

# **Town of Pikeville, North Carolina**

## **Personnel Policy**

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**PreparedfortheTown of**

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## **ARTICLE I. GENERAL PROVISIONS**

### **Section 1. Purpose of the Chapter**

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 ("G.S.").

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

The Town of Pikeville is an "at will" employer. Nothing in this policy creates an employment contractor term between the Town and its employees. No person has the authority to grant any employee any contractual rights of employment. The Board of Commissioners may enter into employment contracts with the Town Manager, Town Attorney or Town Clerk.

### **Section 3. Merit Principles**

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, political affiliation, non-disqualifying disability, gender or sexual preference or age.

### **Section 4. Responsibilities of the 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 General Statutes.

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

The Town Manager shall be responsible to the Board of Commissioners for the administration and technical direction of the personnel program. The Town Manager shall appoint, suspend, and remove Town officers and employees except those elected by the people or whose appointment is otherwise provided for under North Carolina statutes. The Town Manager shall make appointments, dismissals and suspensions in accordance with the Town Charter and other policies and procedures spelled out in other Articles in this Policy.

The Town Manager shall maintain the position classification plan and the pay plan and perform such other duties in connection with a modern personnel program as the Board of Commissioners requires.

The Town Manager/designee shall:

- A. Recommend rules and revisions to the personnel policy, classification and pay systems and safety program to the Board of Commissioners for consideration;

- B. Make changes as necessary to maintain an up to date and accurate position classification plan;
- C. 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.
- D. Maintain a complete system of personnel files and records;
- E. Determine which employees shall be subject to the overtime provisions of FLSA
- F. Develop and administer such recruiting programs as may be necessary to obtain an adequate supply of competent diverse applicants to meet the needs of the Town;
- G. Investigate periodically the operation and effect of the personnel provisions of this Policy; and
- H. Establish and maintain a list of authorized positions in the municipal service at the beginning of each budget year which identifies each authorized position, class title of position, salary range, any changes in class title and status, position number and other such data as may be desirable or useful;
- I. Develop and coordinate training, safety and educational programs for Town employees;
- J. Recommend health insurance coverages for Town staff and personnel-related functions and administer the Town's health insurance programs;
- K. Periodically review portions of the classification plan and make revisions to job descriptions to ensure that classifications accurately reflect current job duties and responsibilities.
- L. Perform such other duties as may be assigned by the Board of Commissioners not inconsistent with this Policy.

## Section 6. Application of Policies, Plans, Rules and Regulations

The personnel policy and all rules and regulations adopted pursuant thereto shall be binding on all Town employees. The Town Manager, Town Attorney, members of the Board of Commissioners and advisory boards and commissions are 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 7. Duties of Department Heads: Departmental Rules and Regulations

Due to the particular personnel and operational requirements of the various departments of the Town, each department is authorized to establish supplemental rules and regulations applicable only to the personnel of that department. All such rules and regulations shall be subject to the approval of the Town Manager and shall not in any way conflict with the provisions of this Policy but shall be considered as a supplement to this Policy. Department heads are responsible for delivering copies of any and all supplemental rules and regulations to the Town Manager before they go into effect and also before they are distributed to the department's staff.

Department heads are responsible for developing staff capacity to provide backup for coworkers and higher-level positions; to prepare staff and the organization for smooth transitions; and to insure capability to cover interim absences and vacancies.

## Section 8. Definitions

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

- A. Full-time employee. An employee who is in a position for which an average workweek equals at least 40 hours, and continuous employment of at least 12 months, is required by the Town.
- B. Immediate family is defined as spouse, parent, guardian, children, sister, brother, grandparents, grandchildren plus the various combinations of half, step, in-law, and adopted relationships that can be derived from those named (See Art. 5, Sec 5, Employment of Relatives). Part-time employee. An employee who is in a position for which an average workweek is less than 20 hours.
- C. Regular employee. An employee appointed to a full-time position that has successfully completed the designated probationary period.
- D. Probationary employee. An employee appointed to a full-time position that has not yet successfully completed the designated probationary period.



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

## **ARTICLE 2. POSITION CLASSIFICATION PLAN**

### Section 1. Purpose.

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

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

The classification plan shall consist of:

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

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

The classification plan is to be used:

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

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

The 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 revisions to job descriptions to ensure that classifications accurately reflect current job duties and responsibilities. The Town Manager or his designee shall also periodically review the entire classification plan and, when needed, recommend major changes to the Board of Commissioners.

### Section 5. Adoption of the Position Classification Plan

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

### Section 6. Request for Reclassification

- A. Any employee who considers the position in which classified to be improper shall submit a request in writing for reclassification to such employee's immediate supervisor, who shall immediately transmit the request through the department head to the Town Manager. Upon receipt of such request, the Town Manager shall study the request, determine the merit of the reclassification, and recommend any necessary revisions of the classification and pay plan to the Town Manager. The Town Manager will respond to this request within thirty (30) working days.
- B. Department heads are generally responsible for bringing to the attention of the Town Manager: (1) the need for new positions, and (2) material changes in the nature of duties, responsibilities or working conditions affecting the classification of a position.
- C. Reclassification decisions are not grievable under Art. X.

### Section 7. Amendment to the Classification Plan

- A. Classes of positions shall be added to and deleted from the position classification plan by the Board of Commissioners based on the recommendations of the Town Manager.
- B. A comprehensive review of the Town's Position Classification Plan will usually be undertaken by the Town Manager periodically.
- C. When the Town Manager finds that a substantial change has occurred in the nature or level of duties and responsibilities of an existing position, the Town Manager shall recommend that the Board of Commissioners amend the position classification plan to establish a new class to which the position may be allocated.
- D. New positions shall be established upon recommendation of the Town Manager with the approval of the Board of Commissioners. The Town Manager may (1) allocate the new position to the appropriate class within the existing classification plan or (2) recommend that the Board of Commissioners amend the position classification plan to establish a new class to which the new position may be allocated.

## ARTICLE 3. THE PAY PLAN

### Section 1. Definition

The pay plan includes the basic salary schedule and the "Assignment of Classes to Grades and Ranges," adopted by the Board of Commissioners. The salary schedule consists of three rates of pay for all classes of positions: a hiring rate, a minimum rate and a maximum rate.

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

The pay plan is intended to provide equitable compensation for all positions, reflecting differences in the duties and responsibilities, the comparable rates of pay for positions in 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 and may make minor adjustments in the allocation of positions to salary grades. When major adjustments encompassing numerous positions are needed, or when a general adjustment is needed to the pay plan, the Town Manager shall recommend such changes in salary ranges as appear to be warranted to the Board of Commissioners. The Board of Commissioners shall adopt the "Assignment of Classes to Grades and Ranges," including any minor adjustments made by the Town Manager during the previous budget year, annually as part of the budget process.

### Section 3. Starting Salaries

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

### 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 supervisor. "Trainee" salaries may be no more than two grades below the hiring rate established for the position for which the person is being trained. A new employee designated as "trainee" shall be regarded as a probationary employee.

If the training is not successfully completed to the satisfaction of the Town within the established time frames, 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 to the hiring rate of the pay range shall receive a salary increase to the minimum rate upon successful completion of the probationary period.

## Section 6. Performance Evaluation and Performance Pay Salary Adjustments<sup>1</sup>

- A. **Policy.** All employees are expected to perform their jobs and assigned duties at a better-than-average level of ability, efficiency and competence. Only outstanding job performances will be considered for merit pay increases. Employees who meet expectations are only eligible for cost of living salary increases. Employees whose performance does meet expectations must show improvement in the future. Employees who do not meet expectations may be reclassified, placed on probation, or, as a last resort, terminated. Consultation between the employee and supervisor regarding performance at times other than the annual performance evaluation is expected as part of each employee's normal duties and is encouraged. Periodic formal and informal performance reviews supplement rather than replace the annual performance evaluation.
- B. **Dates of Consideration for Pay for Performance Increases.** If funds are approved in the budget adopted annually, pay salary adjustments for performance may be considered for regular full-time employees beginning at the next evaluation following the successful completion of a probationary period, and subsequent evaluations. The Anniversary Date shall be the date of successful completion of the probationary period. Probationary employees are not eligible for performance pay salary adjustments.
- C. **Procedure.**
- 1) Every active, regular, full-time employee shall receive a performance evaluation by his or her responsible supervisor within 30 days of his or her anniversary date, beginning on the second anniversary. The Town's standard performance evaluation tool shall be utilized for this purpose.
  - 2) Once completed, the performance evaluations will be forwarded through the chain of command to the Town Manager.
  - 3) The performance evaluations will be classified as "meeting expectations", "not meeting expectations" or "exceeding expectations" based upon the criteria established and funded annually by the Board of Commissioners. The Board of Commissioners may establish different tiers or rates of pay for employees who exceed expectations. For example, there may be two or more tiers, or percentages of salary increase for those employees who meet expectations. (For example, employees who exceed expectations may receive a 1% salary increase and employees who far exceed expectations may receive a larger salary increase.)
  - 4) When an employee receives "not meeting expectations" evaluation, the

employee, the employee's supervisor and department head will establish a written plan outlining areas of improvement and the resources available for training, education or other **ways** to improve. Plans will be adopted in no more than three months after the employee's evaluation. Department heads may adopt plans if employees do not sign the written plan after it has been explained to them and a reasonable review period. The employee will be re-evaluated no more than six months after the adoption of the plan. Regardless of the re-evaluation, these employees will be ineligible for any performance pay adjustments until their next anniversary date.

- 5) The supervisors issuing a review of "exceeding expectations" are required to clearly outline actions and reasons showing how and when the employee has exceeded expectations. This justification shall be made in the employee's evaluation. All supervisors in the employee's chain of command must support these actions and reasons. Additional documentation may be sent along with the review for support.
- 6) Any performance merit adjustments approved after the first working day of a pay period shall become effective at the beginning of the next pay period.
- 7) All performance pay adjustments will adjust the base salary of affected employees, and this new base salary will be used in establishing future budgets.

#### Section 7. Performance Pay Bonus

Employees who are at the maximum rate of the salary range for their position classification are eligible to be considered for a performance bonus, as established by Board of Commissioners, and approved in annual budget. Performance bonuses shall be awarded based upon the performance of the employee as described in the performance evaluation and shall be the same percentage of annual salary as employees within the salary range with the same performance level. Performance bonuses do not become part of base pay.

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

- A **Promotions.** When an employee is promoted, the employee's salary shall normally be advanced to the minimum level of the new position, or to a salary which provides an increase of at least five percent (5.0%) over the employee's salary before the promotion, provided, however, that the new salary may not exceed the maximum rate of the new salary range. The purpose of the promotion pay increase is to recognize and compensate the employee for taking on increased responsibility. Employees moved to a different job shall complete a probationary period.
  
- B. **Demotions.** 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 when the demotion is not the result of discipline. 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 for cause, the salary shall be decreased at least 5.0 %, or to the maximum of the new range, whichever is more.
  
- C. **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 grade shall not be changed by the reassignment.
  
- D. **Reclassifications.** An employee whose position is reclassified to a class having a higher salary range shall receive a pay increase of at least 5.0 % or an increase to the minimum of the new pay range, whichever is higher. If the position is reclassified to a lower pay range, the employee's salary shall remain the same. If the employee's salary is above the maximum established for the new range, the salary of that employee shall be maintained at the current level until the range is increased above the employee's salary.

Section 9. Salary Effect of Salary Range Revisions

When a class of positions is assigned to a higher salary range, employees in that class shall receive a pay increase of at least 5.0 %, or to the hiring rate of the new salary range whichever is higher. If the employee has passed probation, the employee's salary shall be advanced at least to the probation completion amount (minimum rate) 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 step established for the new class, the salary of that employee shall be maintained at that level until such time as the employee's salary range is increased above the employee's current salary.

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

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

- A. No employee shall receive a salary reduction as a result of the transition to a new salary plan.
- B. All employees being paid at a rate lower than the hiring rate established for their respective classes shall have their salaries moved at least to the new hiring rate for their classes.
- C. All employees being paid at a rate below the maximum rate established for their respective classes shall be paid at a rate listed in the salary. schedule; all employees not at a listed rate shall have their salaries raised to a listed rate.
- D. All employees being paid at a rate above the maximum rate established for their respective classes shall be maintained at that salary level until such time as the employees' salary range is increased above the employees' current salary.

#### Section 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. Overtime Pay Provisions

Employees of the Town can be requested and may be required to work overtime hours as necessitated by the needs of the Town and determined by the supervisor.

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 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). Overtime compensation for police officers are based on a 28-day cycle with compensation at overtime rates beginning after 171 hours are worked in the cycle. Hours worked beyond the FLSA established limits will be compensated in either time or pay at the appropriate overtime rate. In determining eligibility for overtime in a work period, only hours actually worked shall be considered; in no event will vacation, sick leave, or holidays be included in the computation of hours worked for FLSA purposes. Accumulation of overtime hours shall not exceed 40 hours for any employee. Compensatory leave requires approval by the Town Manager when creating a balance that exceeds 40 hours. In no cases shall compensatory time balances ever exceed 240 hours for public safety positions and 120 hours for all other non-exempt employees.

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



In emergency situations, where employees are required to work long and continuous hours, the Town Manager may approve compensation at time and one half for those hours worked and/or grant time off with pay for rest and recuperation to ensure safe working conditions.

Employees in positions determined to be "exempt" from the FLSA (as Executive, Administrative, or Professional staff) will not receive pay for hours worked in excess of their normal work periods.

### Section 13. Call-Back and Stand-By Pay

The Town provides continuous twenty-four hours a day, seven-day a week services 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.

- A. **Call-Back.** Non-exempt employees will be guaranteed a minimum payment of two hours of wages per twenty-four-hour period for being called back to work outside of normal working hours when not on stand-by. "Call-back" provisions do not apply to previously scheduled overtime work (scheduled one or more days in advance), or to detectives and K-9 officers.
- B. **Stand-By.** Non-exempt employees required to be on "stand-by" duty will be paid for two hours of work for each week of stand-by time they serve. Stand-by compensation for less than one full week shall be determined by the ratio of 0.035 hours of pay per one hour of stand-by time. The Call Back provisions apply when an employee reports to the work site. Stand-by time is defined as those times when an employee must carry a communication device in order to restrict personal activities or travel in order to be ready to respond.

### Section 14. Payroll Deduction

Deductions shall be made from each employee's salary, as required by law. Additional deductions may be made only if offered by the Town and requested by the employee. The Town Manager will determine if additional deductions can be made based on the capability of payroll equipment and appropriateness of the deduction.

### Section 15. Extra Duty Stipends.

When employees assume additional duties and it does not substantially change the duties and responsibilities of the position enough to merit a new job classification, then the Town Manager may authorize additional flat rate amounts of dollars for each pay period as long as these

additional duties-are being performed. Examples include, but are not limited to, stipends for Police K9 and Field Training Officers (FTO).

**Section 16. Pay for Interim Assignment to Higher Classification**

An employee who is formally designated for a period of at least one month to perform the duties of a job that is assigned to a higher salary grade than that of the employee's regular classification shall receive an increase for the duration of the "acting" assignment. The employee shall receive a salary adjustment to the entry level (Hiring rate) of the job in which the employee is acting or an increase of five percent, (5%), whichever is higher. Criteria involved in determining the amount of compensation shall include

1) the difference between the existing job and that being filled on a temporary basis, and 2) the degree to which the employee is expected to fulfill all the duties of the temporary assignment. The salary increase shall be temporary, and the employee shall go back to the salary he or she would have had if not assigned to the "acting" role upon completion of the assignment.

**Section 17. Merit Pay**

Upon movement within the established salary range for an employee is not automatic, but rather based upon specific performance-related criteria. Employee raise will be directly tied to the over grade on their annual performance evaluation. Employees who are at the maximum of the salary range for their position classification are eligible to be considered for a Merit Bonus at their regular performance evaluation. Merit bonuses shall be awarded based upon the performance of the employee as described in the performance evaluation and in the same amounts as employees who are with the salary range. Merit bonuses shall be award in lump sum payments and not become part of base salary. All raises are subject to availability of funds each year.

**Overall Performance Grade**

**Raise**

Superior

Latest across the board raise as approved by the Board of Commissioners plus 2%

Exceeds Expectations

- Latest across the board raise as approved by the Board of Commissioners plus 1%

Meets Expectations

Latest across the board raise as approved by the Board of Commissioners Not eligible for latest across the board raise.

Below Expectations

Dismissal may be recommended.

Unsatisfactory

None. Dismissal recommended,

Section 18. Certification Pay/ Education Advancement Related Pay Adjustment

- A. Certification Pay:** When employees assume additional duties as result of additional training and/or certification but the duties and responsibilities of their positions(s) are not substantially changed so that a new job classification is merited, then the Town Manager may authorize additional pay for each pay period as long as these additional duties are being performed and the certification is retained and current.
  
- B. Education Advancement Related Pay Adjustment:** Every active, regular, full time employee working for the Town of Pikeville is encouraged to further their academic attainments to ensure that they can better serve the citizens of Kenly. In advancing their education, the Town recognizes that they are increasing their value to the Town. The Town of Pikeville will grant salary adjustments for the attainment of a college degree only in a field related to the work performed for the Town as follows:

  - 1) Associates Degree- A \$500 increase to the base pay of the employee, and a \$250 one-time bonus.
  - 2) Bachelor's Degree- A \$1,000 increase to the base pay of the employee, and a \$500 one-time bonus.
  - 3) Masters or other Graduate Degree - A \$1,500 increase to the base pay of the employee, and a \$750 one-time bonus.

The Town Manager, supervisor, department head of the employee must approve the degree field and verify in writing that it is related to the job performed by the employee or would be related to a directly promotable position. All educational adjustments and bonuses will be provided upon the awarding of the degree, and once proper documentation is provided through the chain of command to the Town Manager. The increase will be retroactive to the graduation date should the documentation be completed after the first full bi-weekly payroll period following the graduation date.

## ARTICLE 4. RECRUITMENT AND EMPLOYMENT

### Section 1. Equal Employment Opportunity Policy

It is the policy of the Town to foster, maintain and promote equal employment opportunities. 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, non-job-related handicap, political affiliation, or marital status. Applicants with a disability shall be given equal consideration with other applicants if such applicants can, with or without reasonable accommodation, perform the essential requirements of the position.

### 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 job 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, non-job related handicap, national origin, gender, political affiliation, or marital status. Notices with regard to equal employment matters shall be posted in conspicuous places on Town premises in places where notices are customarily posted.

### Section 3. Recruitment, Selection and Appointment

- A. **Recruitment Sources.** When position vacancies occur, supervisors shall notify the Town Manager concerning the number and classification of positions that are to be filled. The Town Manager or designee shall publicize these opportunities for employment, including applicable salary information and employment qualifications. Information on job openings and hiring practices shall be provided to recruitment sources including organizations and news media. In addition, notice of vacancies shall be posted at designated conspicuous sites within departments. Individuals shall be recruited from all geographic area as wide as necessary to ensure that well qualified applicants are obtained for Town service. The North Carolina Department of Employment Security shall normally be used as a recruitment source.
- B. **Job Advertisements.** Employment advertisements shall contain assurances of equal employment opportunity and shall comply With Federal and State statutes.
- C. **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 that are vacant.
- D. **Application Reserve File.** Applications shall be kept in an inactive reserve file for a period of two years, in accordance with U.S. Equal Employment Opportunity Commission rules.<sup>2</sup>

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<sup>2</sup>

29 CFR 1602.

- E. **Selection.** Department heads, with the assistance of the Town Manager or designee, shall make such investigations and conduct such examinations as necessary to assess accurately the knowledge, skills, and experience qualifications required for the position. All selection devices administered by the Town shall be valid measures of job performance
  
- F. **Appointment.** Before any commitment is made to an applicant either internal or external, the Department Head shall make recommendations to the Town Manager including the position to be filled, the salary to be paid, and the reasons for selecting the candidate over other candidates. The Town Manager shall approve appointments and the salary to be paid. The Town Manager will approve all starting salaries above the minimum for all applicants. The Town Manager will extend all job offers to applicants.

#### Section 4. Probationary Period

Any newly-hired employee appointed to a permanent position shall serve a probationary period. Promoted employees shall serve a probationary period. All employees shall serve a six-month probationary period, except that newly hired sworn law enforcement personnel, newly hired fire shift personnel and department heads shall serve a twelve-month probationary period. Employees hired as a "trainee" shall remain on probation until the provisions of their trainee period are satisfied.

During the probationary period, supervisors shall monitor an employee's performance and communicate with the employee concerning performance progress. Before the end of the probationary period, the supervisor shall conduct a performance evaluation conference with the employee and discuss accomplishments, strengths, and needed improvements. A summary of this discussion shall be documented in the employee's personnel file. The supervisor shall recommend in writing whether the probationary period should be completed, extended, or the employee transferred, demoted, or dismissed. Probationary periods may be extended for a maximum of six additional months.

Disciplinary action, including demotion and dismissal, may be taken at any time during the probationary period of a new hire without following the steps outlined in this Policy. A promoted employee who does not successfully complete the probationary period may be transferred or demoted to a position in which the employee shows promise of success. If no such position is available, the employee shall be dismissed.

## 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, current employees applying for vacant positions who are equally suited to outside applicants, the employee-applicant shall be promoted. The Town will balance three goals in the employment process: 1) the benefits to employees and the organization of promotion from within; 2) providing equal employment opportunity and a diversified workforce to the community; and 3) obtaining the best possible employee who will provide the most productivity in that position. Therefore, except in rare situations where previous Town experience is essential (such as promotions to Police Sergeant), or exceptional qualifications of an internal candidate so indicate, the Town will consider external and internal candidates rather than automatically promote from within. Candidates for promotion shall be chosen on the basis of their qualifications and their work records. Candidates shall apply for promotions using the same application process as external candidates.

Employees hired or promoted into the hiring rate of the pay range shall receive a salary increase to the minimum rate upon successful completion of the probationary period. Employees hired or promoted above the hiring rate shall not receive increases when removed from probationary status. Employees moved to a different job shall complete a probationary period.

## 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. 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 demotion shall follow the disciplinary procedures outlined in this policy.

## Section 7. Transfer

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

## Section 8. Anti-Nepotism Policy

People shall not be hired or promoted to a position where they may be supervised by a member of their immediate family. "Immediate family" shall be defined as spouse, parent, guardian, children, sister, brother, grandparents, grandchildren plus the various combinations of half, step, in-law, and adopted relationships that can be derived from those named. The policy in Article V, Section 5 on the employment of relatives also applies here, to the hiring and/or promotion of relatives.

## ARTICLE 5. CONDITIONS OF EMPLOYMENT

### Section 1. Work Schedule

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

### Section 2. Political Activity

Each employee has civic responsibility to support good government by every available means and in every appropriate manner. Each employee may join or affiliate with civic organizations of a partisan or political nature, may attend political meetings, may advocate and support the principles or policies of civic or political organizations in accordance with the Constitution and laws of the State of North Carolina and the Constitution and laws of the United States.

However, no employee shall:

- A. Engage in any political or partisan activity while on duty;
- B. Use official authority of influence for the purpose of interfering with or affecting the result of a nomination or an election for office;
- C. Be required as a duty of employment or as condition for employment, promotion or tenure of office to contribute funds for political or partisan purposes;
- D. Coerce or compel contributions from another employee of the Town for political or partisan purposes;
- E. Use any supplies or equipment of the Town for political or partisan purposes;
- F. Be a candidate for nomination or election to office under the Town Charter;

Any violation of this section shall subject the employee to disciplinary action including dismissal. Section 3:

### Section 3. Outside Employment

The work of the Town of Pikeville shall have precedence over other occupational interests of employees. All outside employment for salaries, wages, or commission and all self-employment must be reported in writing in advance to the employee's supervisor, who in turn will report it to their department head who will in turn report it the Town Manager. The department head and Town Manager will review such employment for possible conflict of interest and then approve or disapprove the secondary employment. All outside employment shall be in approved by the Town Manager in writing and re-authorized annually. Conflicting or unreported outside employment is grounds for disciplinary action up to and including dismissal.

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

- A. Employment with organizations or in capacities that are regulated by the employee or employee's department; or

- B. Employment with organizations or in capacities that negatively impact the employee's perceived integrity, neutrality, or reputation related to performance of the employee's Town duties.

#### Section 4. Dual Employment<sup>3</sup>

An hourly full or part-time employee of the Town may simultaneously hold another position with the Town if the second position is:

- A. Occasional or sporadic;
- B. In a different capacity and/or clearly different occupational category from that of the full or part-time position; and
- C. The employee volunteers for the second position.

In order for an employee's occasional or sporadic work on a part-time basis to qualify for exemption from overtime payments under the FLSA, the employee's decision to work in a different capacity must be made freely and without coercion, implicit or explicit, by the Town. A supervisor may suggest that an employee undertake another kind of work for the Town when the need for assistance arises, but the employee must be free to refuse to perform such work without sanction and without being required to explain or justify the decision. (The term occasional or sporadic means infrequent, irregular, or occurring in scattered instances.)

The work of the full or part-time position shall take precedence over the temporary position.

Unless the second Town job meets the conditions of this section (Section 4) the Town shall pay overtime when an employee is eligible for overtime. When an employee works a second Town job and the employee is entitled to overtime, the employee and Town shall agree, in advance, which salary will be used to calculate overtime in the event that the employee works more than 40 hours per week in both jobs combined.

#### Section 5. Employment of Relatives

The Town prohibits the hiring and employment of immediate family in permanent positions within the same work unit. "Immediate Family" is defined as spouse, parent, guardian, children, sister, brother, grandparents, grandchildren plus the various combinations of half, step, in-law, and adopted relationships that can be derived from those named. The Town also prohibits the employment of any person into a permanent position who is an immediate family member of individuals holding the following positions: Mayor, Board of Commissioners, Town Manager, Assistant Town Manager, Finance Director, Town Clerk, or Town Attorney. Otherwise, the Town will consider employing family members or related persons in the service of the Town, provided that such employment does not:

- A. Result in a relative supervising relative either directly or through intermediate direct supervisors; or
- g Result in a relative auditing the work of a relative;

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<sup>3</sup> 29 CFR 778.419 Covers Hourly workers employed at 2 or more jobs 29 CFR 553.30 covers "occasional and sporadic" employment by local government employees.



- C. Create a conflict of interest with either relative or the Town; or
- D. Create the potential or perception of favoritism.

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

**Section 6. Harassment**

The Town will not tolerate unwelcome harassing conduct by employees and non-employees. The Town has established a complaint or grievance process. Employees should report harassment to their supervisor(s), department head or Town Manager at the earliest possible stage to prevent its escalation. The Town is committed to conduct an investigation and to take immediate and appropriate action when it receives notice of employee harassment. In addition, the Town periodically provides anti-harassment training to all employees because prevention is the best tool to eliminate harassment in the workplace. The procedure to complain about Harassment is found in Article 10 under Grievances.

**Section 7. Acceptance of Gifts and Favors**

The conduct of any employee in Town service shall be free from influence arising from gifts, favors, or special privileges. It is the obligation of an employee to refuse personal gifts, favors, or special privileges in situations where it is reasonable to believe that such may be offered so as to affect the giver's interest or otherwise exert influence on the actions of the employee.

Furthermore, no employee shall seek personal or financial advantage because of his/her position with the Town.

**Section 8. Safety**

Safety is the responsibility of both the Town and its employees. It is the policy of the Town to establish a safe work environment for employees. The Town has established a safety program including policies and procedures called the "Town of Pikeville Safety Manual Policies, Procedures and SOP's" (the "Safety Manual") regarding safety practices and precautions and training in safety methods. The Safety Manual is adopted by the Board of Commissioners as the policy of the Town and is incorporated into this document reference as if it were contained in this document. If the event that this Policy and the Safety Manual contradict each other, this Policy shall control.

Department heads and supervisors are responsible for insuring the safe work procedures of all employees and providing necessary safety training programs. Employees shall follow the safety policies and procedures and attend safety training programs as a condition of employment. Employees who violate such policies and procedures shall be subject to disciplinary action up to and including dismissal.

The Prescription Safety Glasses Policy is found in the Town of Pikeville Safety Policy and Standard Operating Procedure.

## Section 9. Employment Documentation Requirements

In order for individuals to be employed by the Town, they must present certain documents that establish their identity, verify their eligibility to work in the United States, and make provisions for appropriate Federal and North Carolina tax withholding.

Individuals must complete the following required forms in order to be employed:

- A. **Form W- 4** Employee's Withholding Allowance Certificate, U.S. Dept. of the Treasury, I.R.S.
- B. **Form NC - 4** Employee's Withholding Allowance Certificate, N.C. Dept. of Revenue. In order to complete these two forms individuals must have a U.S. Social Security Number (SSN) or evidence that they have made application for an SSN. The Social Security Administration issues original and replacement Social Security cards. The Town may not hire individuals, put them on the payroll or permit them to perform work until each individual has properly completed a W-4 and NC-4 forms and submitted them to the Town Manager.
- C. **Form 1-9** Employment Eligibility Verification Form (U.S.), U.S. Citizenship & Immigration Services (USCIS). Individuals must establish both identity and work eligibility via the federal Form 1-9 by presenting one or two acceptable documents. A list of acceptable documents is printed on the back of Form 1-9, and no other forms other than those listed may be requested. The Town may not hire individuals and may not allow individuals to perform work until the individual has provided such documentation. (For complete information see the "Handbook for Employers: Instructions for Completing Form 1-9" published by the USCIS. Copies of the completed 1-9 form or other information regarding residency and immigration status shall be kept on file for three years following the hiring date or on eye are following the end of employment, whichever is later.

## Section 10. Use of Town Owned Property

The Board of Commissioners forbids the personal use of any Town owned vehicles, equipment, or supplies by any employee except for Police Officers or unless approved by the Town Manager in writing or permitted by Section 11. Vehicle Policy below.

## Section 11. Motor Vehicle Operator's License and Insurance Requirements and Equipment Operation

### **A. Policy Purpose**

The Town of Pikeville has a responsibility to assure safe motor vehicle and efficient operations by employees in order to keep both the employees and the public safe. This policy provides the requirements that employees must meet in order to operate a motor vehicle and/or equipment in the course of employment with the Town of Pikeville.

## 8. Definitions

- 1) *Authorized Driver*- Those employees who are required to operate a motor vehicle as an essential function of the job or those who upon authorization from their department head may occasionally drive a motor vehicle for official Town- related business but their driving duties are not a requirement for the position.
- 2) *Commercial Driver's License* -A license issued by a state to an individual who resides in the state authorizing the individual to drive a certain class of commercial vehicle.
- 3) *Equipment* -All equipment being towed behind a self-propelled vehicle such as trailers, generators, chippers, mowers, etc.
- 4) *Official Town Business* - Operating any vehicle (Personal or Town-Owned) in official capacity for the Town of Pikeville which may include travel to various Town facilities, job sites, out-of-town meetings, workshops or other municipal related business.
- 5) *Vehicle*- Every device in, upon, or by which any person or property is or may be transported or drawn upon except for (a) human powered vehicles, (b) those intended as a means of transportation for a person with a mobility impairment and limited by design not to exceed 15 MPH, or (c) vehicles operating upon fixed rails. Vehicles may be designed to be operated on or off-road including all-terrain vehicles, tractors, forklifts, heavy equipment, riding lawn mowers, etc.

### C. Application of Policy

- 1) This policy applies to Town of Pikeville authorized drivers. When an employee operates a personal vehicle for Town of Pikeville business:
  - a) Evidence of insurance coverage is to be provided to the Town of Pikeville each year by a copy of employee's policy Declaration page or a Certificate of Insurance.
  - b) Town of Pikeville is not responsible for any physical damage to an employee's personal vehicle. The employee must carry collision and comprehensive coverage on any personal vehicle to be used for Town business.
  - c) The employee should report mileage for expense reimbursement.
- 2) **Personal Use of Town Vehicle.** The Board of Commissioners forbids the personal use of any Town owned vehicles, equipment or supplies by any employee except for Police Officers or unless approved by the Town Manager. Police Officers shall follow the "Assigned Police Vehicle Policy" approved by the Council and adopted as part of the department's Standard Operating Procedures in the operation and maintenance of the vehicles.

#### D. Policy Requirements

An authorized driver operating a motor vehicle in the course of conducting official Town of Pikeville business shall possess a valid driver's license and an acceptable driving record that is confirmed annually.

#### E. Administrative Responsibilities

##### 1) Employees

- a) Ensure compliance with policy.
- b) Comply with all traffic laws.
- c) Immediately notify supervisor or department head of any traffic citations received or the suspension, revocation or cancellation of driver's license.
- d) Ensure that registration card is on-hand for vehicle being driven.

##### 2) Department Heads

- a) Ensure that a list of assigned vehicles and license requirements is maintained for review
- b) Ensure that a list of assigned employees and license endorsements is maintained for review.
- c) Ensure that assigned employees have correct endorsements for the vehicles they operate.
- d) Ensure that assigned employees are educated on policy.
- e) Ensure departmental compliance with policy.  
Immediately report all policy violations to Town Manager.

##### 3) Town Manager

- a) Complete pre-employment driving background checks.
- b) Notify NC OMV of any CDL driver that tests positive for drugs or alcohol.
- c) Obtain and review assigned employee driving records for policy compliance at least every two years from the NC Transit Driver Notification System.
- d) Manage and propose policy revisions as needed.
- e) Investigate violations of this policy.  
Annually verify personal insurance data for personal use vehicles.

#### Section 12. Digital Device Use

See the Town of Pikeville's Digital Device Use Policy, which is published separately, but incorporated herein by reference.

#### Section 13. Whistleblowers Policy

##### **A. Statement of Policy**

The Town of Pikeville requires all employees to observe high standards of business and personal ethics in the conduct of their duties and responsibilities. It is the policy of the Town of Pikeville that employees shall be encouraged to report verbally or in writing to

their supervisor, department head, Town Manager evidence of activity by a Town Department or employee constituting:

- 1) A violation of State or Federal law, rule or regulation;
- 2) Fraud;
- 3) Theft;
- 4) Malfeasance or misfeasance of State, Federal or Town resources;
- 5) Substantial and specific danger to the public health and safety; or
- 6) Gross mismanagement, gross waste of monies, or gross abuse of authority.

Further, it is the policy of The Town of Pikeville that employees shall be free of intimidation or harassment when reporting matters of public concern to public bodies. This policy is intended to encourage and enable employees to raise serious concerns within Town government prior to seeking resolution outside Town government.

#### **B. General Protection from Retaliation**

No employee exercising supervisory authority shall discharge, threaten, or otherwise discriminate against an employee regarding the employee's compensation, terms, conditions, location or privileges of employment because the employee, or a person acting on behalf of the employee, reports or is about to report, verbally or in writing, any violation of federal, state, or local law, regulation or adopted policy or because the employee has refused to carry out a directive which in fact constitutes a violation of federal or state law or regulation or Town ordinance or Council-adopted policy, or activity listed in sub-section A above. No Town employee shall make any report if the Town employee knows or has reason to believe that the report is inaccurate.

- C. No Town employee shall retaliate against another Town employee because the employee has refused to carry out a directive which in fact constitutes a violation of federal, state, or Town law, regulation or Board of Commissioners adopted policy, or poses a substantial and specific danger or threat to the public health and safety. This policy supports all protections offered by North Carolina Gen. Statute Chap 95 Dept. of Labor and Labor Regulations, Art. 21, Retaliatory Employment Discrimination.

#### **D. Reporting Violations**

The Town of Pikeville supports an open-door policy and suggests that employees share questions, concerns, suggestions, or complaints with someone who can address them properly. In most cases, an employee's immediate supervisor is in the best position to address an area of concern. However, an employee not comfortable speaking with a supervisor or not satisfied with a supervisor's response, may address their concern to follow the Grievance Policy at Article 10 of this Personnel Policy to complain to a higher-level supervisor, up to and including the Town Manager. If an employee is not satisfied with the response, the employee may then follow the Grievance Policy at Article 10 of this Personnel Policy. Formal complaints should be made in writing and filed with the Town Manager. Appropriate prompt and thorough investigations of the complaints will be conducted.

All reports are held in strict confidence and are taken seriously. If necessary, the Town Manager may specify reasonable steps to protect the complaining employee from retaliation.

#### Section 14. Business Travel, Seminars and Conferences

This policy applies to all business travel and provides for the reimbursement of expenses incurred by those persons authorized to attend. Board of Commissioners, employees, and volunteers of the Town who expect to be reimbursed for expenses incurred are to follow this travel policy.

**A. Attendance Authorization** is conditional upon the availability of funds provided in the current budget.

- 1) Attendance by Elected Officials at any conference, seminar, or other business travel requires Council approval where applicable.
- 2) Employee travel requires the following approvals:
  - a) Travel within North Carolina requires the approval of their immediate Supervisor and Department Head.
  - b) Any travel outside of North Carolina requires the approval of the Town Manager.
  - c) Travel for unbudgeted seminars, classes, and conferences require the approval of the Town Manager.
- 3) Supporting documentation must include and clearly identify the event attended, date of the event, purpose of the event and, when applicable, identification of all individuals whose expenses are reimbursed with the submission.
- 4) Documented approval for travel must be obtained before any travel expenses are incurred or any commitments made. Payment for travel expenses incurred or committed to prior to obtaining documented approval will be the sole financial responsibility of the employee if the travel request is denied. An approved Travel Expense Form must be submitted to the Town Manager before the travel if an advance is being requested or be attached to the payment requisition for registration or other travel expenses being paid in advance.

#### **B. Advancements and Expense Reimbursements**

- 1) In order to receive early registration discounts, and to confirm registration, employees may incur out of pocket expenses in advance of the travel dates. These expenditures can be recovered by making a notation on the Travel Expense Form requesting an early release of the advance.
- 2) Travel Advances are subject to the approvals under Section A above.

- 3) Application for travel advances will be signed by the claimant indicating authority for the Town to recover through the Payroll system any advances unaccounted for.
- 4) In exceptional circumstances, the Town Manager may approve staff expenses over or outside the limits of this policy.

### **C. Registration**

- 1) Subject to the approvals granted in Section one A above, request for payment of the registration fee for the delegate to attend the conference or meeting is forwarded to the Town Manager. Advance discounts should be realized where possible.
- 2) An approved Travel Expense Form must be submitted to the Town Manager with the request for payment of registration fees or other travel expenses at least one week in advance of the trip. This provides the necessary time for the to process the advance per diem and/or registration fees.
- 3) Copy of course, conference or seminar agenda may be required providing information on cost, location, dates, and meals. This information must be attached to the Travel Expense Form when requesting an advance, thus allowing accurate calculation of the per diem and any advanced payments requested. If no advance is requested, then final accounting will occur when the Travel Expense Form is completed after the travel. Receipts must be turned in for all expenses related to the travel that the Town funds.

### **Cl. Transportation.** The most reasonable, economical, and efficient mode of transportation should be used as follows:

- 1) Town Vehicles when feasible.
- 2) Economy airfare including all applicable taxes, surcharges, and cancellation insurance:
  - a) **Note:** Upgrades from economy airfare will be acceptable for non- North American air travel to no higher than business class in recognition of the travel time involved.
  - b) The cost of seat selection will be reimbursed.
  - c) Expenses incurred to change travel plans are allowable provided the changes are a result of mandatory Town Business. Only charges relating to the employee are reimbursable.
  - d) Luggage cost charged by airlines is reimbursable; the cost of passports will not be reimbursed.
- 3) Train/bus fare when applicable.

- 4) Town of Pikeville Transfer fees to and from transportation terminals at points of departure and arrival should be the most economically feasible method available as circumstances warrant. Parking expenses should be included in this cost decision.
- 5) Car rental, including fuel purchases, instead of public transportation may be claimed provided it is more economical or if required under certain circumstances. A reputable rental company must be used to ensure adequate insurance coverage is secured. A national rental chain is considered to be a reputable company as opposed to a local operation.
- 6) Employees wishing to use personal vehicles for business travel must have their requests approved in advance. Employees will be reimbursed their cost at the then applicable IRS mileage rate. While operating a personal automobile on Town business, the individual employee is responsible for all vehicular costs, for example, repairs, fines, fuel, insurance, deductibles, etc. Unless exceptional circumstances apply (see note below), the charges for the use of a personal automobile shall not exceed the equivalent cost of economy airfare, plus airport parking and transfers. Written justification (supported by cost comparison(s)) for use of personal automobiles; when air travel appears to be the most appropriate means of transportation must be obtained at the time of initial authorization to attend. Use of personal automobile may be appropriate when traveling with bulky displays or traveling in groups.
- 7) Shared transportation is encouraged when appropriate.

**E. Accommodation.** Reasonable accommodation expenses where overnight accommodation is required are allowable as follows:

- 1) Reasonable accommodation shall be chosen that is the most economical and advantageous to the conduct of Town business, with consideration given to location and priority given to conference sponsored hotels.
- 2) Subject to budgetary funding, double occupancy may be required at the discretion of the Department Head(s), provided the employee is in agreement.
- 3) Receipts are required in support of all such expenses and must show the place, date, number of days or part days, and the rate per day.
- 4) Internet charges for business use on hotel bills may be reimbursed at the discretion of the Department Head(s).
- 5) Other incidental expenses detailed on the hotel bill such as movies or meals will not be reimbursed because they are covered by the Per Diem reimbursement.
- 6) Exemptions to accommodations may be approved by the Town Manager.



## F. Per Diems

- 1) "Per Diem" expense allowance covers the cost of meals, gratuities, personal telephone charges (other than reasonable telephone charges for calls to family) and all other incidental expenses not covered by Section 14. D. and E. above.
- 2) Per Diems do not require receipts but do have a maximum rate for which the Town provides for travel. The per diem rates are calculated for the U.S. General Services Administration (GSA) based on destination of travel.
- 3) Department Heads or the Town Manager may approve a lesser amount. Per Diems may be provided in advance by the Town to the traveler upon proper receipt of the Travel Expense Report. The following are the procedures for per diem payout based on travel:
  - 4) Overnight Travel: The first and last days of the travel will be considered travel days. Travel day per diems shall be reimbursed as provided under "*Day Travel*" below. All other overnight days will be paid out at 100% of the GSA rate.
  - 5) Day Travel: Travel Day expense per diems are based on the GSA Per Diem Rate breakdown, which includes breakfast, lunch and dinner.
  - 6) Payout calculation for day travel per diem includes the conditions as follows:
    - a) Leaving prior to 7:00 a.m. qualifies for breakfast; leave any time after that excludes breakfast.
    - b) Travel returning after 7:00 p.m. qualifies for dinner; arrival any time before excludes dinner.
    - c) Lunch is included in the per diem when travel includes normal lunch hours, unless lunch has already been paid for by other arrangements.

## G. Extended Stays

- 1) With prior written authorization, special travel savings may be available to the Town if the individual traveling stays longer than the duration of the business stay. Reimbursement of costs for extended stay will be made only if it can be demonstrated that there are overall cost savings associated with the extended stay. Any loss of work days due to the "extended" travel must be charged to the employee's vacation entitlement. Savings must be substantiated by airline quotes, etc.
- 2) An employee may personally pay for an extended stay. This is allowable as long as it can be proven ahead of time that there is no cost to the Town for this extended stay, and the employee uses their Town Manager should be notified as soon as

possible, in which event, accommodations and alternate transportation may be made.

## H. Travel Arrangement Upgrades

This policy addresses the maximum that the Town will pay for travel. However, the individual may choose to upgrade at his/her own personal expense. If paid directly by the Town, reimbursement must be received by the Town employee or Council Member at time of claim submission. Examples include additional accommodation expenses for an accompanying spouse, upgraded room or transportation class upgrade that requires additional expense, etc.

## I. Reporting

- 1) All expense claims/reimbursements must be submitted to the Town Manager within 30 working days of the event. Claims without travel advances are subject to the same deadlines. Reimbursements of advanced funds must be accompanied by a receipt issued by the Town Manager.
- 2) If the traveler's expense claim "actual" is overdue under this policy, the individual will be notified in writing with a copy to the Department Head and/or Town Manager. Any additional expense claims/advances request, including mileage claims and all other reimbursements, will not be processed until the past due actual has been received.
- 3) Expenses unsubstantiated by proper receipts other than Per Diems are not allowed. Travel expenses which have been submitted without receipts will be deducted from the amount paid by advance or through reimbursement. If this action causes the advance to exceed the adjusted claim, the employee will be notified and required to pay the difference. Should the payment not be made within a reasonable time period, the Town reserves the right to deduct the amount to the town from the employee's pay.

## II. **Items Not Allowable.** Claims for reimbursement which will not be allowed are as follows:

- 1) Personal Effects and Services-for example, claims for loss of personal effects, for medical and hospital treatment, for purchase of clothes, hand luggage, and other personal services such as shoe shines, and valet services, etc.
- 2) Items not substantiated by receipts, except for per diem claims.
- 3) Gratuities, which are covered within the per diem amounts. They are to be excluded from other reimbursement amounts unless there are justifiable circumstances (see note below).

Note: Handling charges for bulky items such as exhibits are permissible provided they are indicated separately on the advance form and pre-approved. Receipts should be obtained when possible; however, expenses without receipts will be reimbursed if they were pre-approved and are reasonable (in the opinion of the Town Manager and equal to or less than the pre-approved amount.

- 4) Long distance phone calls, which are covered by the per diem. They are to be excluded from reimbursement as appropriate unless the calls were made for Town business. In consideration of being out-of-town on Town business, one call per day to family at home will be allowed. These must be properly identified on the hotel and/or cell bill.

### Section 15. Social Media Policy

Please see the Town of Pikeville's Social Media Policy published separately and incorporated here by reference.

### Section 16. Drug and Alcohol Testing Policy

The Town of Pikeville is committed to a Drug-Free Workplace. In order to provide the highest level of service to our citizens and provide our co-workers a workplace that is free of controlled substances and alcohol, no employee will be permitted to perform job functions while abusing controlled substances or misusing alcohol as identified in this policy. This is a zero-tolerance policy due to the magnitude of potential results of controlled substances abuse and alcohol misuse which can range from personal injury or equipment damage to death of co-workers or the public. Compliance with this policy is applicable to employees, as specified, as a minimum standard of conduct and will not be lessened or waived under any circumstance.

In accordance with Federal and State laws employees will be subject to controlled substance testing which may include pre-employment, follow-up, random, reasonable suspicion, and post-accident testing. The Drug and Alcohol Testing Policy and procedures provide specifics with respect to the use, sale, or possession of alcohol, illegal drugs, controlled substances and other intoxicants.

An employee of the Town of Pikeville may be subject to immediate dismissal for the following:

- A. Using or having possession of intoxicants (alcoholic beverages or narcotic drugs) on Town premises, in Town vehicles, while in Town uniform or during working hours.
- B. Coming to work under the influence of intoxicants or illegal drugs.
- C. Purchasing intoxicants or illegal drugs during working hours.
- D. Improper/excessive use of prescription medications.
- E. Participating, aiding, abetting or condoning the trafficking, selling, illegal possession or illegal distribution of drugs, alcohol, intoxicants or other controlled substances.

Please see the Town of Pikeville's Substance Abuse Policy for additional information. Employees who are aware, or have good reason to believe that another employee is violating the Town of Pikeville's Substance Abuse Policy are encouraged to contact the supervisor or department head or Town Manager.

## **ARTICLE 6. EMPLOYEE BENEFITS**

### Section 1. Eligibility

All full-time employees of the Town are eligible for employee benefits as provided for in this Article which is subject to change at the Town's discretion. Part-time employees are eligible only for workers' compensation. For questions or a more complete description of a particular benefit, please contact the supervisor, department head or the Town Manager.

### Section 2. Other Optional Group Insurance Plans

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

### Section 3. Retirement

Each employee who is expected to work for the Town more than 1,000 hours annually shall join the North Carolina Local Governmental Employees' Retirement System (the "Retirement System") when eligible as a condition of employment. Employees contribute a percentage of their gross pay set by the Retirement System each month. The Town contributes an actuarially determined percentage of the gross payroll each month to the system.

### Section 4 Supplemental Retirement Benefits

The Town allows employees to defer a portion of their income before taxes into a 401K tax deferral plan and a 457 plan.

The Town provides contributions to a 401K plan for active law enforcement personnel and a monthly separation allowance to retired law enforcement officers as required in Chapter 143 Article 12E and Article 12D of the General Statutes of North Carolina.

#### Section 7. Unemployment Compensation

local governments are covered by unemployment insurance. Town employees who are terminated due to a reduction in force or released from Town service may apply for benefits through the local Division of Employment Security office, where a determination of eligibility will be made.

#### Section 8. Tuition Assistance Program

The Town shall continue to improve the level of service offered to its citizens by providing employees with training opportunities. The encouragement of education and training to improve job performance as well as increase the employee's knowledge, skills, and abilities for promotions within the Town shall be accomplished by means of a tuition assistance program and should be considered each year when funding is established for the upcoming budget. This benefit will be provided, as funding is made available. The maximum amount per fiscal year or semester shall be established in procedures distributed by the Town Manager. All requests for tuition assistance shall be approved prior to the employee beginning the course and the reimbursement shall occur only after the completion of the course and the submission of the required forms certifying a successful completion of the course with a grade of "C" or better.

Section 9 Leave Policy

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

Leave time, other than qualifying sick leave (See Article 7) will be taken in the following order of priority: Compensatory accrued hours, Holiday accrued hours, and Vacation accrued hours.

Section 10: Holidays

The following days, and other days as the Board of Commissioners may designate, are holidays with pay for employees and appointed officer of the Town working the basic workweek.

- |                |   |
|----------------|---|
| New Year's Day | Independence Day                                    |
| Good Friday    | Labor Day   |
| Memorial Day   | Thanksgiving Day & Day After                        |
|                | Christmas- See following Christmas Holiday Schedule |

The Town observes:

When Christmas Day Falls on:	Friday, Monday, Tuesday
Sunday	Monday, Tuesday, Wednesday
Monday	Monday, Tuesday, Wednesday
Tuesday	Tuesday, Wednesday, Thursday
Wednesday	Wednesday, Thursday, Friday
Thursday	Thursday, Friday, Monday
Friday	Friday, Monday, Tuesday
Saturday	

In order to be eligible for holiday pay, an employee must be in pay status for a full regularly scheduled workday before and after the holiday, unless excused by the Town Manager. Holiday Leave is Compensatory Time. Employees who accrue Holiday Leave hours must use their holiday leave within the same fiscal year (July 1 - June 30) in which the leave is accrued. On June 30, any holiday leave hours which were accrued during that fiscal year and not used will be rolled over to Sick Leave.

Section 11. Holidays: Effect on Other Types of Leave

Regular holidays that occur during a vacation, sick or other leave period of any appointed officer or employee of the Town shall not be considered as vacation, sick, or other leave.

Section 12. Holidays: Compensation When Work is Required

Employees required to perform work on regularly scheduled holidays may be granted compensatory time off paid at their hourly rate for hours actually worked in addition to any holiday pay to which they are entitled. Compensatory time shall be granted whenever feasible and should be taken within three months from the time it is earned, but in no case may it be taken after the next June 30, when it reverts to sick time as provided in Section 11. If a holiday falls on a regularly scheduled off-duty day for shift personnel, the employee shall receive the hours for paid holiday leave at another time subject to the June 30 time limit.

Section 13. Vacation Leave

Vacation leave should be used for rest and relaxation, and may be used for medical appointments. All vacation leave accumulated by an employee shall end and terminate without compensation when the employee resigns without notice (see Section 19 below) or is separated from the Town, except as stated for employees retiring or terminated due to reduction in force.

Section 14. Vacation Leave: Use by Probationary Employees

Employees serving a probationary period following **initial** employment may accumulate vacation leave but are not permitted to take vacation leave during the probationary period. Employees may take accumulated vacation leave after six months of service even if their probationary period extends beyond six months. Each full-time employee of the Town shall accrue vacation leave at the following schedule, pro-rated by the average hours in the workweek:

<b>Years of Service</b>	<b>Hours Per Month</b>	<b>Hours Per Year</b>	<b>Days Earned in One Year</b>
0 -2 years	6.67	80	10
2 - but less than 5 years	8	96	12
5 years but less than 10 years	10	120	15
10 years but less than 15 years	12	<b>144</b>	18
15 years plus	13.33	160	20



### Section 15. Vacation Leave: Maximum Accumulation

Vacation Leave may be accumulated without any applicable maximum until June 30 of each fiscal year. Employees may carry no more than 240 hours' vacation leave for regular employees. Effective the last payroll in the fiscal year, the excess accumulation of any employee with more than 30 days (240 hours) of accumulated leave shall be converted to sick leave.

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

### Section 16. Vacation Leave: Manner of Taking

Five or more consecutive days of annual leave may be granted upon a written request, by a designated supervisor. The supervisor will consider any potential disruption to the routine delivery of Town services in approving leave requests. Requests for four or fewer days of vacation leave may be approved by the supervisor. Supervisors are responsible for insuring that approved vacation leave does not hinder the effectiveness of service delivery.

### Section 17. Annual Leave: Payment upon Separation

An employee who has successfully completed the probationary period will normally be paid for accumulated vacation leave upon separation subject to a 30-day maximum, provided written notice is given to the supervisor at least two weeks in advance of the effective date of resignation (minimum of 30 days' notice for department heads). Any employee failing to give the written notice required by this section shall forfeit payment for accumulated leave. The notice requirement may be waived by the Town Manager when deemed to be in the best interest

of the Town. Any annual leave above the 30-day maximum will be transferred to sick leave. Employees who are terminated for cause are not eligible for payment of accumulated leave. Employees who resign without notice or who fail to work as scheduled through the period between giving notice and the end of employment are not eligible for payment of accumulated leave.

Section 18. Annual Leave: Payment upon Death

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

## **ARTICLE 7. LEAVES OF ABSENCE**

### **Section 1. Sick Leave**

Sick leave with pay is not a right that an employee may demand, but a privilege granted for the benefit of an employee when sick. Sick leave may be granted to an employee absent from work for any of the following reasons: sickness, bodily injury, required physical or dental examinations or treatment, or exposure to a contagious disease, when continuing work might jeopardize the health of others.

Sick leave may be used when an employee must care for a member of his or her immediate family who is ill but may not be used to care for healthy children when the regular caregiver is sick. Sick leave may also be used for death in the employee's immediate family but may not exceed three days for any one occurrence. Additional leave time required for such occurrence may be charged to annual leave.

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

"Immediate family" is defined as spouse, parent, guardian, children, sister, brother, grandparents, grandchildren plus the various combinations of half, step, in-law, and adopted relationships that can be derived from those named.

Notification of the desire to take sick leave should be submitted to the employee's supervisor prior to the leave or not later than 30 minutes before the beginning of the scheduled workday.

### **Section 2. Sick Leave: Accrual Rate and Accumulation**

Sick leave shall accrue at a rate of one day per month of service or twelve days per year. Sick leave for full-time employees working other than the basic work schedule shall be pro-rated. Sick leave will be cumulative for an indefinite period of time and may be converted upon retirement for service credit consistent with the provisions of the North Carolina Local Government Employees' Retirement System. All sick leave accumulated by an employee shall end and terminate without compensation when the employee resigns or is separated from the City, except as stated for employees retiring or terminated due to reduction in force.

### **Section 3. Transfer of Sick Leave from Previous Employer**

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

### **Section 4. Sick Leave: Medical Certification**

The employee's supervisor or the Town Manager may require a physician's certificate stating the nature of the employee or immediate family member's illness and the employee's capacity to

resume duties for each occasion on which an employee uses sick leave or whenever the supervisor observes a "pattern of absenteeism." The employee may be required to submit to such medical examination or inquiry as the department head deems desirable. The department head shall be responsible for the application of this provision to the end that:

- A. Employees shall not be on duty when they might endanger their health or the health of other employees; and
- B. 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.

#### Section 5. Leave Without Pay

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

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

#### Section 6. Family Medical Leave and Retention and Continuation of Benefits

**A. Introduction:** This section is divided into four sub-sections. Section D. contains the definitions applicable to this Section. The policy and procedures governing Traditional Family Medical Leave Act (FMLA) time off are found in Section B. & Section C covers Military FMLA rules and policies. Any questions should be sent to the Town Manager.

#### **B. Traditional FMLA**

- 1) Introduction to Family Medical Leave Act (Traditional). The Town will grant up to 12 weeks of family and medical leave during any 12-month period to eligible employees in accordance with the Family and Medical Leave Act. The leave may be paid (coordinated with the Town's Vacation and Sick Leave policies), unpaid, or a combination of paid and unpaid.
- 2) Eligibility for Traditional FMLA. To qualify for FMLA coverage, the employee must have worked for the Town 12 months or 52 weeks; these do not have to be consecutive. However, the employee must have worked 1,250 hours during the twelve-month period immediately before the date when the FMLA leave begins.

- 3) Qualifying Events for Requesting Traditional FMLA Leave. Family and medical leave can be used for the following reasons:
  - a) the birth of a child and in order to care for that child;
  - b) the placement of a child for adoption or foster care;
  - c) to care for a spouse, child, or parent with a serious health condition;
  - d) the serious health condition of the employee, including those related to pregnancy, childbirth and related medical conditions;
  - e) military exigency (See the Military FMLA section below); or
  - f) illness requiring an employee to be out of work three or more days.
- 4) FMLA leave is not paid by the Town; however, employees must use paid time off if they have any accrued.
- 5) Use of Accrued Leave for Traditional FMLA Leave. Federal regulations state employers must provide employees out of work with a qualifying traditional FMLA event unpaid leave. The Act does permit employers to require employees to use accrued leave of any form while out of work for traditional FMLA. The Town has elected to implement this requirement. Employees out of work for a traditional FMLA qualifying event must use any accrued paid time off including comp time, vacation, sick and holiday leave. Employees out of work on traditional FMLA leave will continue to accrue vacation and sick leave and paid holidays and will not experience a break in service for purposes of longevity and seniority
- 6) Accounting Period for Traditional FMLA Leave. The Town uses a rolling 12- month period to track traditional FMLA. This means an employee's traditional FMLA year will start with the first day an employee has a traditional FMLA - qualifying event and run 12 months beyond this date. The Town may designate any qualifying leave as traditional FMLA leave regardless of whether or not an employee fully complies with the policy. For example, the Town may designate leave traditional FMLA eligible without requiring a completed Medical Certification Form or consultation with a health care provider upon establishing the employee's absence is due to a traditional FMLA qualifying event. If an employee is absent from work for three (3) consecutive days due to a traditional FMLA qualifying event and has not notified his or her supervisor, the Town will, on the fourth day, deduct the previous three days missed from work and all other days the employee is out of work from his/her traditional FMLA leave.
- 7) Maintaining Benefits While on Traditional FMLA Leave. The Town will maintain health benefits under the same conditions as if the employee had continued working.
- 8) Payment of Benefits While on Traditional FMLA Leave. The Town will deduct the employee portion of the benefit premiums as regular payroll deductions. If traditional FMLA leave is unpaid due to a lack of accrued leave, the employee must make arrangements with Finance to pay the employee portion of the premiums. If premiums are not paid, coverage may lapse.
- 9) Notice of Leave/ Certification Required Recertification

- i. Requests for FMLA leave must be made in writing by the employee and approved by the Department Head and Town Manager.
- ii. Notice is required if the need for traditional FMLA leave is foreseeable. The employee must give their Supervisor and Department Head at least 30 days' prior written notice.
- iii. Where the need for traditional FMLA leave is not foreseeable, the employee or his or her designee shall notify their supervisor and Town Manager, on the next business day, or as soon as is practical.
- iv. Failure to comply with these notice requirements will be grounds for, and may result in, deferral or denial of the requested leave until the employee complies with these requirements. Family and Medical Leave application forms are available in Human Resources.
- v. Certification required. A U.S. Dept. of Labor, Wage and Hour Division Certification of Health Care Provider Form (WH-380-E if the leave is for the employee's personal serious. Health condition, WH-380-F if for an eligible family member's serious health condition) must be completed by a health care provider and submitted by the employee requesting traditional FMLA to the Town Manager.
- vi. The Medical Certification Form must be returned by the employee, if possible, to Town Manager within 15 calendar days after it is requested, or as soon as possible under the circumstances. If an employee submits a properly completed certification form after the 15- day deadline; designation of leave may be made retroactively.
- vii. If the Medical Certification Form is not satisfactory completed, the employee will be informed of the deficiencies and given seven (7) calendar days to return a completed form.
- viii. Failure to submit a complete and acceptable Medical Certification Form will be grounds for, and may result in, deferral or denial of the requested traditional FMLA leave. In which case time missed from work will be governed by the Town's normal attendance and leave policies.
- ix. The Town may request a second or third opinion regarding the employee's condition and treatment at the Town's expense.
- X. Recertification. Employees requesting an extension of traditional FMLA leave must provide a new Medical Certification Form substantiating the need for continued leave
  - xi. Recertification of Traditional FMLA Leave. An employee may be asked to recertify a serious health condition every 30 days (if the employee is absent during that period) for chronic/long-term illness or pregnancy. A recertification may be requested in fewer than 30 days if:
    - xii. the employee asks for extension of leave;
    - xiii. the employee's medical circumstances have changed; or
    - xiv. questions arise regarding the employee's traditional FMLA status (e.g., Mon./Fri. absences).

10) Employees returning to work from traditional FMLA leave will be returned to the same or an equivalent position held prior to the leave, unless the

position has ceased to exist because of business necessity. If the employee does not return to his or her original position or an equivalent one as soon as he or she is able, the Town will consider the employee to have voluntarily resigned

#### 11) Duration of Traditional FMLA Leave

- a) Eligible employees are entitled up to a cumulative maximum of 12 workweeks of traditional FMLA leave within a 12-month period. To determine eligibility, the traditional FMLA leave year will commence with the date an employee initially requests traditional FMLA or has a qualifying event.
- b) A husband and wife who both work for the Town are entitled to a combined total of 12 weeks leave in a 12-month period for the birth, adoption or foster care placement of their child, or to care for a parent with a serious health condition.
- c) 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 for the remainder of the 12-week period.
- d) Both the mother and father are entitled to take 12 work weeks of leave each to care for a seriously ill child. In certain cases, leave may be taken on an intermittent basis or the employee may work a reduced schedule.
- e) Intermittent leave must be certified by a health care provider and should be scheduled to avoid disruption of Town operations to the extent possible

#### 12) Extension of Traditional FMLA Leave.

- a) The Town may, at its discretion, approve an extension of traditional FMLA leave to an employee whose initial 12 weeks of leave is about to expire. Extensions will be based on the employee's medical progress and the ability of the department/division to maintain sufficient operations/staffing without the employee's services. Recertification of the employee's or family member for Requests for extension of traditional FMLA leave will be considered on a case-by-case basis.
- b) A meeting involving the department head and supervisor of the employee whose 12weeks FMLA is about to expire, and the Town Manager will be held at least 2 weeks prior to the employee's return to work date to determine the employee's eligibility for an extension.
- c) In no event shall an extension of traditional FMLA leave exceed an additional 12 weeks beyond the 12 weeks initially granted an employee for a total of 24 weeks.
- d) Employees requesting an extension of traditional FMLA leave beyond the 12 weeks provided by law must provide a new Medical Certification Form substantiating the need for continued leave.

#### 13) Return to Work After Traditional FMLA Qualifying Medical Leave

- a) Employees absent on medical leave are required to provide medical certification verifying their fitness to return to work to the Town Manager prior to reporting to their duty station. The Town Manager will notify the employee's supervisor that the employee is cleared to return to work. No employee returning to work from traditional FMLA

leave for his or her own medical condition may do so until clearance is issued by the Town Manager. Employees should contact the Town Manager for more information regarding return to work.

- b) Employees returning to work from traditional FMLA leave will be returned to the same or an equivalent position held prior to the leave, unless the position has ceased to exist because of business necessity. An equivalent position is a job with equivalent status, pay, benefits, and other employment terms, including a position that entails substantially equivalent skill, effort, responsibility, and authority. If the employee does not return to his or her original position or an equivalent one as soon as he or she is able, the Town will consider the employee to have voluntarily resigned.

#### 14) Supervisor Responsibilities

- a) Supervisors must report the names of all employee absences three (3) consecutive days from work to their Department Head and Town Manager. These employees will be required to receive clearance from the Town Manager upon returning to work to return to duty.
- b) Should an employee be out of work three (3) consecutive days without notifying the supervisor regardless of the reason the employee will be terminated.
- c) Supervisors are also required to send to the Human Resources Manager copies of all employee time cards out of work under traditional FMLA leave for monitoring purposes.
- d) Supervisors shall require employees returning to work from traditional FMLA leave for their personal health condition to receive clearance from the Town Manager prior to permitting them to resume work.
- e) The amount of time employees are out of work as the result of an injury covered under Workers' Compensation will be deducted from their traditional FMLA leave.
- f) Supervisors are required to submit copies of employee time cards with traditional FMLA time clearly designated for days missed from work to Town Manager for record keeping purposes.

#### C. Military FMLA

- 1) Qualification: To qualify for leave under the Military FMLA provisions, an employee must be eligible for traditional FMLA leave and be:
  - a) either the parent, spouse, son or daughter of a service member in the National Guard or a Reserve component of the Armed Forces, or of an Armed Forces retiree, who is on active duty (or has been notified of an impending call or order to active duty) in the Armed Forces in support of a contingency operation; or
  - b) the spouse, son, daughter, parent, or next of kin of a covered service member undergoing medical treatment, recuperation, or therapy, who is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness.



- 2) Town Policy. Under Military FMLA, the Town provides eligible employees with:
  - a) up to 12 workweeks of unpaid, job-protected leave in a 12-month period because of a qualifying exigency (call to duty), or
  - b) up to 26 workweeks of leave for eligible employees within a single 12-month period to care for a covered service member with a serious illness or injury.

Unless specifically stated otherwise, procedures, notices and rights and responsibilities stated above as part of the Town policy for traditional FMLA apply to Military FMLA.

- 3) Reasons for Leave. Eligible employees may take leave for any of the following reasons:
  - a) because of any qualifying exigency arising from son, daughter, spouse, or parent of the employee on active duty (or has been notified or an impending call or order to active duty) in the Armed Forces in support of contingency operation; or
  - b) to care for a covered service member or veteran at: With a serious injury or illness if the employee is the spouse, son, daughter, parent, or next of kin (nearest blood relative) of the covered service member. This leave does not cover relatives or veterans or service members on permanent disability.

- 4) Who Is the Covered Service member?

A covered service member (including veterans) is one who is undergoing medical treatment, recuperation, or therapy, who is otherwise in outpatient status, or is otherwise on the temporary disability retired list for a serious injury or illness. The serious injury or illness is covered if it was incurred while in the line of duty and renders the service member medically unfit to perform his/her military duties. The Town will rely on authorized health care providers or designated officials in the Department of Defense to determine whether the service member is deemed a covered service member.

- 5) Notice of Leave.

When the need for leave because of a qualifying exigency related to a family member's active duty is "foreseeable," the employee should provide notice as soon as practicable, regardless of how far in advance such leave is foreseeable. When an employee becomes aware of a need for Military FMLA leave less than 30 days in advance, the employee should provide notice by the next business day. As soon as practicable means as soon as both possible and practical, taking into account all of the facts and circumstances in the individual case.

When military caregiver leave is requested, as with traditional FMLA, an employee must provide the Town at least 30-days notice before Military FMLA leave is to begin if the need for the leave is foreseeable. If 30 days' notice is not practicable, notice must be given as soon as practicable. A Certification of Qualifying Exigency for Military Family leave (FMLA) Form (WH-384) is available from the Town Manager.

6) Eligibility Notice/Rights and Responsibilities

Employees will receive from the Town a Notice of Eligibility and Rights & Responsibilities (FMLA) Town when requesting Military FMLA leave as is given under traditional FMLA. The Town will provide employees who request Military FMLA leave with the Certification of Qualifying Exigency for Military Family Leave [Form WH-384] or Certification for Serious Injury or Illness of Covered Service Member Form (WH-385) as appropriate.

7) Certification for Leave Taken Because of a Qualifying Exigency

The first time an employee requests leave because of a qualifying exigency, the employee must provide a copy of the covered military member's active duty orders or other documentation issued by the military indicating the covered military member is on active duty or called to active duty status in support of a contingency operation and the dates of the covered military member's active duty service. The employee will need to supply such documentation again only for a different active duty or call to active duty status of the same or a different covered military member. A Certification of Qualifying Exigency for Military Family Leave [Form WH-384] is available in Human Resources and includes a list of approved qualifying exigencies. A completed certification form is required to be granted this leave. The Town also may contact an appropriate unit of the Department of Defense to request verification that a covered military member is on active duty or call to active duty status, without the employee's permission. The Town may also require confirmation of the employee's relationship with the service member at any time during this process.

8) Certification for Military Caregiver Leave

- a) When an employee takes leave to care for a covered service member with a serious injury or illness, the Town will require the employee to obtain a certification completed by an authorized health care provider of the service member. The Certification for Serious Injury or Illness of Covered Service member [Form WH-385] is available in Human Resources.
- b) A completed Covered Servicemember form is required to be granted this leave. The Town may require confirmation of the employee's relationship with the covered service member at anytime in this process. In lieu of any certification, the Town will accept "invitational travel orders" ("ITOs") or "invitational travel authorizations" ("**ITAs**") issued to any family member to join an injured or ill service member at his or her bedside, regardless of whether the employee is named in the order or authorization. An ITO or ITA is sufficient certification for the duration of time specified in the ITO or ITA. During that time period, an eligible employee may take leave to care for the covered service member in a continuous block of time or on an intermittent basis.
- c) The Town may seek authentication and clarification of the ITO or ITA but will not seek a second or third opinion or a recertification during the period of time in which leave is supported by an ITO or ITA. If an employee will need

leave to care for a covered service member beyond the expiration date specified in an ITO or ITA, the Town will request that the employee have one of the authorized health care providers complete a certification form for the additional time. Timelines designated under the traditional FMLA leave policy will apply for return of such certifications. In all instances in which certification is requested, it is the employee's responsibility to provide the Town with complete and sufficient certification. Failure to do so may result in the delay or denial of Military FMLA leave. The Town may seek authentication and/or clarification of the Certification Form but will not seek second and third opinions, or recertification for Military FMLA leave.

9) Duration of Military FMLA

- a) Eligible employees using qualifying exigency leave will be entitled up to a cumulative maximum of 12 workweeks of traditional FMLA leave within a 12-month period and are covered by the same policy provisions (i.e. Duration, Benefits, Return to Work, etc.) as employees requesting traditional FMLA leave, as detailed above.
- b) Employees using military caregiver leave alone or military caregiver leave in combination with traditional FMLA qualifying leave or qualifying exigency leave, may take up to 26 workweeks of leave during any single 12-month period. The amount of leave taken for traditional FMLA or qualifying exigency is limited to a total of 12 workweeks; the difference may be taken as military caregiver leave. The 26 workweeks of military caregiver leave begins with the first day leave is taken and can run forward until the end of that 12-month period. Any combination of traditional FMLA and Military FMLA leave may not exceed the maximum limit of 26 workweeks in a single 12-month period. Unused military caregiver leave is forfeited at the end of that 12-month period.
- c) With regard to the military caregiver leave, if both husband and wife work for the Town, a husband's and wife's leave is limited to a combined total of 26 work weeks for military caregiver leave alone. In certain cases, leave may be taken on an intermittent basis or the employee may work a reduced schedule. Intermittent leave must be necessary and should be scheduled to avoid disruption of Town operations to the extent possible.

The FMLA Certification for Serious Injury or Illness of Covered Service member - for Military Family Leave Form (WH-385) is available from the Town Manager.

**D. Definitions**

- 1) "Military Exigency" is a qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is a member of the Armed Forces (including Reserve or National Guard) under a call or order to federal active duty or has been notified of an impending call or order to covered active duty. Qualifying exigency events include, but are not limited to:
  - a) Deployment of service member with seven or fewer days' notice; or
  - b) Military ceremonies and events such as family-assistance or informational programs related to the family member's active duty or call to active duty; or

- c) Urgent, immediate childcare or arranging the alternative childcare for the children of service members; or
  - d) Attending school or daycare meetings relating to the child of service member; or
  - e) Making financial or legal arrangements related to a family member's active duty status or call to active duty; or
  - f) Post-deployment activities for a period of ninety days after the termination of the service member's active duty status; or
  - g) Taking up to fifteen calendar days of leave to spend with a military member who is on short-term, temporary rest and recuperation leave during deployment; or
  - h) Attending counseling for the employee, military member or child of the military member when the need for that counseling arises from the covered active duty of the military member and is provided by someone other than a health care provider.
- 2) **Military Caregiver Leave:** An employee whose spouse, son, daughter, parent or next of kin is a current service member or covered veteran who is undergoing treatment, therapy, recuperation or outpatient treatment or has temporary disability retirement for injury or illness sustained in the line of duty is eligible for 26 weeks of leave in a single 12-month period. During a single 12-month period, the employee is eligible for a total of 26 weeks of all types of FMLA leave.
- 3) **Family Medical Leave Act (Military):** The amended FMLA provides up to 26 work weeks of leave during a single 12-month period to care for a covered service member with a serious injury or illness occurring while on active duty if the employee is the spouse, child, parent or next-of-kin of the service member. "Serious health condition" is defined as a condition that requires inpatient care at a hospital, hospice, or residential medical care facility, or a condition that requires continuing care by a licensed health care provider. This policy covers illness of a serious and long-term nature resulting in recurring or lengthy absences. Generally, a chronic or long-term health condition that results in a period of incapacity or more than three days would be considered a serious health condition

### Section 7. Workers' Compensation Leave

An employee absent from duty because of sickness or disability covered by the North Carolina Workers' Compensation Act may elect to use accrued sick or annual leave or compensatory time during the first waiting period. The employee may also elect to supplement workers' compensation payments after they begin provided that the combination of leave supplement and workers' compensation payments does not exceed normal compensation. An employee on workers' compensation leave may be permitted to continue to be eligible for benefits under the Town's group insurance plans.

The Workers' Compensation Leave will also be counted against the twelve (12) weeks of leave under the provisions of the Family and Medical Leave Act.

## Section 8. Military Leave:

- A. **For Annual Training:** Regular employees who are members of an Armed Forces Reserve organization or National Guard shall be granted ten workdays per year for military leave without pay. On rare occasions due to vacation training being scheduled on a federal fiscal year basis, an employee may be required to attend two periods of training in one calendar year. For these purposes only, employees shall be granted an additional ten days of military leave during the same calendar year. The days off from the Town of Pikeville will be unpaid, as the employee is receiving payment from their military branch. However, if the compensation received while on military leave is less than the salary that would have been earned during this same period as a Town employee, the employee shall receive partial compensation equal to the difference in the base salary earned during this same period as a Town employee. The effect will be to maintain the employee's salary at the normal level during this period. If such duty is required beyond these ten workdays, the employee shall be eligible to take accumulated vacation leave or be placed in a leave without pay status, and the provisions of that leave shall apply. While taking military leave without pay or with partial pay, the employee's leave credits and other benefits shall continue to accrue as if the employee physically remained with the Town during this period. Employees who are eligible for military leave have all job rights specified by the Uniformed Services Employment and Reemployment Rights Act (USERRA) and the Vietnam Veterans Readjustment Act.
- B. **Health Care for Service Members.** Individuals performing military duty of more than 30 days may elect to continue employer sponsored health care for up to 24 months; however, they may be required to pay up to 102 percent of the full premium. For military service of less than 31 days, health care coverage is provided as if the service member had remained employed. USERRA pension protections apply to defined benefit plans and defined contribution plans as well as plans provided under federal or state laws governing pension benefits for government employees. For purposes of pension plan participation, vesting, and accrual of benefits, USERRA treats military service as continuous service with the employer.

## Section 9. Reinstatement Following Military Service.

An employee called to extended active duty with the United States military forces, who does not volunteer for service beyond five years (some exceptions apply), shall be reinstated with full benefits in the job they would have attained had they not been absent for military service, provided the employee:

- A. Applies for reinstatement within ninety days after the release from military service (Reporting and application deadlines may be extended for up to two years from the date of completion of military service for persons who are hospitalized or convalescing because of an injury or illness occurring or aggravated during military service; and
- B. Is able to perform the duties of the former position or similar position; or
- C. Is unable to perform the duties of the former position or a similar position due to disability sustained as a result of military service but is able to perform the duties of another position in the service of the Town. In this case the employee shall be

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

#### Section 10. 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 appeal in connection with official duties. While on civil leave, benefits and leave shall accrue as though on regular duty.

#### Section 11. Educational Leave with Pay

A leave of absence at full or partial pay during regular working hours may be granted to an employee to take one course which is only offered during working hours and will better equip the employee to perform assigned duties upon the recommendation of the Department Head, and with the approval of the Town Manager.

#### Section 12. Adverse Weather

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

The Town's adverse weather conditions policy is established to be as fair as possible to all employees applying the following principles:

- A. Maintain adequate staffing at all times of emergency services;
- B. Provide for as much safety as possible for all employees in traveling to and from work in hazardous conditions; and
- C. Not pay regular salaries to some employees for *not working* when others are required to be at work.

Town offices and departments shall remain open for the full scheduled working day unless authorization for closing or other deviation is received from the Town Manager's office. The Manager will consider the hazard of driving conditions and other relevant factors in determining whether to close Town offices. All departments and offices will be given sufficient advance notice (to the extent possible) of any authorized closing of non-critical Town functions. Employees who leave work with permission before an official early closing time, as well as employees who report for work late or do not report for work because of hazardous conditions when Town offices are not closed may also use earned vacation or compensatory leave for days or hours not worked.

## **ARTICLE 8. 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 a resignation and the effective date in writing to the immediate supervisor as far in advance as possible. In all instances, the minimum notice requirement is two weeks. Failure to provide minimum notice shall result in forfeit of payment for accumulated vacation leave unless the notice is waived upon recommendation of the supervisor and approval by the Town Manager. Thirty days' notice is expected of department heads.

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

### 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, the needs of the organization in determining those employees to be retained. Employees who are separated because of a reduction in force shall be given at least two weeks' notice of the anticipated action. No regular employee shall be separated 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 required duties because of a physical or mental impairment may be separated for disability. Action may be initiated by the employee or the Town. In all cases, such action must be accompanied by medical evidence acceptable to the Town Manager. The Town may require an examination, at the Town's expense, performed by a physician of the Town's choice.

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

### Section 5. Voluntary Retirement

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

### Section 6. Death

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

### Section 7. Dismissal.

An employee may be dismissed in accordance with the provisions and procedures of Article 9.

### 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 supervisor and approval of the Town Manager. An employee who is reinstated in this manner shall be re-credited with his or her previously accrued sick leave and rate of accrual of vacation.

### Section 9. Rehiring

An employee who resigns while in good standing may be rehired with the approval of the Town Manager. If the employee is rehired to the employee's previous position within one year of the date the employee resigned while in good standing: (1) An employee will not be regarded as a new employee and will not have to serve a probationary period; and (2) will retain all benefits that the employee enjoyed prior to resignation, including vacation and sick leave as stated in Section 8, Reinstatement.



## **ARTICLE 9. JOB PERFORMANCE AND 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 that are not performed as required to meet the standards set by the supervisor. Examples of unsatisfactory job performance include, but are not limited to, the following:

- A. Demonstrated inefficiency, negligence, or incompetence in the performance of duties;
- B. Careless, negligent or improper use of Town property or equipment;
- C. Physical or mental incapacity to perform duties after reasonable accommodation;
- D. Absence without approved leave;
- E. Improper use of leave privileges;
- F. Failure to report for duty at the assigned time and/or place;
- G. Failure to complete work within time frames established in work plan or work standards;
- H. Failure to meet work standards over a period of time;
- I. Failure to follow the chain of command to address work-related issues; or
- J. Failure to maintain certifications required to perform the job; or
- K. Violation of any Safety Manual or policy adopted by the Board of Commissioners or Town Manager, or North Carolina or U.S. law or regulation governing workplace safety, as typically but not exclusively found in the Occupational Safety and Health Acts and regulations.

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 should meet with the employee as soon as possible in one or more counseling sessions to discuss specific performance problems. A brief written summary of these counseling sessions shall be placed in the employee's file by the supervisor.

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

- A. 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.
- B. If performance does not improve, a written recommendation should be sent to the Department Head, or Town Manager (as appropriate) for disciplinary action such as suspension, demotion, or dismissal.

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 personal property; or 3) for other serious reasons.

Section 5. Detrimental Personal Conduct Defined

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

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

- A. Fraud or theft;
- B. Conviction of a felony or the entry of a plea of nolo contendere thereto;
- C. Falsification of records for personal profit, to grant special privileges, or to obtain employment;
- D. Willful misuse or gross negligence in the handling of Town funds;
- E. Willful or wanton damage or destruction to property;

- F. Willful or wanton acts that endanger the lives and property of others;
- G. Possession of unauthorized firearms or other lethal weapons on the job;
- H. Brutality in the performance of duties;
- I. Reporting to work under the influence of alcohol or drugs or partaking of such while on duty. Prescribed medication may be taken within the limits set by a physician as long as medically necessary;
- J. Engaging in incompatible employment or serving a conflicting interest;
- K. Request or acceptance of gifts in exchange for favors or influence;
- L. Engaging in political activity prohibited by this Policy;
- M. Harassment of an employee or the public with threatening or obscene language and/or gestures;
- N. Harassment of an employee(s) and/or the public on the basis of sex or any other protected class status; or
- O. Stated refusal to perform assigned duties or flagrant violation of work rules and regulations; or
- P. Personal use of Town equipment, vehicle or supplies, unless otherwise permitted and authorized by the Town Manager in writing; or
- Q. Failure to report changes in a driver's license status or convictions of motor vehicle citations, or;
- R. Discourteous treatment of the public or other employees; or
- S. Willfully concealing or misrepresenting the truth by an act or speech, or failing to so act; or
- T. Failure to follow the Town's rules on dress, appearance and/or hygiene; or
- U. Retaliation against any employee or harassment of any employee who files a grievance or complaint as permitted by this Policy or the laws of North Carolina and the United States; or
- V. Making an audio or video recording or photograph(s) of another employee, either overtly or covertly, except: i) without the permission of that employee, or ii) in the performance of assigned law enforcement duties by sworn law enforcement officers, or iii) upon the written order of the employee's department head and Town Manager.

## Section 6. Disciplinary Actions to Follow Chain of Command

Disciplinary action can occur at any level with the chain of command. Appeals shall only move upward from the point of action taken or complained of, except when the next person up the chain of command is accused of an improper act, in which case the harassment policy applies.

## Section 7. Pre-Disciplinary Conference

Before any demotion or dismissal action is taken, whether for failure in personal conduct or failure in performance of duties, the supervisor shall provide the employee with a written notice of proposed disciplinary action, which will include the nature of the proposed action, its recommended effective date, the reasons for the action, and a date and time for a pre-disciplinary conference. At this conference, the employee may present any response to the proposed disciplinary action to the supervisor. The supervisor will consider the employee's response, if any, to the proposed disciplinary action, and will, within three working days following the pre-disciplinary conference, notify the employee in writing of the final decision after obtaining approval from the Town Manager. The notice of the final disciplinary action shall contain a statement of the reasons for the action and the employee's appeal rights. The Town Manager will be provided with a written notice of action taken.

## Section 8. 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, the supervisor, with the approval of the Town Manager, may suspend the employee for the duration of the proceedings as a non-disciplinary action. In such cases, the Town Manager may:

- A. 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
- B. Assign the employee new duties and responsibilities and allow the employee to receive such compensation as is in keeping with the new duties and responsibilities.

If the employee is reinstated following the suspension such employee shall not lose any benefits to which otherwise 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 leave and sick leave shall be maintained during the period of suspension.

## Section 9. Appeals

An employee wishing to appeal a reprimand, a demotion, a suspension, or a dismissal may present the matter using the grievance procedures prescribed in Article 10.

## **ARTICLE 10. GRIEVANCE PROCEDURE AND ADVERSE ACTION APPEAL**

### **Section 1. Policy**

The grievance procedure is designed to ensure an employee or group of employees a fair impartial and prompt consideration of a problem or dissatisfaction without fear of reprisal. The procedure also encourages employees at all levels to express themselves regarding conditions of work.

The grievance procedure is intended to promote better understanding of policies, practices, and procedures; to instill confidence in employees that fair and impartial treatment will be received; and develop in supervisors a continuing sense of responsibility for maintaining effective working relationships with employees. All employees, including supervisors and department heads, are expected to discuss their problems and concerns with higher management levels. Open two-way communication is a proven factor in reducing and resolving grievances.

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

### **Section 2. Computation of Time/Occurrence of Events**

The first day of an action shall not be counted in the computation of time. For example, if an action is required in "five days", the first day shall be the day after the action taken or complained about.

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

The last step initiated by an employee shall be considered to be the step at which the grievance is resolved. A decision to rescind a disciplinary suspension, demotion or dismissal must be approved by the Town Manager before the decision becomes effective.

### **Section 3. Grievance Defined**

A grievance is a claim or complaint by an 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.

Grievances include all claims and complaints about harassment.

### **Section 4. Procedures**

Grievances can occur at any level with the chain of command. Grievances shall only move upward from the point of action complained of, except when the next person up the chain of

command is accused of an improper act, in which case the complaint shall be brought to the Town Manager.

When an employee or group of employees feels the need to resolve a work-related problem, dissatisfaction or complaint, the following procedure is available:

- A. **informal Resolution.** Before filing a formal grievance, the employee (or group of employees) and supervisor shall discuss the problem and seek to resolve it informally. Either the employee or the supervisor may involve the respective department head or the Town Manager as a resource to help resolve the grievance. The employee must request this meeting within five calendar days of the event or working condition occurring. (Ongoing conditions are not subject to this deadline.)

If the employee is grieving a disciplinary action already discussed with the supervisor, the meeting is encouraged, but not mandatory.

Exception. If an employee alleges harassment by the immediate supervisor, an informal discussion will not be required, and the employee may file the report with the Town Manager, who will initiate a grievance on behalf of the employee.

## **B. Formal Grievance**

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

### *Step 1: Immediate Supervisor*

The first step of the formal grievance procedure is for the employee (including all supervisors) to file a written notice with the employee's immediate supervisor, unless the employee is complaining of his or her supervisor, in which case the grievance may be made to the next highest supervisor in the chain of command. (Nothing in this section prevents an employee from appealing harassment as provided in Section 6 below.) This notice must be filed within five working days of the employee's meeting with the supervisor to discuss the issue or, in a discipline case where no further meeting was held, five working days from receipt of the notice of discipline. An employee shall file a written notice with the supervisor within fifteen working days from receipt of a final discipline action, or from a final determination in cases of demotion, suspension, or termination.

Grievances must be filed in writing, stating the problem or complaint and what solution or remedy the employee desires.

The supervisor shall investigate the matter and respond in writing to the employee within five working days of receipt of the formal grievance. The response shall be signed by the supervisor. In addition, the employee shall sign a copy to acknowledge receipt thereof. The grievance and the supervisor's response should be forwarded to the Town Manager by the supervisor.

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.

*Step 2: Department Head*

If the grievance is not resolved to the satisfaction of the complaining party, the employee may proceed to Step 2. The employee must file a written request to proceed to this level with the Department Head. The grievance must be filed within five working days of receiving the supervisor's written response. This written request must state the area of disagreement with the supervisor's response at Step 1 and must state the requested remedy or solution desired by the employee.

The Department Head shall review the issues in the grievance, meet with the employee, and respond in writing to the employee within five working days of the meeting. The grievance and the Department Head's response shall be forwarded to the Town Manager by the Department Head.

*Step 3: Town Manager*

If the grievance is not settled or resolved to the satisfaction of the complaining party at Step 2, the employee may proceed to Step 3, the Town Manager. The employee shall file the grievance in writing with the Town Manager within five working days of receipt of the Department Head's written response. As in previous steps, the employee shall be specific as to the solution or further remedy desired and any concerns about the particular points of disagreement with the supervisor's and the Department Head's responses.

The Town Manager shall schedule a hearing with the employee and a representative from the department. If a hearing is scheduled, the Town Manager shall respond in writing to the employee within ten working days of the hearing date. As in previous steps, the time limits for either party to the grievance may be waived by mutual consent.

The Town Manager's response is final. Non-appealable grievances include:

- 1) Appeals of adopted Town or departmental policies themselves (inconsistent or unfair application of policies is appealable); and
- 2) Grievances alleging improper position classification and salary grades.

Section 5. Mediation Option

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 both parties. Mediators may not be elected officials of the Town. In the case of department heads or other employees where the Town Manager has been significantly involved in determining disciplinary action, including dismissal, the Town may wish to obtain a neutral outside party to either:

- A. Provide mediation between the grieving department head and the Town Manager {see definition of mediation in "Section 3" above); or
- B. Consider an appeal and make recommendations back to the Town Manager concerning the appeal. Such parties might consist of human resource professionals, attorneys trained in mediation, mediators, or other parties appropriate to the situation.

Section 6. Role of the Town Manager in the Grievance Process Throughout

the grievance procedure, the Town Manager shall:

- A. Advise parties (including employee, supervisors, and department heads) of their rights and responsibilities under this policy, including interpreting the grievance and other policies for consistency of application:
- B. Be a clearinghouse for information and decisions in the matter including maintaining files of all grievance documents;
- C. Give notices to parties concerning timetables of the process, etc.;
- D. Assist employees and supervisors in drafting statements;
- E. Facilitate the resolution of conflicts in the procedures or of the grievance at any step in the process; and
- F. Help locate mediation or other resources as needed; and
- G. Shall also determine whether or not additional time shall be allowed to either side in unusual circumstances if the parties cannot agree upon extensions when needed or indicated.

Section 7. Grievance and Adverse Action Appeal Procedure for Discrimination or Harassment

When an employee, former employee, or applicant believes that any employment action discriminates illegally (i.e. is based on age, sex, race, color, national origin, religion, creed, political affiliation, gender orientation or disability), he or she has the right to appeal such action using the grievance procedure outlined in this policy. While such persons are encouraged to use the grievance procedure, they shall have the right to appeal directly to the department head and/ or the Town Manager.

Employment actions subject to appeal because of discrimination include promotion, training, classification, pay, disciplinary action, transfer, layoff, failure to hire, or termination of employment. An employee or applicant should appeal an alleged act of discrimination as soon as possible, ideally within thirty calendar days of the alleged discriminatory action. The Town Manager will insure that an investigation is conducted into any



allegation of harassment and advise the employee and appropriate management officials of the outcome of the investigation. Employees witnessing harassment shall also report such conduct to an appropriate Town official.

Section 8. Back Pay Awards

The Town Manager may award back pay and benefits to reinstated employees in suspension, demotion, dismissal and discrimination cases.

## ARTICLE 11. PERSONNEL RECORDS AND REPORTS

### Section 1. Public Information

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

- A. Name;
- B. Age;
- C. Date of original employment or appointment to the service;
- D. The terms of any contract by which the employee is employed whether written or oral, past or current, to the extent the Town has the written contract or a record of the oral contract in its possession;
- E. Current position title;
- F. Current salary;
- G. Date and amount of each increase or decrease in salary;
- H. Date and type of each promotion, demotion, transfer, suspension, separation, or other change in position classification;
- I. Date and general description of the reasons for each promotion;
- J. Date and type of each dismissal, suspension, or demotion for disciplinary reasons. If the disciplinary action **was a** dismissal, a copy of the written notice of the final decision setting forth the specific acts or omissions forming the basis of the dismissal; and
- K. The office to which the employee is currently assigned.

Any person may have access to this information for 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.

### 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:

- A. 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.
- B. A licensed physician designated in writing by the employee may examine the employee's medical record.
- C. A Town employee having supervisory authority over the employee may examine all material in the employee's personnel file.
- D. By order of a court of competent jurisdiction, any person may examine all material in the employee's personnel file.
- E. An official of an agency of the State or Federal Government, or any political subdivision of the State, may inspect any portion of a personnel file when such

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

- F. An employee may sign a written release to be placed 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.
- G. The Town Manager, with the concurrence of the 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.
- H. The Board of Commissioners may permit access, subject to limitations they may impose, to selected personnel files by a professional representative of a training, research, or academic institution if that person certifies that he will not release information identifying the employees whose files are opened and that the information will be used solely for statistical, research, or teaching purposes. This certification shall be retained by the town as long as each personnel file examined is retained.
- I. Even if considered part of an employee's personnel file, the following information regarding any sworn law enforcement officer shall not be disclosed to an employee or any other person, unless disclosed in accordance with G.S. 132-1.4, or in accordance with G.S. 132-1.10, or for the personal safety of that sworn law enforcement officer or any other person residing in the same residence:
  - 1) Information that might identify the residence of a sworn law enforcement officer;
  - 2) Emergency contact information; or
  - 3) Any identifying information as defined in G.S. 14-113.20.

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

### Section 3. Personnel Actions

The Town Manager will prescribe necessary forms and reports for all personnel actions and will retain records necessary for the proper

administration of the personnel system. The official personnel files are those which are maintained by the Town Manager's Office. These files shall contain documents such as employment applications and related materials, records of personnel actions, documentation of employee warnings, disciplinary actions, performance evaluations, retirement and insurance records, letters of recommendation, and other personnel-related documents.

#### Section 4. Records of Former Employees

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

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

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

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

General Statute §160A-168 provides that any public official or employee who knowingly, willfully and with malice permits any person to have access to any confidential information contained in an employee personnel file, except as expressly authorized by the designated custodian and statute, is guilty of a Class 3 misdemeanor and upon conviction shall only be fined in an amount not more than five hundred dollars (\$500.00).

#### 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 Class 3 misdemeanor and upon conviction shall only be fined in the discretion of the Court not in excess of five hundred dollars (\$500.00).

#### Section 8. Destruction of Records Regulated

No public official may destroy, sell, loan, or otherwise dispose of any public record, except in accordance with G.S. §121-5, without the consent of the State Department of Cultural Resources. Whoever unlawfully removes a public record, 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 § 132-3 of the General Statutes.

## **ARTICLE 12. 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. Severability**

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

### **Section 3. Effective Date**

These policies shall become effective on a date approved by the Board of Commissioners.

