

The Town of Smithfield

Employee Handbook

July 1, 2008
Annual Revision



This Handbook belongs to:

Dear Employee:

The Town of Smithfield Personnel Regulations Handbook, July 1, 2008 Revision, includes all Personnel Regulations. This handbook does not constitute an employment contract, expressed or implied. The Town Council and Administration of the Town want to insure that each employee has in his or her possession a copy of the laws governing employment with the Town of Smithfield.

It is important that all employees understand and adhere to the regulations set forth in this handbook. For this reason, you, as an employee, will be asked to sign a departmental sheet which means that you have received the handbook and are aware that it is your responsibility to review the policies established there and if any questions arise in relation to the regulations or employment, it is your responsibility to ask your supervisor, Department Head or myself.

Debra W. Godwin
Town Clerk/HR Director

Disclaimers:

- The handbook does not create a contract, expressed or implied.
- The handbook is not all inclusive, and is only a set of guidelines.
- The handbook does not guarantee employment for any definite period of time.
- The handbook can be changed by the Town of Smithfield unilaterally, at any time.

Revisions:

1999, January 2000, January 2003, October 2004, July 2006, July 2007, July 2008

TOWN OF SMITHFIELD PERSONNEL POLICY

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

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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 City Manager. This policy is established under authority of Chapter 160A, Article 7, of the General Statutes of North Carolina.

Section 2. At Will Employment

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

Section 3. Merit Principle

All appointments and promotions shall be made solely on the basis of merit. All positions requiring the performance of the same duties and fulfillment of the same responsibilities shall be assigned to the same class and the same salary range.

- a. Applicants and employees shall be assured of fair treatment in all aspects of personnel administration, regardless of race, color, creed, religion, sex, national origin, political affiliation, handicap/non-disqualifying disability, veteran status or age.
- b. Individuals shall be treated with proper regard for their privacy and constitutional rights as citizens.
- c. Employees shall be recruited, selected, trained and advanced on the basis of their ability to perform essential functions, knowledge, skill, and performance.
- d. Employees shall be retained on the basis of adequacy of their performance. They shall be guided in ways to correct inadequate performance and separated from employment when inadequate performance cannot be corrected.
- e. Employees shall receive suitable and adequate pay and benefits and all positions requiring performance of the same duties and fulfillment of the same responsibilities shall be assigned to the same classification and the same salary range.
- f. Eligible employees shall receive merit pay increases based on the quality of their performance, subject to the availability of funds.
- g. Employees shall be protected against coercion for political purposes.
- h. Every reasonable effort to accommodate applicants and employees with disabilities will be made as long as the accommodation is not an undue financial hardship to the Town.

Section 4. Responsibilities of the Town Council

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

Section 5. Responsibilities of the City Manager

The City Manager shall be responsible to the Town Council for the administration and technical direction of the personnel program. The City Manager shall appoint, suspend, and remove all Town employees except those whose appointment is otherwise provided for by law. The City 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 City Manager shall supervise or participate in:

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

Section 6. Application of Policies, Plan, Rules, and Regulations

The personnel policy and all rules and regulations adopted pursuant thereto shall be binding on all Town employees. The City Manager, Town Attorney, members of the Town Council and advisory boards and commissions will be exempted except in sections where specifically included. An employee violating any of the provisions of this policy shall be subject to appropriate disciplinary action, as well as prosecution under any civil or criminal laws which have been violated.

Section 7. Departmental Rules and Regulations

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

Section 8. Definitions

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

Full-time employee. An employee who is in a position for which an average work week equals at least 40 hours, and continuous employment of at least six (6) months, are required by the Town.

Part-time employee. An employee who is in a position for which an average work week of at least 20 hours and less than 40 hours and continuous employment of at least six (6) months are required by the Town.

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

Temporary employee. An employee appointed to a position for which either the average work week required by the Town over the course of a year is less than 20 hours, or continuous employment required by the Town is less than 12 months.

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

ARTICLE II. POSITION CLASSIFICATION PLAN

Section 9. Purpose

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

Section 10. Composition of the Position Classification Plan

The classification plan shall consist of:

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

- b. Case 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 11. Use of the Position Classification Plan

The classification plan is to be used:

- a. As a guide in recruiting and examining applicants for employment;
- b. In determining lines of promotion and in developing employee training programs;
- c. In determining salaries 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 12. Administration of the Position Classification Plan

The City 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 City Manager shall periodically review portions of the classification plan and recommend appropriate changes to the Town Council.

Section 13. Adoption of the Position Classification Plan

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

Section 14. Request for Reclassification

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

ARTICLE III. THE PAY PLAN

Section 15. Definition

The pay plan includes the basic salary schedule and the "Assignment of Classes to Grades and Ranges" adopted by the Council. The salary schedule consists of steps for minimum or

beginning, maximum, and intervening rates of pay for all classes of positions, and a designation of the standard hours in the work week for each position.

Section 16. Administration and Maintenance

The City 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 private and public employment in the area, changes in the cost of living, the financial conditions of the Town, and other factors. To this end, each budget year, the City Manager shall make comparative studies of all factors affecting the level of salary ranges including the consumer price index, anticipated changes in surrounding employer plans, and other relevant factors, and will recommend to the Town Council such changes in salary ranges as appear to be pertinent. Such changes shall be made in the salary ranges such that the hiring rate, all intervening rates and the maximum change according to the market.

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

Section 17. Starting Salaries

All persons employed in positions approved in the position classification plan shall be employed at the hiring salary for the classification in which they are employed; however, exceptionally well qualified applicants may be employed at 5% above the hiring rate of the established salary range upon approval of the City Manager but will not be eligible for the 5% probationary increase at the end of six (6) months.

Section 18. 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 City Manager to a "trainee" status. In such cases, a plan for training, including a time schedule, must be prepared by the Department Head. "Trainee" salaries may be no more than two grades below the hiring rate salary 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 City Manager, the trainee shall be transferred, demoted, or dismissed. If the training is successfully completed, the employee shall be paid at least at the hiring rate established for the position for which the employee was trained.

Section 19. Probationary Pay Increases

Employees hired, promoted, or reclassified into the hiring rate of the pay range shall receive a salary increase within the pay range of approximately 5% upon successful completion of six (6) months of satisfactory service. Employees serving a twelve (12) month probationary period will also qualify for this increase after successful completion of six (6) months of employment but will receive no increase at the end of the mandatory twelve (12) month probationary period. Employees hired or promoted above the minimum rate of the pay table are not eligible for a probationary increase.

Section 20. Merit Pay

Upward movement within the established salary range for an employee is not automatic, but rather based upon specific performance-related criteria. Procedures for determining performance levels and performance pay increases or other performance-related movement within the range shall be established in procedures approved by the City Manager. An employee is eligible for a performance evaluation with merit pay, subject to the quality of work performed, at the one year anniversary of the hire date and every year thereafter on that anniversary date. Merit Pay shall be based upon available funds and by approval of the Town Council.

Section 21. Merit Pay - Bonus for Top of Salary Range Employees

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

Section 22. Salary Effect of Promotions, Demotions, Transfers, and Reclassifications

Promotions. The purpose of the promotion pay increase is to recognize and compensate the employee for taking on increased responsibility. When an employee is promoted, the employee's salary shall normally be advanced to the minimum rate of the new position, or to a salary which provides an increase of 10%, whichever is greater. In the event of highly skilled and qualified employees, shortage of qualified applicants, or other reasons related to the merit principle of employment, the City Manager, with approval of the Town Council, may set the salary at an appropriate rate in the range of the position to which the employee is promoted that best reflects the employees qualifications for the job and relative worth to the Town. In no event, however, shall the new salary exceed the maximum rate of the new salary range. In setting the promotion salary, the Town shall consider internal comparisons with other employees in the same or similar jobs. Promoted employees will be required to complete a six-month probationary period but will receive no increase in hourly rate of pay due to being promoted to the minimum salary for that position grade. Annual evaluation date will not be changed due to promotion.

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

Transfers. The salary of an employee who is reassigned to a position in the same class or to a position in a different class within the same salary range shall not have his/her annual salary or evaluation date changed by the reassignment.

Reclassifications. An employee whose position is reclassified to a class having a higher salary range shall receive a pay increase of approximately 5% or an increase to the hiring rate of the new pay range, whichever is higher. If the employee has completed probation, the employee's salary shall be advanced to at least the probation completion amount (minimum) in the new range. If the position is reclassified to a lower pay range, the employee's salary shall remain the same. If the employee's salary is above the maximum established for the new range, the salary of that employee shall be maintained at the current level until the range is increased above the employee's salary.

Section 23. 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 approximately 5%, or to the hiring rate of the new range, whichever is higher. If the employee has passed probation, the employee's salary shall be advanced at least to the probation completion amount (minimum) in the new range. When a class of positions is assigned to a lower salary range, the salaries of employees in that class will remain unchanged. If this assignment to a lower salary range results in an employee being paid at a rate above the maximum 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 24. Transition to a New Salary Plan

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

- a. No employee shall receive a salary reduction as a result of the transition to a new salary plan.
- b. All employees being paid at a rate lower than the hiring rate established for their respective classes shall have their salaries raised to the new minimum 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 if a step plan is in use; 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 employee's salary range is increased above the employee's current salary.

Section 25. Effective Date of Salary Changes

All salary changes, excluding merit pay 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 City Manager.

Section 26. Overtime Pay Provisions

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

To the extent that local government jurisdictions are so required, the Town will comply with the Fair Labor Standards Act (FLSA). The City 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; 171 hours for police and 212 hour for fire personnel in a 28 day cycle). Hours worked beyond the FLSA established limit will be compensated in either time or pay at the appropriate overtime rate. In determining eligibility for overtime in a work period, only hours actually worked shall be considered; in no event will vacation, sick leave, or holidays be included in the computation of hours worked for FLSA purposes. Compensatory leave requires approval by the City Manager when creating a balance that exceeds 40 hours. Department Heads will report all overtime hours to the Human Resources Department. Employees who are non-exempt will be paid for the comp. leave balance at the end of the fiscal year.

Whenever practicable, Department Heads 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.

Employees who hold a full-time position within any Town department and works part-time with another department within the Town will be compensated for any total worked hours over their normal scheduled hours. The department where the part-time duties are performed will be responsible for compensation to the employee.

Employees receive one hour for meal periods, unless taking advantage of the flex-time policy. Any employee who's meal period is less than 30 minutes shall be compensated for the full 30 minutes.

Employees in positions determined to be "exempt" from the FLSA (as Executive, Administrative, or Professional staff) will not receive pay for hours worked in excess of their normal work periods. These employees may be granted compensatory leave by their supervisor on an hour for hour basis where the convenience of the department allows and in accordance with procedures established by the City Manager. Such compensatory time is not guaranteed to be taken and ends without compensation upon separation from the organization. Exempt employees will lose any leave they have at the end of the fiscal year.

Exempt positions include (but are not limited to):

- Assistant Fire Chief/Deputy Chief
- Ava Gardner Museum Director
- City Manager

Electric Line Superintendent
Finance Director
Fire Chief/Director of Emergency Services
Parks/Recreation Director
Planning Director
Police Captain
Police Chief
Police Support Services Manager
Public Works Superintendent
Public Utilities Director
Sr. Athletic Programs Supervisor/Asst Parks & Rec Director
Town Clerk/Human Resources Director
Water Plant Superintendent
Water/Sewer Line Superintendent

Section 27. Compensation for Travel

Travel time is compensable to all employees provided that the time occurs during the course of the regular work day. However, if two or more employees commute together to any Town required classes, meetings, or conferences before the beginning of the work day, travel time for both the drive and passenger(s) will be compensable.

Section 28. Call-back and Stand-by Pay

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

Call-back. Non-exempt employees will be guaranteed a minimum payment of two hour's wages for being called back to work outside of normal working hours. "Call-back" provisions do not apply to previously scheduled overtime work. Exempt employees are not eligible for call-back and stand-by pay.

Stand-by. Non-exempt employees required to be on "stand-by" duty will be paid for eight 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 .065 hours of pay per one hour of stand-by time. Hours actually worked while on stand-by are calculated beginning when the employee reports to the work site and are added to the regular total of hours worked for the week. Stand-by time is defined as that time when an employee must remain near an established telephone or otherwise substantially restrict personal activities in order to be ready to respond when called.

Section 29. Payroll Deduction

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

Section 30. Hourly Rate of Pay

Employees working in a part-time or temporary capacity with the same duties as full-time employees will work at a rate in the same salary range as the full-time employees. The hourly rate for employees working other than 40 hours per week, such as police officers working an average 43 hours per week, will be determined by dividing the average number of hours worked scheduled per year into the annual salary for the position.

Section 31. Pay Day

Employees are paid weekly. Pay day falls on Friday for all employees. Should a regular pay day fall on a holiday, automatically deposited pay checks shall be deposited on the workday that precedes the holiday. All employees will be subject to have payroll checks automatically deposited.

Section 32. Certification Pay

From time to time, employees will attend classes to obtain certification to enhance their job skills. Certification Pay, in an amount up to 5% of the annual salary, shall be awarded to employees who obtain certification which includes class work and examinations, and upon recommendation by the Department Head and approval by the Human Resources Director and City Manager. Certification Pay shall be based upon available funds. No increase will be given for re-examination to continue certifications.

If the request for Certification Pay is denied based on a lack of available funding, re-application may be submitted during that fiscal year. Requests for Certification Pay may only be requested during the fiscal year that the certification is received. Certification Pay increases, approved after the first working day of the pay period, shall become effective at the beginning of the next pay period. Only one certification pay, per fiscal year, per employee shall be granted.

The Department Head must submit documentation showing that the employee has completed the requirements for Certification Pay to the City Manager and Human Resources Director for approval.

Certifications are as follows:

2% Certification Pay: Employees will receive a 2% increase in hourly rate of pay for certifications that are job related and improve the basic skills of the employee provided that the training is above the requirements of the job currently being performed. Further, the certification must be beneficial to the department.

3% Certification Pay: Employees will receive a 3% increase in hourly rate of pay for acquiring State licenses that will enhance the performance of the employee and will be beneficial to the Town and to the Department.

5% Certification Pay: Employees will receive a 5% increase in hourly rate of pay for acquiring State and National Certifications that will enhance the performance of the employee and will be beneficial to the Town and to the Department.

All employees are subject to "Certification Pay" except sworn Police Personnel and Emergency

Services Personnel who are subject to "Career Ladder" Certification Pay. Department Heads are not eligible for certification pay.

Section 33. Longevity Pay

Full-time employees of the Town are compensated for consecutive years of service with the Town by payment of a longevity supplement based on the following table:

<u>Years of Service</u>	<u>Longevity Amount</u>
0 - 2.99	\$ 0**
3 - 4	100
5 - 9	350
10-14	650
15-19	950
20 plus	1250

Years of service are calculated on a calendar year basis (January 1 to December 31).

Longevity pay will normally be issued in November on the pay period preceding Thanksgiving Day.

** Employees hired before June 30, 2008 are still eligible to receive an amount of \$100 as longevity with 0-2.99 years of service.

ARTICLE IV. RECRUITMENT AND EMPLOYMENT

Section 34. Equal Employment Opportunity Policy

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

Section 35. Implementation of Equal Employment Opportunity Policy

All personnel responsible for recruitment and employment will continue to review regularly the implementation of this personnel policy and relevant practices to assure that equal employment opportunity based on reasonable, job-related requirements is being actively observed to the end that no employee or applicant for employment shall suffer discrimination because of age, sex, race, color, religion, disability, national origin, 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 36. Recruitment, Selection and Appointment

Recruitment Sources. When position vacancies occur, the Human Resources Department shall publicize these opportunities for employment, including applicable salary information and employment qualifications. Information on job openings and hiring practices will be provided to recruitment sources, including organizations and news media available to minority applicants. In addition, notice of vacancies shall be posted at designated conspicuous sites within Town Buildings in order that qualified employees and other interested candidates may apply for vacant positions. Individuals shall be recruited from a geographic area as wide as necessary to ensure that well-qualified applicants are obtained for Town service. Equally qualified internal applicants may be given first priority for the position.

Job Advertisements. When a vacancy occurs and the Department Head and Human Resources Director believe that current employees are or may be qualified for the position(s), the job(s) will be posted internally. In the event that there are no qualified employees for the position, jobs will be advertised in local newspapers, professional publications, and other relevant publications in order to establish a diverse and qualified applicant pool. Employment advertisements shall contain assurances of equal employment opportunity and shall comply with Federal and State statutes.

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

Applicant Interest Card. Persons interested in employment with the Town may complete an applicant interest card concerning all of the positions for which they wish to apply. These cards will be maintained for a period of six (6) months. When a vacancy occurs in positions of interest, the card will be sent, notifying the person and requesting that the person complete an application before the designated deadline.

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

Selection. Department Heads and the Human Resources Department shall make such investigations and conduct such examinations as necessary to assess accurately the knowledge, skills, and experience qualifications required for the position, including criminal history where job-related using the DCI when needed. All selection devices administered by the Town shall be valid measures of job performance.

Post-Offer Drug Screen, Physical Exam, Driver's License Check and Criminal History Check. All job applicants that are offered a position with the Town will be required to submit to a driver's license check, criminal history check, physical exam and drug screen, performed by a physician of the Town's choice and at the Town's expense, prior to beginning work. The Town shall rescind any offer of employment to any applicant who refuses to (1) take a drug screen or physical exam, (2) has a positive drug screen, urinalysis or blood test or breathalyzer/toxalyzer, and/or (3) if the physical exam indicates that the candidate is unable to perform the essential functions of the position, and/or (4) unacceptable driver's license check and/or criminal history check results.

Appointment. Before any commitment is made to an applicant either internal or external, the Department Head and Human Resources Department shall make recommendations to the City Manager with a recommendation of the position to be filled, the salary to be paid, and the reasons for selecting the candidate over other candidates. The City Manager shall approve appointments and the starting salary for all applicants.

Section 37. Probationary Period

An employee appointed or promoted to a permanent position shall serve a probationary period. Employees shall serve a six (6) month probationary period, except that sworn police personnel, Water Plant Operators, and Department Heads shall serve a twelve (12) month probationary period. During the probationary period, supervisors shall monitor an employee's performance and communicate with the employee concerning performance progress. Employees serving a twelve (12) month probation shall have a performance review at the end of six (6) months as well as before the end of twelve (12) months.

Employees serving a probationary period are not eligible to apply for other positions within the Town until they have successfully completed the probationary period evaluation and six months as a full time employee. If it is in the best interest of the Town, this time period may be waived by approval of the City Manager.

Before the end of the probationary period, the supervisor shall conduct a performance evaluation conference with the employee and discuss accomplishments, strengths, and needed improvements. A summary of this discussion should be documented in the employee's personnel file. The supervisor shall recommend in writing whether the probationary period should be completed, extended, or the employee transferred, demoted, or dismissed. Probationary periods may be extended for a maximum of six (6) additional months.

Disciplinary action, including demotion and dismissal, may be taken at any time during the probationary period of a new hire without following the steps outlined in this policy. A promoted employee who does not successfully complete the probationary period may be transferred or demoted to a position in which the employee shows promise of success. If no such position is available, the employee shall be dismissed. Promoted and demoted employees who are on probation retain all other rights and benefits such as the right to use of the grievance procedures.

Section 38. Promotion

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

the same application process as external candidates and may be given priority for the position available.

Section 39. Demotion

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

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

Section 40. 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 City Manager with the consent of the receiving Department Head. Any employee transferred without requesting the action may appeal the action in accordance with the grievance procedure outlined in this chapter. An employee who has successfully completed a probationary period may be transferred into the same classification without serving another probationary period.

ARTICLE V. CONDITIONS OF EMPLOYMENT

Section 41. Flexible Work Schedule

Department Heads shall establish flexible work schedules which meet the operational needs of the department in the most cost effective manner possible. Flexible work schedules are a variation of the normal 8:00 a.m. to 5:00 p.m. work schedule followed by most departments within the Town of Smithfield government. The purpose of permitting flexible work schedules is to recognize the increasing potential for conflicts for employees between their work lives and personal lives. These conflicts have arisen out of significant societal changes including shifts in parenting roles, the changing make-up of the traditional family, as well as the increasing prevalence of the two-income family.

- a. An employee or group of employees desiring to work a flexible schedule will submit the appropriate form (attached) to their Department Head including the hours to be worked and how the position or positions will be covered during the regular 8:00 to 5:00 schedule. In no case can service or business hours be diminished or reduced due to a flexible work schedule.
- b. The Department Head will approve or deny the request. If the request is approved, the Department Head is assuming responsibility that the work will be completed in a timely manner and not be delayed due to flex time schedules. If the request is denied, the Department Head will specify the reason(s) in writing to the employee.

- c. A copy of the "Request for Flex Time Schedule" must be placed in the employee's Personnel File.
- d. The Department Head will be required to note on his monthly Department Report the operational hours of his department, if there is a deviation from the normal operating hours of the department.
- e. Flex Work Schedules are normally between the hours of 7:00 a.m. and 6:00 p.m., Monday thru Friday and must account for the number of hours budgeted for the position.
- f. Suggested flex time schedules:
 - 4 - ten hour days, off one day per week; or
 - 4 - 9 ½ days, 30 minute lunch hour and off at 11:00 a.m. one day per week (Example: 7-4:30 for four days and 7-11 for the fifth day or 8-5:30 for four days and 8-12 the fifth day); or
 - Flex time for Summer only (May 1 - Sept 1) 8½ hours per day, ½ hour for lunch, leave 4.5 hours early every other Friday or Monday.

Section 42. Political Activity

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

- a. Engage in any political or partisan activity while on duty;
- b. Use official authority 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; or
- 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 43. Outside Employment

The Town has no intention of attempting to regulate what an employee does during his own time away from the job as long as off-duty activities do not represent a conflict of interest or reflect discredit to the Town. To avoid possible conflict of interest, the employee's outside

employment shall be reported in writing to and approved by the City Manager, through the Department Head. An employee is cautioned not to engage in outside activities that are so exhausting that one's physical or mental abilities are consistently impaired to the extent that his or her own Town service is adversely affected.

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 44. Dual Employment

A full or part-time employee of the Town may simultaneously hold another position with the Town if the temporary position is in a different department and clearly different program area from that of the full or part-time position. The work of the temporary position must also be performed on an occasional or sporadic basis as identified in Fair Labor Standards Act regulations. However, the work of the full or part-time position shall take precedence over the temporary position, and such temporary work will not count toward the calculation of overtime for pay or time off.

Section 45. Employment of Relatives

The Town prohibits the hiring and employment of immediate family in permanent positions within the same work unit. "Immediate Family" in this section is defined as a spouse, brother, sister, parent or child of either the employee or of the employee's spouse. The Town also prohibits the employment of any person into a permanent position who is an immediate family member of individuals holding the following positions: Mayor, Mayor Pro Tem, Town Council Member, City Manager, Town Clerk/Human Resources Director, Finance Officer, 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 relatives;
- b. Result in a relative auditing the work of a relative;
- c. Create a conflict of interest with either relative and the Town; or
- d. Create the potential or perception of favoritism.

This provision shall not apply retroactively to anyone employed when the provision was adopted by the Town in 2006.

Section 46. Sexual Harassment Prohibited

The Town prohibits sexual harassment by supervisors and co-workers in any form. Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when 1) submission to such conduct is made

either explicitly or implicitly a term or condition of an individual's employment; 2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or 3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment. Sexual harassment includes repeated offensive sexual flirtations, continual or repeated commentaries about an individual's body, offensive sexual language, and the display in the workplace of sexually suggestive pictures or objects.

Any employee who believes that he or she may have a complaint of sexual harassment may follow the Grievance Procedure described in this Chapter or may file the complaint directly with the City Manager. The City Manager will insure that an investigation is conducted into any allegation of sexual harassment and advise the employee and appropriate management officials of the outcome of the investigation.

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

Section 47. Solicitation and Acceptance of Gifts and Favors

The conduct of an employee in Town service shall be free from influence arising from 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 advantages because of his position with the Town.

Section 48. Use of Town supplies and equipment

- a. Town equipment, materials, tools and supplies shall not be available for personal use or be removed from Town property except in the conduct of official Town business with the exception of rental under Town policy. Town employees are not to use Town equipment or vehicles for private purposes.
- b. Vehicles owned by the Town shall be cared for by an employee in the same responsible way that he would care for his own. Such vehicles are to be used exclusively for official Town business, except that by special approval by the City Manager. An employee may be directed to take the vehicle home when doing so shall serve the best interest of the Town. Use of Town vehicles for commuting to and from work shall usually be limited to an employee who is subject to emergency call-back work.
- c. Equipment, materials, tools and supplies that are used for training or educational purposes must have prior approval of the City Manager.
- d. Employees who are issued Town of Smithfield uniforms are required to wear the uniforms each work day. Uniforms should be clean and neat at the beginning of the work day.

Section 49. Performance Evaluation

Supervisors and/or Department Heads shall conduct Performance Evaluation conferences with each employee at least once a year. These performance evaluations shall be documented in

writing and placed in the employee's personnel file. Procedures for the performance evaluation program shall be published by the City Manager.

Members of the Town Council will do an annual evaluation of the City Manager in written form and will discuss the findings of the reports with the City Manager in closed session at the close of a regular Council meeting. The evaluations will be done by all Council Members on a standard form and the review will be done as close to the employment anniversary date of the City Manager as possible. Original copies of the evaluations are to be placed in the City Manager's personnel file following the evaluation.

Section 50. Safety

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

Section 51. Substance Abuse Policy

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

Section 52. Inclement Weather.

Town departments will remain open during periods of inclement weather unless otherwise authorized by the City Manager or his designee for delayed opening, early closing, or other deviation. The City Manager will implement policies and procedures for delayed opening, early closing, or other deviations from normal operations.

It shall be at the discretion of the Department Head to determine what positions within his/her department are considered essential. Essential personnel shall be defined as those employees who are required to carry on the operations of the department during a disaster or in inclement weather.

Section 53. Random Drug Screening for Full-Time Employees

Employees who are required to hold a Commercial Driver's license for the purpose of performing their duties or as a condition of employment are subject to random drug testing as well as all safety sensitive positions, including fire, EMS and police.

Section 54. Conflict of Interest

It is the policy of the Town of Smithfield that no Council member, officer or employee of the Town receive any personal or private benefit resulting from the activities of the Town or from the receipt of the Town of funds, from the State of North Carolina, or from any other source, apart from reasonable compensation for services rendered and reimbursement for reasonable

expenses incurred in the conduct of the business of the Town. Further, no Council member, officer, or employee of the Town shall obtain any direct or indirect economic stake in any entity participating in the programs of the Town, and the Town shall not employ any individual who owns a stake in such entity. (Adopted by Town Council 04-06-1999)

ARTICLE VI. EMPLOYEE BENEFITS

Section 55. Benefits Eligibility

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

A regular part-time employee will be eligible for paid vacation, sick leave, paid holidays, insurance, and other benefits that accrue at a portion of that of a regular full-time employee (See Section 81 - Sick Leave Pro-rated).

Section 56. Group Health and Hospitalization Insurance.

Health care insurance is provided for each regular part-time and full-time employee after completion of 30 days of work. Employees may elect to include coverage for his or her family members. Details of medical care coverage and benefits are outlined for each employee in a separate booklet entitled "Group Insurance Plan" that is provided by the health insurance carrier.

- a. Any employee (hired before June 30, 2007) who retires from the Town with 20 years or more of service and is eligible for the medicare shall be reimbursed by the Town for his/her medicare supplement premium for the remainder of his/her life not to exceed the Town's medical insurance premium for an individual employee. If dependent(s) are covered at the time of retirement, the employee may elect to continue coverage for the dependents under the Health Insurance Company's COBRA plan. The COBRA plan allows dependent(s) to be covered for a period of 18 months. The employee will be responsible for the entire health insurance premium for his/her dependents. If dependents are eligible for the medicare supplement, the dependent is not eligible for any reimbursement.
- b. Any employee (hired before June 30, 2007) who retires from the Town with 20 years or more of service and is not eligible for the medical supplement shall be eligible to continue his/her health insurance coverage with the Town. The Town will pay the premium for the employee's coverage. When the employee becomes eligible, medicare supplement (b) will apply. If dependent(s) are covered at the time of retirement, the employee may elect to continue coverage for the dependents under the Health Insurance Company's COBRA plan. The COBRA plan allows dependent(s) to be covered for a period of 18 months. The employee will be responsible for the entire health insurance premium for his/her dependents.
- d. The Town of Smithfield will not continue health insurance coverage following retirement (as in "b" & "c" above) for employees hired on or after July 1, 2007. Employees hired on or after July 1, 2007 will be eligible for COBRA benefits through the health insurance carrier.
- e. An employee that receives a total disability retirement from the Local Government Employee Retirement System or Law Enforcement Retirement System is eligible to receive coverage

under the Town's health insurance plan. The Town will pay the individual premium for the employee's coverage. If dependent(s) are covered at the time of retirement, the employee may elect to continue coverage for the dependents under the Health Insurance Company's COBRA plan. The COBRA plan allows dependent(s) to be covered for a period of 18 months. The employee will be responsible for the entire health insurance premium for his/her dependents. If dependents are eligible for the Medicare supplement, the dependent is not eligible for any reimbursement.

- f. If any council member or mayor has 20 years or more of service that includes both full-time employment status and voluntary status as a member of the Smithfield Town Council, at the time he/she resigns his/her seat at the Council table, shall be eligible to continue his/her health insurance coverage with the Town. The Town will pay the individual's premium amount until the age that Medicare is effective. When the individual becomes eligible for Medicare, the Town will reimburse the individual for his/her Medicare supplement premium for the remainder of his/her life, not to exceed the Town's medical insurance premium for an individual employee. Any dependents covered by the Town's health insurance plan, at the time of vacancy, will not be eligible for the COBRA Plan.
- g. Any council member or Mayor elected in the year 2005 and any year thereafter is not eligible for health or dental insurance benefits thru the Town. However, the newly elected official may purchase the health or dental insurance but will be responsible for the entire premium for the remainder of his term in office. Once the elected official is no longer serving, he/she will not be eligible for any COBRA Plan coverage.

Section 57. Group Life Insurance

Life insurance coverage is also provided with the above described health care insurance at no cost to the employee, including accidental death and dismemberment coverage as described in same, "Group Insurance Plan" booklet, provided by the life insurance carrier.

Section 58. Other Optional Group Insurance Plans

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

Section 59. Retirement and death benefits

The Town and employees contribute in the cost of the retirement plans which employees are required to join. Information about benefits and the systems are available in printed brochures circulated to employees. Under the Law Enforcement Officers' benefit and retirement system and the State's local governmental employee's retirement system, the Town provides death benefits at no cost to the employee.

Section 60. Supplemental Retirement Benefits

The Town may provide supplemental retirement benefits for its full and part-time employees. Each Law Enforcement Officer shall receive 401-K benefits as prescribed by North Carolina State Law. Each general employee may receive supplemental benefits as approved by the Town Council.

Section 61. Social Security

- a. Social Security is federal government insurance to provide an employee with income in his/her senior years. Disability and death benefits are also provided by Social Security.
- b. The cost for Social Security is paid through an automatic payroll tax. The Town matches the amount that is deducted from the employee's payroll check for payment into the Social Security Trust Fund.

Section 62. Workers' Compensation

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

Responsibility for claiming compensation under the Workers' Compensation Act is on the injured employee, and such claims must be filed by the employee with the North Carolina Industrial Commission within two years from date of injury. The Human Resources Department will assist the employee in filing the claim. (Also see Section 84 regarding Worker's Compensation Leave)

Section 63. Unemployment Compensation

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

Section 64. Tuition Assistance Program

Full-time employees who have completed initial probation may apply for tuition reimbursement for courses taken on their own time, which will improve their skills for their current job or prepare them for promotional opportunities within the Town service. Tuition, registration, fees, laboratory fees, and student fees are eligible expenses. Employees may be reimbursed eligible expenses up to five hundred dollars (\$500) per fiscal year. Satisfactory completion of the courses will be required for reimbursement. Requests for tuition assistance shall be submitted to the Department Head prior to course registration and are subject to the review and approval of City Manager, subject to availability of funds. An employee granted financial assistance through this program shall agree to remain an employee of the Town of Smithfield for up to five (5) years from the date of the last course taken under this program. If the employee leaves employment with the Town before the end of the period stated above, he/she shall reimburse the Town of Smithfield the total amount of any funds received through the tuition assistance program during the last two fiscal years.

ARTICLE VII. HOLIDAYS AND LEAVES OF ABSENCE

Section 65. Policy

The policy of the Town is to provide vacation leave, sick leave, and holiday leave to all full-time

and part-time employees, and to provide proportionately equivalent amounts to employees having average work weeks of different lengths. Employees shall accrue leave proportionately with each payroll.

Section 66. Holidays

The Town shall observe the following holidays and others as observed by the State of North Carolina, and as may be amended by the State. Town staff will be notified of the holiday schedule at the beginning of each calendar year. When a holiday, other than Christmas, falls on Saturday or Sunday, the preceding Friday shall be observed for a Saturday holiday and the following Monday shall be observed for a Sunday holiday:

New Year's Day
Martin Luther King's Birthday
Friday before Easter
Memorial Day
Independence Day
Labor Day
Veteran's Day
Thanksgiving Day
Friday after Thanksgiving Day
Christmas - 3 days designated as follows):

<u>When Christmas falls on:</u>	<u>Workdays Off</u>
Sunday	Monday, Tuesday, Wednesday
Monday	Monday, Tuesday, Wednesday
Tuesday	Monday, Tuesday, Wednesday
Wednesday	Tuesday, Wednesday, Thursday
Thursday	Wednesday, Thursday, Friday
Friday	Wednesday, Thursday, Friday
Saturday	Thursday, Friday, Monday

Section 67. Holidays: Effect on Other Types of Leave

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

Section 68. Holidays: Compensations When Work is Required or Regularly Scheduled Off for Shift Personnel

Employees required to perform work on regularly scheduled holidays may be granted compensatory time off or be paid at their hourly rate for hours actually worked in addition to any holiday pay to which they are entitled.

If an employee is engaged in shift work and if the regular work schedule requires one to work on a holiday, the employee shall receive regular pay plus the holiday pay or a subsequent day off as compensation for the holiday worked; likewise, if a holiday falls on one's scheduled day off, the employee shall receive an additional day off.

An employee who must work on a holiday who would normally be expected to observe the day off shall receive regular holiday pay plus pay at his regular hourly rate for the hours worked on

the holiday.

Departments with employees working a shift schedule may elect to compensate those employees for working on the “true” holidays rather than the Town designated holidays.

Section 69. Vacation Leave

Vacation leave is intended to be used for rest and relaxation, and may be used for medical appointments.

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

Section 70. Vacation Leave: Use by Probationary Employees

Employees serving a probationary period following initial employment may accumulate vacation leave but shall not be permitted to take vacation leave during the probationary period unless approved in a pre-employment agreement. Employees shall be allowed to take accumulated vacation leave after six (6) months of service.

Section 71. Vacation Leave: Accrual Rate

Each full and part-time employee of the Town shall earn vacation leave at the following schedule. Vacation leave shall be computed by multiplying an employee’s total annualized regular work hours (as specified by the employee’s approved departmental work schedule) by the employee’s corresponding leave percentage determined by the employee’s years of service. The result equals annual vacation leave hours. These hours shall be accrued at a rate of 1/12 monthly. A regular full-time employee shall earn paid vacation according to his or her length of service with the Town of Smithfield as follows:

Years of Service	
0 - 3	3.85%
4 - 9	4.62%
10 - 14	5.77%
15 - 19	7.69%
20 plus	9.23%

Section 72. Vacation Leave: Maximum Accumulation

Vacation leave may be accumulated without any applicable maximum until December 31 of each year. Employees are not eligible to receive pay for vacation time not taken. However, if the employee departs from service, payment for accumulated vacation leave shall not exceed 30 days.

The maximum number of unused vacation hours that may be carried over from one calendar year to the next is:

Regular full-time employees.	240 hours
Police Officers on Rotating Shifts	260 hours
Fire Department Personnel on 24-hour shifts	285 hours
EMS Personnel.	240 hours

On December 31 of each year, any employee with more than the hours as stated above shall have the excess accumulation converted to sick leave so that only the hours as stated above are carried forward to January 1 of the next calendar year.

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

Section 73. Vacation Leave: Manner of Taking

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

Section 74. Vacation Leave: Payment upon Separation

An employee who has successfully completed six (6) months of the probationary period will normally be paid for accumulated vacation leave upon separation not to exceed 30 days, provided notice is given to the supervisor at least two weeks in advance of the effective date of resignation. Any employee failing to give the notice required by this section shall forfeit payment for accumulated leave. The notice requirement may be waived by the City Manager when deemed to be in the best interest of the Town. Employees who are involuntarily separated shall receive payment for accumulated vacation leave subject to the 30 day maximum. Employees dismissed for criminal conduct may be determined ineligible to receive vacation pay.

Section 75. Vacation Leave: Payment upon Death

The estate of an employee who dies while employed by the Town shall be entitled to payment of all the accumulated vacation leave credited to the employee's account not to exceed the maximums established in Section 69 of this Article.

Section 76. Sick Leave

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

when an employee must care for a member of his or her immediate family who is ill.

Good attendance is extremely important as it allows each Town department to carry out the services and projects assigned to it and expected of it. When employees are absent, projects are delayed, service delivery suffers, and other employees must work harder to complete the same amount of work. Therefore, it is in the interest of employees, supervisors and the Town as a whole to promote good attendance.

Sick leave may also be used for death in the employee's immediate family, but may not exceed three (3) days for any single occurrence. Additional leave time required for such occurrence may be charged to vacation or other approved leave when approved by the Department Head and/or City Manager.

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

"Immediate family" shall be defined as spouse, child, parent, brother, sister, grandparent, grandchild, son-in-law or daughter-in-law, parent-in-law, brother or sister in law, aunt, or uncle of the employee or spouse of the employee or guardian. This also includes various combinations of "step", "half", and adopted relationships.

Notification of the desire to take sick leave should be submitted to the employee's supervisor prior to the leave or according to departmental procedures but (except for emergencies) no later than two hours prior to the beginning of the scheduled workday.

Section 77. Sick Leave: Accrual Rate and Accumulation

Sick leave shall accrue at a rate of one day per month of service or twelve (12) days per year. Sick leave for full-time and regular part-time employees working other than the basic work schedule shall be pro-rated as described Section 77. 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.

For pay purposes, sick time taken will equal the amount of time that the employee is away from scheduled work.

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

Section 78. Transfer of Sick Leave from Previous Employer

The Town will accept the transfer of all sick leave hours for employees from other employers who are participants of the Local or State Employees Retirement System. The sick leave will be treated as though it were earned with the Town of Smithfield. The sick leave amount must be certified by the previous employer. This provision shall not be retroactive to policy adoption.

Section 79. Sick Leave: Donation of Time to Another Employee

An employee experiencing extreme and extenuating situation who has expired their vacation and sick leave may apply in writing to the Human Resources Director to accept donated sick leave from other Town of Smithfield employees. The written request shall include a brief description of the circumstances prompting the request. The Human Resources Director shall review the request and make a written recommendation to the City Manager for presentation to the Town Council for approval or denial. Upon approval, the Personnel Department is responsible for the accountability of the leave donations and use.

Donation Forms are date-stamped as they are received. The Human Resources Director will advance the employee 80 hours at one period, as the hours are received. Employees will receive a copy of their donation forms if their donated hours are used.

The recipient shall continue to accrue sick and vacation leave while in the shared leave status. The minimum amount of hours that can be donated shall not be less than four (4). The maximum amount of hours that can be donated shall not exceed one-half of the donor's sick leave balance.

Per each request approved by the Town Council, the total shared sick leave hours accepted shall not exceed 480.00. Requests for additional donated sick leave must be submitted in the same manner as the original request. Donation Forms not used will be returned to the employees

Section 80. Sick Leave: Abuse and Requirement of Medical Certification

Abuse of sick time shall not be tolerated and shall subject the employee to disciplinary action. Examples of abuse of sick leave shall include but are not be limited to: taking unapproved leave; failure to notify a supervisor in advance of the need to take a personal day; use of all sick time accrued; taking leave as soon as it is earned; or falsifying the reason for the use of sick time.

The employee's supervisor or Department Head may require a physician's certificate stating the nature of the employee's or family member's illness and the employee's capacity to resume duties, for each occasion on which an employee uses sick leave or whenever the supervisor observes a "pattern of absenteeism."; however, a physician's certificate does not excuse the abuse of leave privileges.

The employee shall be required to present a certified doctor's note of illness if the employee has been absent for than three (3) consecutive days and also 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, up to and including dismissal. See Section 102 (f) for disciplinary action regarding sick leave abuse.

Section 81. Sick Leave Pro-rated

Each regular full-time employee shall earn annual sick leave at a rate of 4.62 percent times the employee's total annualized regular work hours as determined by approved work schedules. The result equals annual sick leave hours. These hours shall be accrued at a rate of 1/12 monthly. Regular part-time employees shall earn fifty (50) percent of the regular full-time employee paid Sick Leave.

Section 82. Family and Medical Leave

The Town will grant up to 12 weeks of family and medical leave per calendar year to eligible employees in accordance with the Family and Medical Leave Act of 1993 (FMLA). The leave may be paid (coordinated with the Town's Vacation and Sick Leave policies), unpaid, or a combination of paid and unpaid. Unpaid leave will be granted only when the employee has exhausted all appropriate types of paid leave. Additional time away from the job beyond the 12 week period may be approved in accordance with the Town's Leave without Pay policy.

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

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

- a. the birth 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; or
- d. the serious health condition of the employee.

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

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

An employee taking leave for the birth of a child may use paid sick leave for the period of actual disability, based on medical certification. The employee shall then use all paid vacation for the remainder of the 12 week period.

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

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

Employees who are on paid leave under this policy shall not be allowed to work any outside employment during the tenure of paid leave. Employees experiencing extenuating circumstances may request a waiver of this section to the City Manager for approval.

Section 83. Medical and Family Leave – Certification

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

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

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

Section 84. 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 (12) months by the City Manager. The leave shall be used for reasons of personal disability after both sick leave and vacation 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 City 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 City 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 85. Family Medical Leave and Leave Without Pay: Retention and Continuation of Benefits

When an employee is on leave under FMLA (maximum of 12 weeks in a year), the Town will continue the employee's health benefits during the leave period at the same level and under the same conditions as if the employee had continued to work. If an employee chooses not to

return to work for reasons other than a continued serious health condition, the Town will require the reimbursement of the amount paid for the employee's health insurance premium during the FMLA leave period.

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

An employee shall retain all unused vacation and sick leave while on Leave Without Pay. An employee ceases to earn leave credits on the date leave without pay begins. The employee may continue to be eligible for benefits under the Town's group insurance plans at his or her own expense, subject to any regulation adopted by the Council and the regulations of the insurance carrier.

Section 86. 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 leave, vacation, or compensatory time during the first waiting period. The employee shall supplement workers' compensation payments after they begin with sick leave, vacation, or compensatory time, provided that the combination of leave supplement and workers' compensation payments does not exceed normal compensation. An employee on workers' compensation leave may be permitted to continue to be eligible for benefits under the Town's group insurance plans. When workers' compensation leave extends long enough for the waiting period to be reimbursed, the employee shall notify the Human Resources Department immediately so that the appropriate leave time can be deducted and to prevent over-compensation. shall return the reimbursement check to the Town and have leave hours re-instated for all time covered by paid leave. In such cases, the Town will pay the employee for any unpaid time that is owed to the employee.

Section 87. Military Leave

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

Section 88. Reinstatement Following Military Service

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

- a. Applies for reinstatement within ninety (90) days after the release from 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 the military service, but is able to perform the duties of another position in the service of the Town. In this case, the employee shall be employed in such other position as will provide the nearest approximation of the seniority, status, and pay which the employee otherwise would have been provided, if available.

Section 89. Civil Leave

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

Section 90. Parental School Leave

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

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

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

ARTICLE VIII. SEPARATION AND REINSTATEMENT

Section 91. 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, suspension, reduction in force, disability, voluntary retirement, dismissal, or death.

Section 92. Suspension

- a. Suspension is an action taken by the City Manager or by a Department Head with the consensus of the City Manager whereby pay is discontinued for an exempt and non-exempt employee (as defined while the employee is temporarily relieved of all duties and responsibilities).
- b. Suspension shall be used to allow time for the investigation, hearing or trial of an employee against whom an allegation of wrong doing has been made. If the allegation proves false, the employee may be reinstated without loss of compensation.
- c. Suspension shall also be used as a disciplinary action to penalize an employee for misconduct, insubordination, or to correct poor work habits. Disciplinary suspensions shall be without pay and the duration of disciplinary suspensions shall vary with the seriousness of the offense.

Section 93. Resignation

An employee may resign by submitting the reasons for resignation and the effective date in writing to the immediate supervisor as far in advance as possible. In all instances, the minimum notice requirement is two weeks. Failure to provide minimum notice shall result in forfeit of payment for accumulated vacation leave unless the notice is waived upon recommendation of the Department Head and approval by the City Manager. Three consecutive days of absence without contacting the immediate supervisor or Department Head may be considered to be a voluntary resignation. Sick leave will only be approved during the final two weeks of a notice with a physician's certification or comparable documentation.

Section 94. Reduction in Force

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

Section 95. Disability

An employee who cannot perform the essential duties of a position because of a physical or mental impairment may be separated for disability. Action may be initiated by the employee or the Town. In cases initiated by the employee, such action must be accompanied by medical evidence acceptable to the City Manager. The Town may require an examination, at the Town's expense, performed by a physician of the Town's choice.

Section 96. 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 97. Death

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

Section 98. Dismissal

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

Section 99. Reinstatement

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

Section 100. Rehiring

An employee who resigns while in good standing may be rehired with the approval of the City Manager, and may be regarded as a new employee, subject to all of the provisions of rules and regulations of this Chapter. An employee in good standing who is separated due to a reduction in force shall be given the first opportunity to be rehired in the same or a similar position. Any employee who is re-hired shall accrue vacation time at the new employee rate unless otherwise approved by the City Manager as a condition of employment.

ARTICLE IX. UNSATISFACTORY JOB PERFORMANCE AND DETRIMENTAL PERSONAL CONDUCT

Section 101. 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 City Manager prior to giving final notice to the employee.

Section 102. Unsatisfactory Job Performance Defined

Unsatisfactory job performance includes any aspects of the employee's job which are not performed as required to meet the standards set by the Department Head or City Manager. 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;

- d. Discourteous treatment of the public or other employees;
- e. Absence without approved leave;
- f. Improper use of leave privileges;
- g. Failure to report for duty at the assigned time and place;
- h. Failure to complete work within time frames established in work plan or work standards;
- i. Failure to meet work standards over a period of time; or
- j. Failure to follow the chain of command to address work-related issues.

Section 103. Communication and Warning Procedures Preceding Disciplinary Action for Unsatisfactory Job Performance

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

An employee whose job performance is unsatisfactory over a period of time should normally receive at least two warnings from the supervisor before disciplinary action resulting in dismissal is taken by the City 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, the supervisor should use the following steps:

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.

- a. If performance does not improve, a written recommendation should be sent to the City Manager for disciplinary action such as suspension, demotion, or dismissal.
- b. Disciplinary suspensions are for the purpose of communicating the seriousness of the performance deficiency, not for the purpose of punishment and should not generally exceed three days (24 hours) for nonexempt employees. Suspensions for exempt employees shall be for one full work week in accordance with FLSA requirements to maintain exempt status.

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

If after suspension or demotion, the employee's performance does not reach an acceptable level, the employee may be dismissed.

Section 104. Detrimental Personal Conduct Defined

Detrimental personal conduct includes behavior of such a serious detrimental nature that the functioning of the Town may be or has been impaired; the safety of persons or property may be or have been threatened; or the laws of any government may be or have been violated. Examples of detrimental personal conduct include, but are not limited to, the following:

- 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 or for personal use of equipment or supplies;
- 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 chapter;
- m. Harassment of an employee(s) and/or the public on the basis of sex or any other protected class status; or
- n. Stated refusal to perform assigned duties, flagrant violation of work rules and regulations, or serious malfeasance of work responsibilities.

Section 105. Disciplinary Action for Detrimental Personal Conduct

With the approval of the City Manager, an employee may be placed on disciplinary suspension, demoted, or dismissed without prior warning for causes relating to personal conduct detrimental to Town service in order to (1) avoid undue disruption of work; (2) to protect the safety of persons or property; or (3) for other serious reasons.

Section 106. Pre-disciplinary Conference

Before suspension, demotion, or dismissal action is taken, whether for failure in personal

conduct or failure in performance of duties, the Department Head and Human Resources Department will conduct a pre-disciplinary conference. At this conference, the employee may present any response to the proposed disciplinary action to the Department Head and Human Resources Department. The Department Head and Human Resources Department 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 to take disciplinary action, upon approval by the City Manager. The notice of the final disciplinary action shall contain a statement of the reasons for the action and the employee's appeal rights.

Section 107. Non-Disciplinary Suspension

During the investigation, hearing, or trial of an employee on any criminal charge, or during an investigation related to alleged detrimental personal conduct, or during the course of any civil action involving an employee, when suspension would, in the opinion of the Department Head or City Manager, be in the best interest of the Town, the Department Head or City Manager may suspend the employee for part or all of the proceedings as a non-disciplinary action. In such cases, the City 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.
- c. If the employee is reinstated following the suspension, such employee shall not lose any benefits to which otherwise the employee would have been entitled had the suspension not occurred. If the employee is terminated following suspension, the employee shall not be eligible for any pay from the date of suspension; provided, however, all other benefits with the exception of accrued vacation leave and sick leave shall be maintained during the period of suspension.

ARTICLE X. GRIEVANCE PROCEDURE

Section 108. Purpose

The grievance procedure provides an adequate and fair means for hearing matters of concern to Town employees.

Section 109. Coverage

This grievance procedure applies to all departments and all employees of the Town. A grievance is defined as any matter of concern or dissatisfaction arising from the working conditions of an employee, subject to the control of the Town.

Section 110. Policy

Every employee shall have the right to present a grievance in accordance with these

procedures free from interference, coercion, restraint, discrimination, penalty or reprisal. Employees will be allowed such time off from their regular duties as may be necessary and reasonable as determined by the Department Head or the City Manager to prepare and present a grievance.

Section 111. Procedure

- a. Step One.** An employee must file a grievance, either orally or in writing, with the immediate supervisor within five (5) working days of the date of the incident giving rise to the grievance. If the employee alleges sexual harassment by the immediate supervisor, the employee may file the complaint with the City Manager, as set forth in Section 45. If the grievance concerns an appeal of a dismissal, it shall be filed directly with the City Manager at *Step Three*. The immediate supervisor shall meet with the employee within five (5) working days of receipt of the grievance and attempt to resolve the grievance informally. If informal resolution efforts fail, the immediate supervisor shall issue a written decision on the grievance not later than five (5) working days following the meeting.
- b. Step Two.** If the employee is dissatisfied with the response at *Step One*, the employee may file the grievance in writing with the Department Head within five (5) working days of receipt of the immediate supervisor's written decision. The grievance shall state concisely the basis for the complaint and, if based on alleged discrimination, indicate whether the alleged discrimination was based on race, color, religion, sex, national origin, political affiliation, nondisqualifying handicap, or age. The Department Head shall meet with the employee within five (5) days of receipt of the *Step Two* grievance, shall review the decision at *Step One*, and shall make an independent determination on the merits of the grievance. Within five (5) working days of the meeting with the employee, the Department Head shall issue a written decision.
- c. Step Three.** If the employee is dissatisfied with the response at *Step Two*, the employee may forward the written grievance to the City Manager within five (5) working days of receipt of the *Step Two* decision. The employee may request a decision, with or without representation, from the appointing official directly or may request a hearing before the Personnel Advisory Committee with a recommended decision by the committee. If the employee requests a decision directly, the City Manager will render a written decision within fifteen (15) working days of receipt of the grievance. If the employee or the appointing authority requests the services of the Personnel Advisory Committee, the procedures set forth in Section 112 of this article will apply.

Section 112. Personnel Advisory Committee

There is established a Personnel Advisory Committee, composed of three persons designated by the Town Council, with authority to hear employees' grievances and recommend decisions to the City Manager. An employee or the City Manager may request a hearing, which shall be transcribed or recorded. The hearing shall be conducted within thirty (30) calendar days of the date on which the hearing is requested, during regular working hours of the Town. The Personnel Advisory Committee, the grievant, and any person whose alleged conduct is the cause of the complaint shall have the right to call and cross-examine witnesses and offer other evidence. The hearing shall be conducted by the chairperson of the committee. The Personnel Advisory Committee shall submit its recommended decision to the City Manager within fifteen (15) calendar days of the hearing.

Section 113. Final Decision on the Grievance

Upon receiving the recommended decision of the Personnel Advisory Committee, the City Manager shall inform the employee and the Department Head, in writing, of the final decision. The final decision will be furnished within ten (10) working days of receipt of the recommended decision of the Personnel Advisory Committee.

Section 114. Maintenance of Records

All documentation, records, and reports will be retained for a minimum of three (3) years and shall be held by the Human Resources Department. These records will be subject to review by the grievant, the employee's Department Head, the City Manager, and the Town Council.

ARTICLE XI. RECORDS AND REPORTS

Section 115. Personnel Records Maintenance and Public Information

Such personnel records as are necessary for the proper administration of the personnel system will be maintained by the Human Resources Department. The Town shall maintain in personnel records only information that is necessary and relevant to accomplishing legitimate personnel administration needs.

In compliance with GS 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. Current position title;
- e. Current salary;
- f. Date and amount of the most recent increase or decrease in salary;
- g. Date of the most recent promotion, demotion, transfer, suspension, separation, or other change in position classification; and
- h. Office to which the employee is currently assigned.

Also as required by G.S. 160A-168, any person may have access to this information listed above for the purpose of inspection, examination, and copying, during regular business hours, subject only to such rules and regulations for the safekeeping of public records as the Town Council may adopt. Any person denied access to any record shall have a right to compel compliance with these provisions by application to a court for writ of mandamus or other appropriate relief.

Section 116. 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 City 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 City Manager, with the concurrence of the Town Council, may inform any person of the employment, unemployment, 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 City 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 City Manager's office, is a record for public inspection, and shall become a part of the employee's personnel file.

The Town Council 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 117. Personnel Actions

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

Section 118. Records of Former Employees

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

Section 119. 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 120. Penalties for Permitting Access to Confidential Records

Per General Statute 160A-168, any public official or employee who knowingly and willfully permits any person to have access to any confidential information contained in an employee personnel file, except as expressly authorized by the designated custodian, may be judged guilty of a misdemeanor and upon conviction be fined in an amount provided for in General Statutes.

Section 121. Examining and/or Copying Confidential Material without Authorization

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

Section 122. Destruction of Records Regulated

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

Policy to Become Effective on July 1, 2008.

Norman R. Johnson, Mayor

ATTEST:

Debra W. Godwin, Town Clerk &
Human Resources Director