/or the public on the basis of sex or any other protected class status or the creation of a hostile or abusive work environment due to gender or other protected class status;

14) Stated refusal to perform assigned duties, flagrant violation of work rules and regulations, or serious malfeasance of work;

15) Careless, negligent or improper use of Town property or equipment;

16) Insubordination; or

17) Failure to follow the chain of command to address work-related issues.

**Section 6. Pre-Dismissal Conference**

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

**Section 7. Non-Disciplinary Suspension**

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

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

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

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

## ARTICLE X. GRIEVANCE PROCEDURE AND ADVERSE ACTION APPEAL

### Section 1. Policy

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

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

### Section 2. Grievance Defined

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

### Section 3. Purposes of the Grievance Procedure

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

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

2) Encouraging employees to express themselves about the conditions of work which affect them as employees;

3) Promoting better understanding of policies, practices, and procedures which affect employees;

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

5) Increasing the sense of responsibility exercised by supervisors in dealing with their employees;

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

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

### Section 4. Grievance Procedure

When an employee has a grievance, the following successive steps are to be taken unless

otherwise provided.

The number of calendar days indicated for each step should be considered the maximum, unless otherwise provided, and every effort should be made to expedite the process. However, the time limits set forth may be extended by mutual consent. 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 Town Manager.

**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 some instances, if both parties agree, and with the approval of the Town Manager, the parties may request mediation assistance from a neutral party to assist in identifying mutually agreeable solutions or understandings. Mediation may be used at any step in the process if agreed to by the parties and with the approval of the Town Manager.

**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.

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

**Step 3.** If the grievance is not resolved to the satisfaction of the employee at the end of Step 2, the employee may appeal, in writing, to the Town Manager within ten calendar days after receipt of the response from Step 3. The Town Manager shall respond to the appeal, stating the determination of decision within ten calendar days after receipt of the appeal. The Town Manager's decision shall be the final decision. The Town Manager will 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 trained in mediation, mediators, or other parties appropriate to the situation.

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

**Section 5. Grievance and Adverse Action Appeal Procedure for Discrimination**

When an employee, former employee, or applicant, believes that any employment action discriminates illegally (i.e. is based on age, sex, race, color, national origin, religion, political affiliation, non-job related disability, marital status or genetic information), he or she has the right to appeal such action using the grievance procedure outlined in this Article. While such persons are encouraged to use the grievance procedure, they shall also have the right to appeal directly to the Town Manager who shall notify the Mayor and Board of Commissioners of the situation and the appeal.

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

## ARTICLE XI. RECORDS AND REPORTS

### Section 1. Public Information

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

1) name;

2) age;

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

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

5) current position title;

6) current salary;

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

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

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

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

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

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

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

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

**Section 2. Access to Confidential Records**

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

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

2) A licensed physician designated in writing by the employee may examine the employee's medical record.

3) A Town employee having supervisory authority over the employee may examine all material in the employee's personnel file.

4) By order of a court of competent jurisdiction, any person may examine all material in the employee's personnel file.

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

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

7) The Town Manager, with the concurrence of the Town 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.

**Section 3. Personnel Actions**

Town Manager, or his designee, 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. These files shall contain documents such as employment applications and related materials, records of personnel actions, documentation of employee warnings, disciplinary actions, performance evaluations, retirement, letters of recommendation, and other personnel-

related documents.

**Section 4. Records of Former Employees**

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

**Section 5. Remedies of Employees Objecting to Material in File**

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

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

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

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

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

**Section 8. Destruction of Records Regulated**

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

## ARTICLE XII. IMPLEMENTATION OF POLICIES

### Section 1. Conflicting Policies Repealed

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

### Section 2. Separability

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

### Section 3. Amendments

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

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

### Section 4. Effective Date

These policies shall be come effective as of the _____ day of _____, 20___.