



PERSONNEL POLICY

Adopted and Effective January 1, 2021



GENERAL PROVISIONS



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GENERAL PROVISIONS POLICY

I. POLICY

It is the policy of the Town of Rutherfordton to provide all Town employees with personnel policies and procedures for an efficient work environment. Personnel policies are established under authority of Chapter 160A, Article 7, of the General Statutes of North Carolina.

II. PURPOSE

This policy establishes uniform and efficient human resources management system for the fair treatment of applicants and employees in all aspects of employee administration. No applicant for employment, or employee, shall be deprived of employment opportunities, or otherwise, adversely affected as an employee, because of such individuals race, color, religion, sex, national origin, ethnicity, political affiliation, non-disqualifying disability, age, or gender identity.

III. BACKGROUND

These policies have been written with the realization that the strength of the town government depends directly on the individual contributions made by every employee. In return, the town expects that each employee shall attempt to achieve high levels of productivity and efficiency in carrying out the employee’s job in the spirit of job satisfaction, service to the town, and assuring accountability in the services provided to the public.

The intent of these personnel policies is to:

- Promote and increase efficiency, responsiveness to the public, and economy in Town service;
- Provide opportunity for qualified persons to enter and progress in municipal service based on merit and ability;
- Maintain recruitment, advancement, and longevity practices enhancing the attractiveness of a town career and encouraging all employees to give their best efforts to the town and the public;
- Maintain consistent, up-to-date position classification and compensation plans based on the relative duties and responsibilities of jobs in town service; and
- Promote morale among town employees by fostering good working relationships and providing uniform human resource policies.

IV. PROVISIONS

A. Revocation or Modification

The Town Manager may add, revoke, or modify the policies and procedures at any time without prior notice. Every attempt will be made to keep the policies current; however, there may be times when policy changes are enacted before the written materials can be revised. This document supersedes all other previous versions of personnel policies, addendums and procedures.

B. Application of Policies, Plan, Rules and Regulations

The personnel policies and all rules and regulations adopted pursuant thereto shall be binding on all town employees. The Town Manager, members of the Town Council, Town Attorney, 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.

C. Responsibilities

1. Town Council: The Town Council delegated the responsibility of amending personnel policies to the Town Manager. Any personnel policy changes with substantial budgetary implications will be approved by the Town Council. The Town Council shall also make and confirm appointments when so specified by the general statutes and the town charter.

2. Town Manager: The Town Manager is authorized to adopt, modify, amend and repeal from time to time the personnel policy for the Town of Rutherfordton employees; provided that, no action by the Town Manager pursuant to this authority shall contravene the budget adopted by the Town Council at the time of such action. The Town Manager shall also make appointments, dismissals, and suspensions in accordance with the Town Charter and other policies and procedures explained in other Articles within this Policy and below.

The Town Manager shall supervise or participate in:

- Recommending rules and revisions to the personnel system to the Town Council for consideration;
- Making changes as necessary to maintain an up-to-date and accurate position classification plan;
- Preparing and recommending necessary revisions to the pay plan;
- Determining which employees shall be subject to the overtime provisions of the Fair Labor Standards Act (FLSA);
- 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;
- 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;
- Developing and coordinating training and educational programs for Town employees;
- Investigating periodically the operation and effect of the personnel provisions of this policy; and

- Performing such other duties as may be assigned by the Town Council, not inconsistent with this Policy.

4. Department Heads: Department Heads are responsible for enforcing these policies and notifying their employees of changes to the policies. The Town will require all supervisors to meet their responsibilities by:

- Dealing with all employees fairly and equitably while upholding the principles of equal employment opportunities;
- Developing and motivating employees to reach their fullest potential through continued education and training;
- Making objective evaluations of individual work performance and discussing these evaluations with each employee to promote needed improvements;
- Keeping employees informed of their role in accomplishing the work of their unit and conditions or changes affecting their work;
- Making every effort to resolve employee problems and grievances, and advising employees of their rights and privileges;
- Cooperating and coordinating with other staff members in workflow and distribution of information;
- Making proper documentation and maintaining current files.

5. Employees: Each employee has a duty to report any information that assists the town in administering these policies. Examples include, but are not limited to, reporting possible violations and imminent safety threats. The employee shall report this information to his or her immediate supervisor, Department Head, or to the Town Manager.

D. Departmental Rules and Regulations

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

E. Policy Application and Distribution

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

The personnel policies and procedures will be distributed to all town employees electronically and are available in a paper format upon request. Additionally, employees will be required to acknowledge by signature they have read and understand the personnel policy. The personnel policy shall be available on the town's website.

F. Legal Review

An attorney will review the personnel policies at least once every two years and update as necessary to comply with local, state and federal employment regulation, laws, and constitutional provisions.

G. Disclaimer

This manual (including any modifications) is prepared for informational and guideline purposes only and does not constitute a contract in any respect between the town and its employees. Nothing in this policy creates an employment contract or term between the Town and its employees. *Employment with the town is at-will and either the employee or employer may terminate the relationship at any time for any or no reason.* If any section of these policies is held to be invalid, the invalidity of any section or part shall not affect the validity of the remainder of this document.

V. Definitions

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

- Full-time employee: An employee who is in a position for which an average workweek equals at least 32 hours and is continuously employed for at least 12 months.
- Part-time employee: An employee who is in a position for which an average workweek of at least 20 hours and less than 32 hours is continuously employed for at least 12 months.
- Regular employee: An employee appointed to a full-time or part-time position who has completed the designated probationary period.
- Probationary employee: an employee appointed to a full-time or part-time position who has not yet completed the designated probationary period.
- Temporary employee: An employee appointed to a position for which either the average workweek required by the Town over the course of a year is less than 20 hours, 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.
- Regular status: A position authorized for the budget year for a full twelve months and budgeted for twenty or more hours per week. All Town position are subject to budget review and approval each year by the Town Council and all employees' work and conduct must meet Town standards.

VI. SCOPE

As of January 1, 2021, this policy replaces and supersedes any previous policies, or unwritten policies covering the same subject.

VII. AUTHORIZATION

Doug Barrick
Town Manager



**POSITION CLASSIFICATION PLAN
AND
THE PAY PLAN**



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GRADE, PAY, AND CLASSIFICATION PLAN POLICY

I. POLICY

The policy of the Town is to pay salaries that provide incentives for excellence in job performance and that are equitable internally. Additionally, the town will provide a description of work duties, responsibilities, authority, minimum qualification and conditions of employment that permit combining them under a single title and to permit the application of common standards for selection and compensation. It is also the policy of the town to pay salaries which compare favorably with other similar towns and the local area for comparable jobs within budget limitations and with full consideration for the public it serves.

II. PURPOSE

The purpose of the pay plan is to provide a basic salary range and grade for each job class that is adopted by the Board of Commissioners and consists of minimum, mid-point, and maximum rates of pay for all classes of positions, and the designation of standard annual working hours. This plan will include all class descriptions and administrative procedures in one written document.

III. PROCEDURES

A. Administration and Maintenance

(1) Human Resources: Responsible for the administration and maintenance of the pay and classification plan.

(2) Adjustments to Pay Plan: The Town Manager in consultation with Human Resources can recommend to the Town Council changes in the pay plan based on market inflation, wage growth or other determining factors. Changes could include increase or decreases to all classifications in the plan; any employees earning the minimum of the classification will be moved to the new minimum as described in the plan if there is an increase to a grade or entire compensation plan. These changes can occur at any time, but typically on July 1.

Cross reference Employment Plan

(3) Comprehensive Review: In order to provide internal equity and external competitiveness, a comprehensive classification and pay study and job description review will be conducted to update the plan every three to five years, in whole or in part, as allowed by the budget. When major adjustments encompassing numerous positions are needed, or when a general adjustment is needed to the pay plan, the Human Resources shall recommend such changes in salary ranges to the Town Manager for consideration by Town Council during the budget process.

(4) New Positions: New permanent positions, with a grade and class, shall be established in by Human Resources and the Town Manager with final approval by the Town Council typically during the budget process.

B. Pay and Classification Plan

(1) Composition - The pay and classification plan consists of:

- i. Grouping of positions in classes which are similar in duties and responsibilities, and which can be equitably compensated within the same range of pay;
- ii. Job descriptions for each position; and
- iii. A list showing the title of each position.

(2) Use of Plan - The pay and classification plan is to be used:

- i. As a guide in recruiting applicants;
- ii. To assist with promotions and developing training programs;
- iii. To help with determining salaries;
- iv. To help with determining personnel costs in departmental budgets; and
- v. To provide uniform job terminology.

(2) Salary Range: All employees shall be paid at a rate within the salary range for their position, except employees in trainee status, or (on rare occasions) employees whose existing salaries are above the established maximum for their position.

(3) Starting Salary: Generally, all persons hired or promoted shall be compensated at the minimum point of the salary range for that position except well qualified applicants may be paid above the minimum rate of the established salary range upon approval by the Town Manager.

- a. **Date of Salary Changes:** Salary changes approved after the first working day of a pay period shall become effective at the beginning of the next pay period, or at such a specific date as may be approved by the Town Manager.
- b. **Probationary Pay Increases:** Employees hired, promoted, or reclassified the minimum rate of the pay range shall receive a salary increase within the pay range of upon successful completion of the probationary period, upon completion of six months of satisfactory service if the employee is not on probation. Employees serving a twelve-month probationary period may be considered for this increase after six months of employment. Employees hired or promoted above the

minimum of the pay table may receive a 2.5% probationary increase if they are below the midpoint of the range.

(4) Allocation of Positions: The Town Manager shall allocate each position covered by the pay and classification plan to its appropriate class, and shall be responsible for administration of the pay and classification plan.

(5) Trainee Salary: Trainee salaries may be one or two grades below the grade for the position, as approved by the Town Manager. Trainee periods may be from six to twenty-four months.

C. Performance Evaluation.

Supervisors and/or Department Heads will conduct performance evaluation conferences with each employee at least once a year to review the employee's accomplishments and strengths, areas for improvement, goals for the next year, and overall performance level. These performance evaluations shall be documented in writing and placed in the employee's personnel file. Human Resources will establish procedures for the performance evaluation program.

(1) Merit Increases: Pay increases within the salary range are not automatic but are based on specific merit related criteria. Human Resources in consultation with the Town Manager will be responsible establishing criteria for employee evaluations. Department Heads and supervisors will be responsible for making merit recommendations for employees within their respective departments. All recommended merit based salary increases are reviewed by the Town Manager and subject to annual appropriation in the budget.

(2) Performance Pay Bonus Employees who are at the maximum of the salary range for their position classification are eligible to be considered for a performance bonus at their regular performance evaluation time. Performance 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. Performance bonuses shall be awarded in lump sum payments and do not become part of base pay.

D. Promotions, Demotions, Transfers, Reclassifications, and Interim Assignments

(1) Promotion: When an employee is promoted, the employee's salary shall normally be advanced to the minimum rate of the new position, or to a salary which provides an increase of 5%, whichever is greater however, that the new salary may not exceed the maximum rate of the new salary range. The purpose of the promotion pay increase is to recognize and compensate the employee for taking on increased responsibility.

(2) Demotion: Demotion is defined as movement by an employee to a job classification with a lower salary grade. Demotions may be either voluntary or as the result of disciplinary action. When an employee is demoted for either reason to a position for which qualified, the salary/hourly wage shall be set within the range of lower grade. If the demotion is disciplinary, the employee's pay shall be reduced; if the demotion is voluntary, the employee's pay may be reduced.

(3) Transfer: The salary of an employee reassigned to a position in the same class or to a position in a different class within the same salary range shall not be changed by the transfer.

(4) Reclassification: Department Heads are responsible for identifying changes in job duties that may result in a position being mis-classified and proactively communicate with Human Resources the need for a review of the position classification. An employee whose position is reclassified to a class having a higher salary range shall receive a pay increase of 5%, or an increase to the hiring minimum rate of the new pay range, whichever is higher. If the employee has completed probation, the employee's salary shall be advanced to at least the probation completion (minimum) amount in the new range.

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

(5) Interim Assignments in a Higher Level Classification: An employee who is formally designated for a period of at least one month to perform the duties of a job that has a higher classification than the employee's regular job shall receive an increase for the duration of the acting assignment. If the employee's salary is below the minimum rate of the interim position, the employee shall receive a salary adjustment to the minimum rate of the interim position or an increase up to 10 percent over the current salary/hourly wage. Criteria involved in determining the amount of compensation include increased responsibilities and the degree to which the employee is required to fulfill all duties of the interim position. The salary increase is temporary and the employee shall go back to the salary he or she would have had if not assigned to the interim position upon the completion of the assignment.

E. Overtime Pay Provisions: To the extent that local government jurisdictions are so required, the Town will comply with the Fair Labor Standards Act (FLSA). Refer to Overtime Policies for Non-Exempt and Exempt Employees.

*Cross reference Compensatory Time
Policy for Exempt and Overtime Policy for
Non-Exempt Employees*

F. Hourly Rate of Pay: Employees working in a part-time or temporary position 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 will be determined in the following way for both part-time and full-time employees:

General Employee: salary amount / 2,080 hours = hourly wage (includes holiday hours)
Sworn Law Enforcement: salary amount / 2,184 hours = hourly wage (excluding holiday hours)
Fire Protection: salary amount / 2,912 hours = hourly wage (excluding holiday hours)

G. Complexities of the Pay System: Because of the inherent complexities of the pay and classification system, applying the above rules consistently and fairly may still result in inequitable treatment of an

employee or for a group of employees. If this happens, exceptions to these policies may be made with the approval of the Town Manager in consultation with Human Resources, to address potential or existing pay inequities.

H. Direct Deposit of Payroll: All employees are required to participate in direct deposit of payroll as a condition of employment.

I. 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 Town Manager as to capability of payroll equipment and appropriateness of the deduction.

IV. DEFINITIONS

A. Pay and Classification Plan: The basic salary range with positions listed by job class adopted and amended by the Town Board of Commissioners through the budget process. Classification includes a description of work duties, responsibilities, authority, minimum qualifications and conditions of employment common to various individual positions of employment that permit combining them under a single title and to permit the application of common standards for selection and compensation. The town will maintain the pay and classification plan as one document.

B. Compensation: Salary, wage, allowance and all other forms of valuable consideration earned by or paid to any employee for service in any position in the service of the Town.

C. Salary Range: The salary range consists of minimum, mid-point, and maximum rates of pay for each job class.

D. Promotion: The movement of an employee from one classification to another classification which results in increased duties, responsibilities, qualifications and provides a higher maximum rate of pay.

E. Reclassification: A change in classification of an employee as a result of a review of the duties performed by that employee and a finding that the employee's job is no longer adequately described by the classification description.

F. Trainee: Applicants being considered for employment or town employees who do not meet all the requirements for the position for which they are being considered. Regular employees may be promoted, demoted, or transferred to a trainee status.

G. Position: A group of current duties and responsibilities requiring the full-time or part time employment of one person.

H. Demotion: The movement of an employee, either voluntarily or involuntarily, from one classification to another classification having a lower maximum rate of pay.

I. Minimum: An annual salary or hourly rate that is the lowest base rate for a particular job classification.

J. Maximum: An annual salary or hourly rate that is the highest base rate paid for work in a particular job classification.

K. Range Increase: An increase in the entire salary range (minimum to maximum) reflecting either general labor market or changes in a particular job classification.

L. Position. A group of current duties and responsibilities requiring the full-time or part-time employment of one person.

M. Reclassification: A change in classification of an employee as a result of a review of the duties performed by that employee and a finding that the employee's job is no longer adequately described by the classification description.

V. SCOPE

As of January 1, 2021, this policy replaces and supersedes any previous policies, or unwritten policies covering the same subject.

VI. AUTHORIZATION

Doug Barrick
Town Manager

FY2023 Employee Salary and Classification Report

Attachment C:
FY23 Budget Ordinance

Salary Grade	Classification	FLSA	Minimum	Mid-Point	Maximum
9	Temporary, Seasonal, Part-Time	N	\$17,000	\$21,250	\$26,563
10	Future Use	N	\$28,240	\$35,300	\$44,125
11	Future Use	N	\$29,720	\$37,150	\$46,438
12	Public Works Maintenance Worker	N	\$31,206	\$39,008	\$48,759
13	Youth Services Specialist	N	\$32,766	\$40,958	\$51,197
13	Landscape Maintenance Specialist	N	\$32,766	\$40,958	\$51,197
14	Library Assistant	N	\$34,405	\$43,006	\$53,757
14	Public Works Technician	N	\$34,405	\$43,006	\$53,757
14	Sanitation Equipment Operator	N	\$34,405	\$43,006	\$53,757
15	Future Use	N	\$36,125	\$45,156	\$56,445
16	Future Use	N	\$37,931	\$47,414	\$59,267
17	Public Works Master Technician	N	\$39,828	\$49,785	\$62,231
18	Fire Equipment Operator	N	\$41,819	\$52,274	\$65,342
18	Patrol Officer	N	\$41,819	\$52,274	\$65,342
19	Maintenance Mechanic	N	\$43,910	\$54,887	\$68,609
19	Police Corporal	N	\$43,910	\$54,887	\$68,609
19	Public Works Crew Leader	N	\$43,910	\$54,887	\$68,609
19	Public Works Project Manager	N	\$43,910	\$54,887	\$68,609
19	Utility Maintenance Crew Leader	N	\$43,910	\$54,887	\$68,609
20	Division Chief of Fire Prevention	N	\$46,105	\$57,632	\$72,040
20	Town Clerk	N	\$46,105	\$57,632	\$72,040
20	Library Director	E	\$46,105	\$57,632	\$72,040
20	Community Development Director	E	\$46,105	\$57,632	\$72,040
21	Fire Captain	N	\$48,411	\$60,513	\$75,642
21	Police Sergeant	N	\$48,411	\$60,513	\$75,642
22	Police Master Sergeant	N	\$50,831	\$63,539	\$79,424
22	Police Investigator Sergeant	N	\$50,831	\$63,539	\$79,424
22	Public Works Operations Supervisor	N	\$50,831	\$63,539	\$79,424
23	Police Lieutenant	N	\$53,373	\$66,716	\$83,395
23	Assistant Fire Chief	N	\$53,373	\$66,716	\$83,395
24	Future Use	N	\$56,041	\$70,052	\$87,565
25	Police Captain	N	\$58,844	\$73,554	\$91,943
26	Future Use		\$61,786	\$77,232	\$96,540
27	Future Use		\$64,875	\$81,094	\$101,367
28	Public Works Director	E	\$68,119	\$85,148	\$106,436
28	Finance Director	E	\$68,119	\$85,148	\$106,436
29	Fire Chief	E	\$71,525	\$89,406	\$111,757
29	Police Chief	E	\$71,525	\$89,406	\$111,757
30	Future Use		\$75,101	\$93,876	\$117,345
31	Future Use		\$78,856	\$98,570	\$123,213
32	Future Use		\$82,799	\$103,499	\$129,373
33	Future Use		\$86,939	\$108,673	\$135,842
34	Future Use		\$91,286	\$114,107	\$142,634
35	Future Use		\$95,850	\$119,812	\$149,766
36	Future Use		\$100,642	\$125,803	\$157,254
37	Future Use		\$105,675	\$132,093	\$165,117
38	Town Manager	E	\$110,958	\$138,698	\$173,372
39	Future Use		\$116,506	\$145,633	\$182,041
40	Future Use		\$122,332	\$152,914	\$191,143



RECRUITMENT AND CONDITIONS OF EMPLOYMENT SECTION:

- **EMPLOYMENT DUTIES POLICY**
- **PERSONAL APPEARANCE**
- **MOTOR VEHICLE USE POLICY**
- **SOCIAL MEDIA USE POLICY**
- **ADVERSE WEATHER POLICY**
- **DRUG & ALCOHOL- FREE WORKPLACE**
- **DRUG & ALCOHOL SCREENING**



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EMPLOYMENT DUTIES POLICY

I. POLICY

It is the policy of the Town to provide excellent service to its citizens and to provide a workplace for employees that is comfortable, progressive, and free of all forms of harassment.

II. PURPOSE

The Town expects that employees will perform their duties to the best of their abilities and that they will do their part to fulfill the responsibilities to citizens, residents and taxpayers of Rutherfordton. The purpose of this policy is to establish expectations and set forth rules and guidelines that will help each employee achieve and maintain town goals.

III. PROVISIONS

A. Employment at Will: The Town of Rutherfordton is an at-will employer. Employment is not for a specific term and is at the mutual consent of the employee and the Town of Rutherfordton. Either the employee or the Town of Rutherfordton can terminate the employment relationship, with or without notice, with or without cause, at any time. Moreover, no employee except the Town Manager and Town Attorney, other than the Board of Commissioners, has any authority to enter into any agreement for employment for any specific period, or to make any contrary agreement. Any such agreement must be in writing and signed by a representative of the Board of Commissioners and the employee.

B. Equal Employment Opportunity: It is the policy of the Town of Rutherfordton to ensure equal opportunity in all privileges, terms and conditions of employment without discrimination on the basis of race, gender, color, ethnicity, national origin, religion, age, sexual orientation, disability, pregnancy, medical condition, marital status, parental status, veteran status, or any other status protected by law. The Town of Rutherfordton prohibits and will not tolerate any such discrimination or harassment. This policy applies to all phases of the employment relationship, such as recruitment, hiring, promotion, transfer, reduction in force, benefits, compensation, and training.

C. Americans with Disability Act: The Town of Rutherfordton works to reasonably accommodate employees with disabilities that may affect their ability to successfully perform their job. All requests for reasonable accommodation should be discussed with the appropriate supervisor. All requests for accommodation will be considered, as this information helps the Town recognize employees' special

needs and provide assistance as needed. Employees with questions or concerns should contact Human Resources.

D. Employment Process: The employment policy of the Town is to fill approved vacancies with the best qualified candidates available. The Town will publicize vacancies when they occur both internally and/or externally as deemed necessary. Information on job openings when published externally will include various media platforms, as necessary to inform the community and create a qualified and diverse pool of applicants. Applications will be kept in an inactive reserve file, in accordance with EEOC guidelines and the Records and Retention Schedule published by North Carolina State Archives adopted by the Board of Commissioners (adopted 2012-10-09). The Town Manager must approve all candidates, internal or external, before a conditional offer is made.

E. Background Checks: It is required after a conditional offer of employment has been accepted, but before the employment begins, that the employee consent to a minimum of background and drug screening. Additional testing such as psychological and medical exam may be required if the position is considered safety sensitive. The background check, depending upon the nature of the position, may include a credit check. All employees in the Finance Department or other employees who routinely handle money will be required to submit to a credit check. Employment is contingent on the results of the applicable screenings. Employees who do not successfully complete the necessary screenings may be terminated, or the conditional offer of employment may be withdrawn.

F. Harassment and Violence

(1) Harassment Free Workplace: The Town of Rutherfordton is committed to a work environment, free from all forms of harassment, in which individuals are treated with respect and dignity. We maintain a strict policy of prohibiting all forms of unlawful harassment, including harassment based on race, sex, gender, color, ethnicity, age, national origin, physical or mental ability, religion, marital status, parental status, veteran status, medical condition, or any other category protected by law. We consider all forms of harassment to be intimidating misconduct which undermines the integrity of the employment relationship, damages morale, and interferes with work effectiveness. Such conduct and retaliation will not be tolerated. Harassment may take many forms including:

- Verbal conduct such as use of profanity, obscenities, derogatory jokes or comments or slurs.
- Visual conduct such as derogatory posters or pictures, cartoons, drawings, gestures, or suggestive or obscene letters, notes or invitations.
- Physical conduct such as unwanted, suggestive or offensive touching, assault, impeding or blocking normal movement, or interference with another employee's work.
- Use of computers, including the internet, cell phones and/or e-mail system, to transmit, communicate, solicit or receive derogatory messages or material.
- Threats and demands, including those directed at another employee or made in a joking manner.
- Retaliation for having reported harassment.
- Gender based comments that are not sexually provocative but that ridicule, intimidate or maliciously demean a person because of their sex or gender identity

Any employee who is determined to have engaged in such conduct will be subject to disciplinary action, up to and including termination. In the event harassment is by a non-employee, the Town will take corrective action as is deemed appropriate under the circumstances.

(2) Sexual Harassment: The Town of Rutherfordton will not tolerate sexual harassment of or by its employees, including managers, supervisors, co-workers, vendors, volunteers, applicants, or citizens. Employees are expected to avoid any conduct that could reasonably be interpreted as prohibited sexual harassment.

Sexual harassment is defined as gender-based harassment including unwelcome sexual advances, requests for sexual favors and other verbal, visual or physical conduct of a sexual or gender-based nature when:

- Submission to such conduct by an employee is made, either explicitly or implicitly, a term or condition of employment;
- Submission to or rejection of such conduct by an employee is used as the basis for employment decisions affecting such employee; or
- Such conduct has the purpose or effect of unreasonably interfering with an employee's work performance or creating an intimidating, hostile or offensive working environment;
- Repeated offensive sexual remarks, continual or repeated comments about an individual's body, and offensive sexual language.

Sexual harassment may include a range of subtle and not so subtle behaviors and may involve individuals of the same or different sex or genders. Examples of sexual harassment include, but are not limited to:

- Unwelcome sexual advances, flirtations, or propositions
- Subtle pressure or requests for sexual favors
- Sexually explicit or offensive jokes or innuendo
- Verbal abuse of a sexual nature
- Commentary about an individual's body, sexual prowess, or sexual deficiencies
- Visual conduct such as leering, making sexual gestures, displaying sexually suggestive objects, pictures, cartoons, or posters, suggestive or obscene letters, notes, or invitations.
- The use of the internet, cell phones or e-mail system to transmit, communicate or receive sexually suggestive, pornographic, or sexually explicit pictures, messages, or material.

It is important to understand that stories, cartoons, gifts, nicknames, and comments of a sexual nature may be offensive to others and will not be tolerated.

Any employee who is determined to have engaged in such conduct will be subject to disciplinary action, up to and including termination. In the event sexual harassment is by a non-employee, the Town of Rutherfordton will take corrective action as is deemed appropriate under the circumstances.

(3) Workplace Violence: Acts or threats of violence include, but are not limited to: conduct against persons or property that is sufficiently severe, offensive, or intimidating to alter the employment conditions at the Town, or to create a hostile, abusive, or intimidating work environment for one or more

employees. Acts or threats of violence shall constitute conduct subjecting an employee to disciplinary action.

The Town will not tolerate, including but not limited to:

- Threats or acts of violence occurring on Town property, regardless of the relationship between the Town and the parties involved in the incident;
- Treats or Acts of violence not occurring on Town property, but committed by one employee of the Town of Rutherfordton against another employee of the Town of Rutherfordton, except in self-defense;
- Threats or acts of violence resulting in the criminal conviction of an employee, or of an individual performing services on the Town’s behalf of the contract or temporary basis, that adversely affect the legitimate interests and goals of the Town.

Conduct that is considered an act or threat of violence includes, but is not limited to, the following:

- Hitting or shoving an individual;
- Threatening to harm an employee or official of the Town or their family, friends, associates, or property;
- The intentional destruction, or threat of destruction of property;
- Making harassing, intimidating, or threatening telephone calls, letters or other forms of written or electronic communications;
- Intimidating, or attempting to coerce, an employee to do wrongful acts;
- Harassing surveillance, also known as “stalking”, the willful, malicious and repeated following of another person and making a threat with intent to place the other person in reasonable fear for their safety.
- Stating or suggesting that an act to injure a person(s) or property is “appropriate;”
- Inappropriate possession, brandishing or use of firearms, weapons, and objects who purpose is violent or threatening, including knives, dangerous chemicals, explosives, chains and other objects, when carried, brandished or used for intimidating another, except as necessary for the proper functioning of the police and fire departments, or for purposes of self-defense.

While employees of the Town may be required as a condition of their work assignment to possess firearms, weapons or other dangerous devices, or permitted to carry them as authorized by law, employees must use them only in accordance with departmental operating procedures and all applicable State and Federal laws.

(4) Reporting Harassment and Threats or Acts of Violence: Each employee of the Town is required to report an incident(s) of a threat(s) or act(s) of violence which violate this policy to their supervisor, department head, or the Town Manager. Each supervising employee to whom such a report is made shall promptly notify the department head. Concurrent with the initiation of any investigation leading to a proposed disciplinary action, the department head shall report the incidents of threats or acts of physical violence to the Town Manager and the Rutherfordton Police Department.

In cases where the offending action(s) is perpetrated by a person who is not a Town employee, the employee shall report such incident to the department head, who shall concurrently report the incident to the Town Manger and the Rutherfordton Police Department.

Nothing in this policy alters any other reporting obligation established in Town policies or in State, Federal, or other applicable law.

All reports of harassment will be investigated fully and promptly and, to the extent reasonably possible, on a confidential basis.

All employees have a personal responsibility to conduct themselves in compliance with this policy and report any observations of harassment. Every member of management has a personal responsibility to work to ensure a harassment-free environment and refer all reports of harassment to the Town Manager.

(5) Non-Retaliation: The Town of Rutherfordton prohibits retaliatory action against any employee for reporting, expressing opposition to, or assisting in an investigation of, any unlawful or illegal incident, including incidents of harassment. Any employee who is determined to have engaged in such retaliatory action will be subject to disciplinary action, up to and including termination.

G. Conflicts of Interest

The Town respects the rights of employees to engage in activities outside of employment that do not conflict with the Town's interests. The Town reserves the right to require any employee to cease an activity which it determines to be in conflict with the interests of the Town.

While describing all the circumstances and conditions that may involve a conflict of interest is impossible, the following list is intended to provide guidance for employees:

- Employees are expected to put forth their best efforts in the interests of the Town of Rutherfordton and the conduct of its affairs.
- Employees are expected to provide full disclosure of potential conflicts of interest to the Department Head or Town Manager.
- Employees are expected to maintain confidentiality about the Town and information concerning the Town and its employees and customers.
- No employee may engage in outside work that will interfere with his or her primary job with the Town of Rutherfordton.
- Employees are expected to refrain from doing anything that might interfere with the success of the Town of Rutherfordton.
- Employees may not accept a professional retainer, commission, consulting fee or any other fee arrangement or remuneration without prior full disclosure and approval by the Town Manager.
- Outside work may not be done during an employee's regularly scheduled work hours.
- The Town of Rutherfordton facilities, equipment, labor, or supplies may not be used to conduct any outside activity.
- Any employee doing any professional outside work is under obligation to advise his or her client that the work is in no way by, for, or in the name of the Town of Rutherfordton.
- Employees may not solicit or accept personal gifts, favors, meals, or things of value that may tend to influence the employee in the discharge of the employee's duties, or grant in the discharge of any duty an improper favor, service or thing of value. Thing of value may be defined as in \$50 value, or more in one year from one source.

- Employees may not disclose confidential information concerning the property, government, or affairs of the Town or use such information to advance financial or other private interest of themselves or others.
- Employees may not use any information gained as an employee of the Town to advance financial or other private interest of themselves or others.
- Any questions regarding a possible conflict of interest or outside work should be discussed with the Department Head or with the Town Manager.

H. Employment of Relatives

The Town prohibits the hiring and employment of immediate family in regular positions within the same department. “Immediate Family” is defined as an employee’s parents, stepparents, parent-in-laws, grandparents, children, grandchildren, siblings (when employee is the sole care provider) and 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, Board of Commissioners Member, Town Manager, Finance Director, or Town Attorney. Otherwise, the Town will consider employing family members or related persons in the service of the Town, provided such employment does not:

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

This provision shall not apply retroactively to anyone employed when the provision is adopted by the Town. Should a family member of a current employee be elected to the Town Council, the employee must resign within six months of the relative taking office.

I. Media Relations

The official spokespersons of the Town of Rutherfordton are as follows: Mayor and Town Council, Town Manager, Town Attorney. They are the only individuals who can, at will, communicate with any member of the public media. If the media reaches out directly to any employee, including those listed above, to engage in an interview in any manner having to do with or referring to the Town of Rutherfordton, the employee must first notify the Town Manager and his/her Department Head. Town employees may not initiate contact with the media, unless guided to do so by the Town Manager. The United States Constitution and applicable state and federal laws will apply.

J. Political Activity

Each employee has a civic responsibility to support and encourage good government by every available means and in every appropriate manner. Town employees, on their own time, may attend political meetings, join or affiliate with civic organizations of a partisan or political nature, and may advocate or support principles and policies of civic or political organizations in accordance with the United States Constitution and applicable state and federal laws. However, no employee shall:

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

Any employee who is determined to have engaged in such action will be subject to disciplinary action, up to and including possible termination.

K. Outside Employment

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

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

- Employment with organizations or in capacities that are regulated by the employee or employees department;
- 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; or
- Public safety workers having outside employment 8 hours prior to serving a regular Town shift.

L. Dual Employment

A full-time 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 is a 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 and identified in the Fair Labor Standards Act (FLSA) regulations. However, the work of the full-time or part-time position shall take precedence over the temporary position, and such work will not count toward the calculation of overtime for pay or time-off. If these provisions are not followed, such work is subject to a pro-rated overtime rate under FLSA.

M. Probationary Period of Employment

(1) Six or Twelve Month Period: An employee hired to both full-time and part-time positions working over 1,000 hours annually and all fire protection personnel (regardless of hours annually worked) shall serve an initial probationary period. It is the purpose of the probationary period to provide a time for the

Town to determine whether an employee has shown the ability to meet the initial expectations for the position. All employees, full or part-time working over 1,000 per year (including fire protection employees), will serve a probationary period of six (6) months. Sworn law enforcement officers will have a twelve (12) month probationary running concurrently with state required probationary period. Employees hired as trainees shall remain on probation until the provisions of their traineeship are satisfied. Employees serving a probationary period are not eligible for promotions unless authorized by the Town Manager.

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

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

(2) 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, the applicant shall be appointed to that position. The town will balance three goals in the employment process:

- The benefits to employees and the organization of promotion from within;
- Providing equal employment opportunity and a diversified workforce to the community; and
- Obtaining the best possible employee who will provide the most productivity in that position.

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

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

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

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

N. Performance Evaluation

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

O. Safety

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

P. Use of Town Supplies and Equipment

Town equipment, materials, tools, and supplies shall not be available for personal use nor be removed from Town property except in conduct of official Town Business. Use of electronic equipment including mobile phones, pagers, and computers are subject to procedures as established by the Town Manager. Town employees shall provide reasonable care for any Town equipment and/or vehicle as a duty and function of their job requirements and will be accountable for the equipment/vehicle.

Vehicles are to be used exclusively for official Town business, except that by special approval by the town manager, an employee may be directed to take the vehicle home and shall drive in the best interest of the Town. Use of Town vehicles for commuting to and from work shall be limited to an employee who is subject to emergency call-back work. IRS guidelines will dictate any charges which shall accrue to the employee.

No individual shall operate a Town vehicle except as required for the conduct of official Town business other than Town employees and officially sanctioned volunteers.

Q. Work Schedule Defined

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

schedules, if different, must be approved by the Department head and Town Manager. The normal work schedule for most full-time employees shall be forty hours per week, with possible variation in the Police and Fire Departments' shift work.

R. Employee Status Defined

Full-time general employees are schedule to work 2,080 hours annually including holidays, vacation and sick hours excluding compensatory and/or overtime. Work periods are defined as 40 hours in a seven-day period beginning Sunday at 12:00 a.m. and ending on Saturday at 11:59 p.m. Additional hours worked outside of the determined schedule will be paid in accordance with Fair Labor Standards Act (FLSA). Full-time general employee classification can also include exempt full-time sworn law enforcement officers.

Part-time general employees are scheduled to work less than 2,080 hours annually. Part-time employee hours are based on department needs and agreed upon at the time of hiring. Holiday, sick and vacation time may be earned on a prorated basis if the position is scheduled to work more than 1,000 hours annually. Additional hours worked over 40 will be paid in accordance with Fair Labor Standards Act (FLSA).

Full-time sworn law enforcement officers are scheduled to work 2,184 hours annually including vacation and sick hours excluding holiday, compensatory and/or overtime. Work periods are defined as 171 hours in a 28 day cycle. Additional hours worked outside of the determined schedule will be paid in accordance with Fair Labor Standards Act (FLSA). This schedule has been adopted pursuant to section 207(k) of the FLSA and 29 CFR Part 553.

Full-time fire protection employees are scheduled to work 2,912 hours annually including vacation and sick hours excluding holiday, compensatory and/or overtime. Work periods are defined as 212 hours in a 28 day period. Additional hours worked outside of the determined schedule will be paid in accordance with Fair Labor Standards Act (FLSA). This schedule has been adopted pursuant to section 207(k) of the FLSA and 29 CFR Part 553.

Part-time fire protection employees are required to work no less than 480 hours and no more than 1,000 hours per year. Holiday, sick and vacation time may be earned on a prorated basis if the position is scheduled to work more than 1,000 hours annually. Work periods are defined as 212 hours in a 28 day period. Additional hours worked outside of the determined schedule will be paid in accordance with Fair Labor Standards Act (FLSA). This schedule has been adopted pursuant to section 207(k) of the FLSA and 29 CFR Part 553.

S. Pay Periods

- Pay periods are defined as bi-weekly, 14 day period occurring 26 times a year.

IV. SCOPE

As of January 1, 2021, this policy replaces and supersedes any previous policies or unwritten policies or practices covering the same subject.

V. AUTHORIZATION

Doug Barrick
Town Manager



I.	Policy
II.	Purpose
III.	Procedure
IV.	Scope
V.	Authorization

PERSONAL APPEARANCE

I. POLICY

All employees are to be presented in a manner that will present a neat, clean, and appropriate appearance.

II. PURPOSE

The Town strives to promote a positive image and professionalism. Clothing style, fit, color coordination, and cleanliness are essential to provide a safe, pleasant, and professional environment.

III. PROCEDURE

A. Personal Hygiene

Clean, neat, and well-groomed hair adds to the overall appearance. Extreme unnatural hair color (ex. green, pink, etc.) and/or hairstyles are unacceptable. Beards, sideburns, and mustaches are to be neatly trimmed and project a professional image not to exceed 2/3 inch in length. Nail color and length should be appropriate and not interfere with the performance of an employee's job. Regular bathing, shampooing, oral care and the use of deodorant products to prevent odor are required. Makeup, cologne, perfumes and aftershaves are to be worn modestly.

B. Non-Uniformed Employees

Matching, clean & coordinated clothes that convey a professional image should be worn at all times. Pants, skirts and dresses should be professional of moderate length and suitable for the job duties. The color of undergarments should not be visible. Clothes are to be well fitted, but not tight. Slacks should be appropriate to convey a professional image. Shoes are to be worn to complement the clothing and to provide comfort, support, and safety. The type of shoe worn by the employee will be determined by the type of work the employee is required to do. Jewelry frequently adds to the appearance of clothing and should be worn in moderation. Safety is to be considered in their use when employees operate equipment and/or machinery.

C. Uniformed Employees

For departments that are issued uniforms it shall be the responsibility of each department director to determine and secure uniforms for their employees within fiscal limits. It is the employee's responsibility for the proper care and handling of these uniforms. In addition, employees shall utilize these uniforms for their intended purpose in accordance with Town procedures. Each employee shall be responsible for maintaining his or her uniforms in good order by turning rental items in regularly for cleaning as well as self-maintenance on those items that are not rented. Employees that are issued safety shoes must wear them.

D. Body Art, Ornamentation, Tattoos, Branding and/or Intentional Scarring

No Town employee will display any body art, ornamentation, tattoos, branding and/or intentional scarring that will bring discredit to the Town or distract from the appropriate conservative, professional image of the Town. Examples include, but are not limited to objects that are drug-related, gang-related, extremist, supremacist, obscene, indecent, sexist, or racist in nature, nor will they depict intolerance or discrimination against any race, religion, gender, national origin, sexual orientation or gender identification. Employees are required to divulge the possession of any visible body art, ornamentation, tattoos, branding and/or intentional scarring as outlined in this policy to their Department Director. Employees shall not have body art, ornamentation, tattoos, branding, and/or intentional scarring visible on the head, face, chest, or neck area unless specifically approved by the Town Manager. Body art, ornamentation, tattoos, branding and/or intentional scarring that are questionable as outlined in this policy, must be approved by the Town Manager and Department Director. Employees who have any body art, ornamentation, tattoos, branding and/or intentional scarring that is determined to be in violation of this policy will be required to have them removed at their own expense or keep them covered through the use of clothing.

E. Unacceptable Appearance

1. Transparent, see-through, low-cut, or revealing clothing.
2. Shirts shall always be worn.
3. Tight-fitting apparel.
4. Reporting for work in stained, spotted, unclean or wrinkled clothing.
5. Tank tops and/or sundresses must be worn with a shirt, blouse or jacket.
6. No facial jewelry other than modest earrings and flush nose studs are allowed.
7. No visible body piercing (other than earrings worn on ears and flush nose studs).

IV. SCOPE

As of January 1, 2021, this policy replaces and supersedes any previous policies, or unwritten policies or practices covering the same subject.

V. AUTHORIZATION

Doug Barrick
Town Manager

I.	Policy
II.	Purpose
III.	Provisions
IV.	Scope
V.	Authorization



MOTOR VEHICLE USE POLICY

I. POLICY

It is the policy of the Town of Rutherfordton to have safe vehicle operation of all town vehicles.

II. PURPOSE

As with your personal vehicle, driving is a privilege not a right. The purpose of this policy is to serve as a minimum standard for the safe operation of Town of Rutherfordton vehicles. This policy covers all vehicles regardless of type and size, type of assignment, or condition of the vehicle. Town employees are responsible for the vehicle in their possession. This shall include all applicable Federal, State, and local laws that pertain to vehicle operations.

III. PROVISIONS

A. Personnel Affected

(1) This policy will apply to all personnel who operate motorized equipment owned or leased by the Town. This policy will apply to all employees, supervisors, and Department Heads who operate or may operate a town vehicle. Some departments that have special types of equipment, most notably the Fire Department and the Police Department, will have specific qualification and training requirements not covered in this policy. Those requirements are explained further in departmental operating procedures.

B. Operation of City-Owned Vehicles

1. City-owned vehicles shall only be used for official City business, with the following exceptions:

- a. When an employee is required to travel away from his/her/their workstation for official business, a City-owned vehicle may be used for limited but reasonable purposes. This exception does not allow an employee to transport alcohol in a City-owned vehicle.
- b. The Employer reasonably believes that, except for de minimis use, no employee uses the vehicle for any personal purposes.

2. If assigned a City- owned vehicle for full time or for “on call” purposes, an employee shall not drive a City-owned vehicle to and from his/her home unless one or more of the following conditions exists:
 - a. The City- owned vehicle is parked at the employee’s home when not being used for official business; or
 - b. The City-owned vehicle is required for a trip the following workday and the employee’s home is closer to the destination than the regular work station, and the employee does not have to report to his/her regular work station before beginning the trip.
 - c. Employees on extended out of town business trips may use a City-owned vehicle for limited but reasonable personal use. Personal entertainment or personal activities viewed as inappropriate such as drinking alcohol is not permitted. The City Manager shall make the final determination on any inappropriate activity of an employee on extended business trips, involving a City owned vehicle.

3. City employees with commuting privileges shall be approved by the City Manager. Approved Employees that routinely drive any City-owned vehicle between their home and workstation shall be subject to the federal tax guidelines found in the public employer’s outreach guide.
 - a. The possession of alcohol or illegal drugs is prohibited in City-owned vehicles.
 - b. Except for City Police Officers/Detectives, the possession of firearms and/or weapons of any kind concealed or otherwise, is prohibited in City-owned vehicles.
 - c. Under no circumstances may a City employee operate a City-owned vehicle while under the influence of alcohol or drugs. This includes prescription and non-prescription medications to the point of impairment.
 - d. Spouses, Partners and Children are allowed to accompany City employees in City-owned vehicles when sufficient and safe space is available for the purpose of pick up and drop offs, en-route to destinations such as the employee’s work station or other official City business trips. Employees shall notify their supervisor when pick ups and/or drop offs will occur. Employees shall not travel beyond what would be considered de minimis personal use (such as a stop for a personal errand on the way between a business delivery and the employee's home) outside of official business to pick up and/or drop off Spouses, Partners and Children, unless in the case of a recognized emergency.
 - e. Some Employees are provided a City- owned vehicle while on “On Call” Duty

for the purpose responding to a potential emergency. Employees on “On Call” Duty should not travel so far that they cannot respond back to their work station within thirty (30) minutes. “On Call” Employees are encouraged to remain close to the “On Call” response area during “On Call” Duty. If an “On Call” Employee must travel outside of the 30 minute return distance the employee should obtain a replacement for the “On Call” Duty or must obtain “Prior” approval from their supervisor.

- f. It is important that an employee on “On Call Duty” responds to emergencies within a reasonable time. The Town expects employees to respond to an emergency within (30) thirty minutes, therefore, an employee on “On Call Duty” may use a City-owned vehicle for de minimis personal use with the awareness that they should be able to respond to an emergency call within 30 minutes.
- g. Excessive unpaid parking citations or moving citations may result in the revocation of the driver’s privilege to operate a City-owned vehicle. It is the responsibility of the individual driver to observe all state motor vehicle laws and ordinances. All moving motor vehicle violations and fines incurred during the use of a City-owned vehicle shall be the responsibility of the individual driver.

B. Best Practice Guidelines

(1) The following are some specific “Best Practices” that will be exercised by operators of City vehicles:

a. License and Insurance

All employees operating Town of Rutherfordton vehicles will have a valid driver’s license in their possession during employment hours. Employees are also required to report to their supervisor immediately any moving citation they receive that will affect their ability to operate a vehicle. Finally, employees should check that the vehicle has a copy of the current automobile insurance that summarizes the current coverages in force. If the insurance information is missing contact the Town Manager for replacement.

b. Pre-Operations Inspection

All mobile equipment will be inspected prior to daily operations. This will consist of at least a visual inspection to ensure that there are no obvious mechanical conditions that are in need of repair. If conditions are noted the supervisor will be advised so a determination can be made as to whether to take this unit out of service for repairs.

c. Housekeeping within Vehicles

Vehicle compartments will be kept clear of materials that could constitute a safety hazard in the operation of the vehicle. Unsecured tools, loose debris or other items that could contribute to an accident or blow out of the vehicle (e.g., trash) will be removed or dealt with immediately.

d. Passenger Rules

Vehicles that are used to transport personnel, regardless of the distance, will be equipped with seating as supplied by the manufacturer. Neither employee nor any other passenger will ride in the standing position or outside the seating area such as riding on the tailgate of a pickup truck.

e. Seat Belts

All passengers (including driver) will wear seat belts when the vehicle is in motion.

f. Securing Materials

The operator is responsible for ensuring that all materials are properly secured onto or in the vehicle before proceeding. If materials exceed the end of the vehicle, appropriate flags or lighting should be added to the end of the material.

g. Backing Operations

Each operator will make every effort to position his/her vehicle so that it is not necessary to back. When vehicles must be backed and rear vision obstructed, a spotter must be used. If no spotter is available the operator will dismount the vehicle and walk around the vehicle to make sure the area to be backed into is clear. Next, back slowly with great care.

Whenever possible, back your vehicle into a parking space when traffic allows. This will allow you to drive forward with an unobstructed view rather than backing out into the flow of traffic.

All equipment with obstructed rear views should be equipped with an electronic back up alarm (dump trucks, dozers, etc.).

h. Warning Lights & Striping

Many of our vehicles are equipped with visual warning equipment for added safety when responding to emergency situations. This equipment must be maintained to the highest degree possible to protect our employees and the public we serve. Similarly, our utility vehicles are equipped with strobe lights and reflective striping that outlines the vehicle. When these items need to be repaired or replaced advise your supervisor so immediate maintenance can be performed.

i. Cell Phone Use

Wireless phones have become another tool required to do our jobs effectively. Operating a vehicle safely requires your full attention. Cell phones must be used as follows:

- i. Place outgoing calls when parked or pulled off onto the shoulder of the road.
- ii. Similarly, receive incoming calls once you have pulled off the road. Allow voicemail to pick up and then return the call once you are parked in a safe area.
- iii. It is strictly prohibited to text on cellphone device while driving
- iii. The only possible exception to the above are those phones that are “hands free” devices.

Regardless of the situation, use the following basic rules for the safe use of cell phones:

- If you are using the “hands fee” function advise the caller that you are driving and they may get cut off.
- Stop conversations during bad weather, congested traffic or other hazardous situations;
- Keep all conversations brief;
- Avoid stressful, emotional or confrontational conversations while driving. Your attention gets diverted from your primary responsibility, operating the vehicle safely.
- Pull over to take notes or to look up something. Get off the road, park the vehicle and complete your task and then focus on driving the vehicle safely.

j. Required Training

Each supervisor should review this policy with each employee on an annual basis or more frequently, if necessary.

k. Policy Review and Update

The Town Manager will review this policy on an annual basis to ensure its applicability and make any necessary changes.

C. Driver Qualifications

(1) Minimum Standards: This guideline is established to create minimum standards by which the Town of Rutherfordton regulates the operation of Town owned vehicles.

The Town of Rutherfordton reserves the right to refuse employment based upon the criteria detailed in this guideline concerning an applicant’s established driving history. Additionally, the Town of Rutherfordton reserves the right to alter a job assignment of an employee who meets the criteria listed below concerning driving record infractions occurring during employment.

The intent of this policy is not to alter any existing, Federal, State or Local requirements. In the event of a conflict with any such law, we will alter the personnel policy to adapt to the existing requirement.

(2) Personnel Affected: Each employee will be classified into one following categories:

a. Class 1 Operator:

This employee by job description will not routinely operate a motor vehicle owned by the Town of Rutherfordton.

b. Class 2 Operator:

This employee maintains a current driver's license in the state where the employee's permanent residency is located allowing him or her the privilege of operating passenger cars and light duty (pick up) trucks.

c. Class 3 Operator:

This employee maintains a current driver's license in the state where the employees permanent residency is located allowing him or her the privilege of operating either Class B (GVWR over 26,001 lbs and not pulling a trailer over 10,000 lbs.) or C vehicles (Passenger Capacity over sixteen occupants).

d. Class 4 Operator:

This employee maintains a current driver's license in the state where the employees permanent residency is located allowing him or her the privilege of operating Class A (Any combination vehicle with a GVWR of 26,001 and a trailer in excess of 10,000 lbs.)

e. Special Equipment:

Motorized, non-licensed equipment capable of transporting an employee.

D. Procedure/Guidelines

Eligibility is dependent upon possession of a valid State Operator's License appropriate for the equipment being operated and the satisfactory review of all driving history and equipment operation concerning employee.

Any Town of Rutherfordton employee receiving a citation on a traffic related issue shall be required to notify his or her supervisor before the beginning of the next shift. Any employee found guilty of a traffic related issue shall be required to notify his/her/their supervisor before the beginning of the next work shift following the conviction. The burden of disclosure lies with the employee. Any employee who fails to report incidents that will affect driving status will be removed from a driving position for a minimum of 30 days and will be subject to disciplinary action up to and including termination. The Town of Rutherfordton reserves the right to honor or refuse the requirements of the State of North

Carolina concerning altered driving privileges; if no reasonable accommodation is available, the employee may be terminated.

All Town of Rutherfordton employees shall be required to carry their valid driver’s license during employment hours. Any employee not having this in their possession will be held to the requirement of the personnel policy’s disciplinary procedure in the Town of Rutherfordton.

E. Condition of Employment – New Hires

The following restrictions shall apply to the Motor Vehicle Records (MVR’s) to candidates that have accepted a conditional offer of employment into positions classified as *Class 2 Operator, Class 3 Operator, Class 4 Operator, or Special Equipment Operator*.

- a. Any applicant who does not have a current license, or whose license is suspended shall not be approved for employment.
- b. An applicant who, at the time of application, has more than 9 points accumulated over the past five years **or** more than 6 points in any one of those five years shall not be approved for employment. The date of conviction shall be utilized as the reference date for consideration.
- c. An applicant who has a history during the past five years of two or more suspensions or three or more revocations shall not be approved for employment.
- d. An applicant that has been convicted of driving while intoxicated, impaired or under the influence of drugs or alcohol within the last five (5) years shall not be approved for employment.

Table A. Point System for Moving Violation Convictions

Violation	Points Assigned
Driving While Impaired/Driving Under the Influence	6
Passing a Stopped School Bus	5
Aggressive Driving	5
Reckless Driving	4
Hit & Run, Property Damage only	4
Following Too Closely	4
Driving on the Wrong Side of the Road	4
Illegal Passing	4

Running a Stop Sign	3
Speeding in Excess of 10 mph over Posted Speed	3
Failure to Yield Right of Way	3
Running a Red Light	3
Driving while license revoked	3
License expired more than one year	3
Failure to stop for a Siren	3
Failure to Maintain Liability Insurance	3
Failure to Report and Accident, if required to report	3
Speeding in a School Zone in excess of the posted school zone speed limit	3
All Other Moving Violations	2

F. Required Annual Certification for Current Employees

The following restrictions shall apply to the Motor Vehicle Records (MVR's) of employees into positions classified as *Class 2 Operator*, *Class 3 Operator*, *Class 4 Operator*, or *Special Equipment Operator*.

- a. Any employee who does not have a current license, or whose license is suspended shall not be permitted to operate town vehicles.
- b. An employee who has more than 9 points accumulated over the past five years **or** more then 6 points in any one of those five years shall not be permitted to operate town vehicles. The date of conviction shall be utilized as the reference date for consideration.
- c. An employee who has a history during the past five years of two or more suspensions or three or more revocations shall not be permitted to operate town vehicles.
- d. An employee that has been convicted of driving while intoxicated, impaired or under the influence of drugs or alcohol within the last five (5) years shall not be permitted to operate town vehicles.

G. Required Pre-Employment and Annual Employee Certification of Class 1 Operators

The following restrictions shall apply to the Motor Vehicle Records (MVR's) of applicants/employees positions classified as *Class 1 Operator*.

a. Any applicant or employee who does not have a current license, or whose license is suspended shall not be permitted to operate town vehicles.

b. An applicant or employee that has been convicted of driving while intoxicated, impaired or under the influence of drugs or alcohol within the last three (3) years shall not be permitted to operate town vehicles.

IV. SCOPE

As of January 1, 2021, this policy replaces and supersedes any previous policies, or unwritten policies covering the same subject.

V. AUTHORIZATION

Doug Barrick
Town Manager



I.	Policy
II.	Purpose
III.	Background
IV.	Provisions
V.	Definitions
VI.	Scope
VII.	Authorization

SOCIAL MEDIA USE POLICY

I. POLICY

Employees may choose to express themselves by posting personal information on the Internet through personal websites, blogs, or chat rooms; or by posting comments on social media or blogs. The Town respects the right of employees to use blogs and social media sites on their own time as a medium of self-expression and public conversation, and does not discriminate against employees who use media for personal interests and affiliations or for other lawful purposes; however, employees are encouraged to exercise sound judgement and discretion in contributing to social media sites where information is available to numerous users.

Government employees have limited protections surrounding expression from the First Amendment, which was established by multiple court cases including *Packingham v. North Carolina*, 137 S.Ct. 1730, 2835 (2017), *Connick v. Myers*, 461 U.S. 138 (1983), and *Garcetti v. Ceballos*, 547 U.S. 410 (2006). As a result of these decisions, the Town expects that the employee follow guidelines within the policy set forth herein to provide a clear line between themselves as an individual and as an employee of the Town of Rutherfordton.

II. PURPOSE

This policy establishes clear guidelines for proper social media use of all Town employees. The Town expects that employees will convey a distinct separation between personal and organizational views.

III. BACKGROUND

This policy provides guidance to employees or contractors in the implementation of social media applications in order to:

1. Prevent violation of existing policies such as logo standards, Internet usage policies, public records retention policies, or confidential personnel information;
2. Utilize technology to support the Town's communication needs;
3. Ensure appropriate review by management staff; and
4. Protect against inadvertent establishment of a public forum.

IV. PROVISIONS

A. Disclaimer Requirements

Employees are legally responsible for content they post to the Internet and can be held personally liable for defaming others and/or revealing confidential information. If an employee chooses to identify himself/herself/themselves as a Town of Rutherfordton employee, some readers may view them as a spokesperson for the Town; thus, employees who choose to identify themselves in this way are required to conspicuously include the following statement, or substantially similar language, somewhere within the social networking page:

“The views expressed on this page are my own and not those of the Town of Rutherfordton, nor any person or organization affiliated or doing business with the Town of Rutherfordton.”

B. Guidelines for Personal Use

Certain activities on the part of employees may become a concern if they have the effect of impairing the work of any employee or town department; harassing, demeaning, or creating a hostile working environment for any employee; or disrupting the smooth and orderly flow of work within the organization.

Employees may use blogs or social media in any way they choose; as long as such use does not produce adverse consequences for the city as noted above; for this reasons, guidelines are provided below to advise employees regarding use of social media on their own personal time and personal computer resources.

1. If an employee publishes personal information about themselves, another employee of the town, organization, citizen, or a customer in any public medium that:
 - a. Creates a harassing demeaning or hostile working environment for any city official, employee, or contractor;
 - b. Disrupts the smooth and orderly flow of work, or delivery of services to citizens; THEN employee(s) responsible for such problems may be subject to counseling and/or disciplinary action up to and including termination of employment, depending upon the severity and repeat nature of the offense.
2. Employees are further prohibited from the following connection with social media:
 - a. Using sites to harass, threaten, and/or discriminate against town officials, employees, or anyone associated with or doing business with the town;
 - b. Posing the Town of Rutherfordton logo on personal blogs or other sites without prior approval from the town manager; and
 - c. Posting information including town-issued documents that are not a matter of public record.
3. Use of social media that involves any kind of criminal activity or harms the rights of others may result in criminal prosecution or civil liability to those harmed, or both.
4. Personal postings may not be read by friends and family, but also by co-workers, supervisors, town residents, and the media. An online identity can be discovered relatively easily, even if posting anonymously; therefore, employees should exercise caution when deciding what to post or comment.

5. The town may require immediate removal of and impose discipline for material that violates the standards of this policy.
6. Misuse of social media, whether on or off-duty, is grounds for disciplinary action, up to and including termination.
7. This policy shall not be construed to prohibit any activities that constitute legally protected activities or constitutionally protected speech. Further, the First Amendment allows public employees broad, but not unlimited discretion to speak on matters of public concern within the scope of their employment. Employees' speech is of public concern when it deals with issues of social, political, or other interest to the community at-large and where the public is likely to be truly concerned or interested in the public employee's message; however this protection is not absolute and may be balanced against the town's interest in providing effective and efficient services to the public.

C. Employer Monitoring of Personal Use

Online posting can be reviewed by anyone, including town management and contracted IT personnel; in addition, the town reserves the right to monitor social media and other online activities lawfully and respectfully for compliance with its policies. Monitoring can occur through multiple methods, such as employees following one another or a citizen bringing inappropriate material from an employee's posting to the attention of management. The Town further reserves the right to use search tools and software to monitor blogs, other types of personal journals, and discussion forums.

D. Reporting Violations

Employees are encouraged to report any violations, including possible or perceived violations, to supervisors, department heads, or the Town Manager. Violations include but are not limited to the areas identified above, discussions of the town and its employees or vendors, discussion of proprietary information, and other unlawful activity related to social networking.

E. Discipline for Violations

The Town will investigate and respond to reports of violations of the rules and guidelines set forth in this and other related policies. Violations may result in disciplinary action up to and including immediate termination. The Town reserves the right to take legal action where necessary against employees who engage in prohibited or unlawful conduct.

F. Scope of Social Media Use by the Town

The official town website, Facebook page, and Instagram will remain as the primary and predominant Internet presence for the town; however, with approval of the Town Manager, departments and other town-sponsored event committees may engage in social media to achieve certain business and communication goals including disseminating time-sensitive information such as during public safety emergencies; marketing/promoting town services and products; and

encouraging public input for town projects, programs, and initiatives. Whenever possible, content posted to social media sites should also be available or contain links directly to the town's official website.

Detailed requests for approval to establish social media sites shall be submitted in writing to the Town Manager. Such requests shall be submitted well in advance of the desired "go live" date and must include:

1. The purpose of the site including goals and objectives which cannot be accomplished through current sites;
2. A communication strategy with identification of audiences, messages, and other tactics; and
3. An implementation plan and process for managing the account, such as frequency and protocol associated with posting, updating, and compliance with public record requirements.

Constant monitoring and updating are required in order for the site to be effective and the department initiating the social media page shall be responsible for updating information, monitoring content, replying to the site users, and fulfilling public information requests.

All social media sites must adhere to the following policies and protocol:

1. Maintaining administrative standards in the use of town logos and branding identifiers;
2. Compliance with NC public records statutes;
3. Adherence to website policies concerning linking to third-party sites, privacy, and guidelines for accessibility by the disabled;
4. Ensuring the social media site does not contain any political information and is not used for political activity;
5. Compliance with town policies and procedures for information security;
6. Town Social media sites shall be used only as a vehicle for communicating the Town's message and shall not be utilized in a manner that allows members of the public to post comments directly onto the page;
7. And the following statement shall be predominately displayed on the site:
 - a. The Town reserves the right to delete submissions that contain:
 - i. Vulgar language
 - ii. Personal attacks of any kind
 - iii. Offensive comments that target or disparage any ethnic, racial, or religious group
 - iv. Posts which are not in the public interest;
 - b. Further the Town reserves the right to delete comments that are:
 - i. Spam or include links to other sites;
 - ii. Clearly off topic
 - iii. Advocate illegal activity
 - iv. Promote particular services, products, or political organizations
 - v. Infringe on copyrights or trademarks;
 - vi. Use personally identifiable medical information.

- c. The comments expressed on this site do not reflect the opinions and position of the Town of Rutherfordton government or its officers and employees. If you have any questions concerning the operation of this page, please call Town Hall at (828) 287-3520.

V. DEFINITIONS

Blogs: Blogging or other forms of social media or technology include, but not limited to: video or wiki postings, social networking sites such as Facebook and Instagram, chat rooms, YouTube, online journals, or personal newsletters that are not affiliated with the city.

VI. SCOPE

As of January 1, 2021, this policy replaces and supersedes any previous policies, or unwritten policies covering the same subject.

VII. AUTHORIZATION

Doug Barrick
Town Manager



I.	Policy
II.	Purpose
III.	Procedures
IV.	Responsibilities
V.	Scope
VI.	Authorization

ADVERSE WEATHER POLICY

I. POLICY

The Town has responsibility for emergency services including law enforcement. Adequate staff is required to operate during critical services incidents seven (7) days per week and 24 hours per day in all weather.

II. PURPOSE

The purpose of this policy is to emphasize the need to provide for necessary town services in times of bad weather and to address safety concerns and equity for town employees affected by these weather conditions. The adverse weather/hazardous conditions policy is established to be as fair as possible to all employees applying the following principles: maintain adequate staffing at all times of emergency services; provide for as much safety as possible for all employees in traveling to and from work in hazardous conditions; and not pay regular salaries to some employees for not working when others are required to be at work.

III. PROCEDURES

A. Reporting Procedures: Employees are encouraged to come to work. If conditions make this hazardous or not reasonably possible, employees are expected to call department staff at least one hour prior to regular reporting time or as soon as possible.

B. Use of Accrued Leave: Employees may use leave in the following order: (1) compensation (2) vacation leave to cover absences due to severe weather. Employees may not use sick leave to cover absences due to severe weather. If an employee is sick, sick leave may be used. If the employee does not have any compensatory or vacation leave accrued, the employee may choose to be unpaid.

C. Working at Home: Department heads may authorize employees to work at home under certain circumstances. If such work is authorized, it will be counted as normal work hours.

D. Town Offices: Town offices shall remain open for the full scheduled working day unless authorization for closing or other deviation is received by the Town Manager. The Town Manager will consider the hazard of driving conditions and other relevant factors in determining whether to close town offices. Unless specifically told not to report, employees should come to work if possible, even if town offices are closed. Other duties may be assigned or the department may need employees on hand

in case conditions change and town offices reopen. Employees who leave work early, as well as employees who report for work late or do not report for work because of hazardous conditions must use leave in the following order: (1) compensatory time (2) vacation time. Employees must use accrued leave and cannot be unpaid.

E. Critical Staff: The Town Manager and Department Heads decide which staff members are critical to maintain town responsiveness in severe weather conditions. These employees are required to report to work regardless of weather or other hazardous conditions and should make preparations for care of family and personal needs to allow them to report for duty when required. Any employee in a position designated as critical who does not report to work as directed by the Town Manager or appropriate department head will be subject to disciplinary action.

F. Cell Phones: During adverse weather or hazardous conditions, all personnel with town issued cell phones must monitor their phones.

G. Exceptional Circumstances: The Town Manager may develop specific policies in response to extraordinary weather conditions. These policies apply only to the specific occasion for which they are developed. Employees will be made aware of any policies in writing or by telephonic recording in timely fashion. Policies will determine if employees are responsible for submitting accrued time or if the town will compensate employees for time not worked due to hazardous conditions.

IV. RESPONSIBILITIES

The employee is responsible for informing his/her supervisor of absence from work due to severe weather.

V. SCOPE

As of January 1, 2021, this policy supersedes any previous policies, or unwritten policies, or practices covering the same subject.

VI. AUTHORIZATION

Doug Barrick
Town Manager



I.	Policy
II.	Purpose
III.	Provisions
IV.	Definitions
V.	Additional Contact
VI.	Scope
VII.	Authorization
VIII.	Appendices

DRUG & ALCOHOL-FREE WORKPLACE

I. POLICY

The Town of Rutherfordton is a drug and alcohol-free workplace. While at work or on town premises, Town employees shall not manufacture, distribute, sell, possess or use any controlled substance or drug paraphernalia, unlawfully use and prescription drug and/or possess or use any alcoholic beverages. The Town maintains a zero tolerance position on these issues. This policy applies to all Town employees.

The Town positions covered by federal regulations are subject to the U.S. Department of Transportation (DOT) Drug and Alcohol Screening Policy.

*Cross Reference: Drug and Alcohol Screening
Department of Transportation (DOT)
Commercial Driver's License (CDL)*

Positions considered "safety sensitive" such as law enforcement and/or fire protection personnel are subject to this policy. This policy works in conjunction any procedures by departmental standard operating procedures.

II. PURPOSE

This policy helps to create an environment where employees can perform their jobs in a safe, productive, and healthy manner. This policy provides guidance for Department Heads, supervisors, and employees on procedures they must follow to maintain a drug and alcohol free workplace.

III. PROVISIONS

A. Expectation of Privacy

In order to maintain a drug and alcohol-free workplace, the Town may observe the actions of employees during work time; require employee participation in drug and alcohol testing; and search department or Town-owned items used by employees.

B. Testing Thresholds and Standards

Unless otherwise specified, the Town uses the drug and alcohol thresholds provided for in the most current versions of [US Department of Transportation Regulation 49 CFR Part 40](#) when determining whether an employee is in violation of this policy. This regulation is periodically amended and updated by US DOT.

C. Prohibited Behavior

(1) Report for Duty: No employee may report for duty or remain on duty at any time there is a quantifiable presence of drugs or alcohol in the body.

(2) Perform Job-Related Functions: No employee shall perform any job related function while under the influence of alcohol or drugs with the exception of a law enforcement officer is assigned in an undercover capacity. The law enforcement officer may consume a quantity of alcohol below a level to cause intoxication if engaged on-duty in an undercover investigation where not partaking of alcohol could expose their status as an officer. Consumption or use of any other substance is prohibited.

(3) Safety Sensitive Functions: No employee shall perform any safety sensitive functions within twenty four (24) hours of a determination of having an alcohol concentration of .02 BAC or higher.

(4) On Duty: No employee may consume alcohol or drugs while on duty.

(5) On-Call: Some employees in the Town, as part of their ongoing job duties, are designated by their departments to be ‘on call’ during certain periods. Any employee who is officially ‘on call’ is in violation of this policy if he reports to work with a quantifiable presence of drugs or alcohol in his body. An ‘on-call’ employee must report drug or alcohol use if called to duty in order to avoid disciplinary action under the terms of the personnel policy.

(6) Off Duty: An employee is discouraged from ingesting alcohol or drugs to the extent that it results in appreciable impairment that might discredit the employee or the Town.

(7) In Uniform: Employees shall not ingest any alcohol or drugs while in uniform or wearing any item of apparel construed as duty-related or which bears a Town or Department logo, regardless of whether the employee is on duty or off duty.

(8) On-premises: Employees shall not bring or store any drugs or alcohol in any Town facility, vehicle, or work area.

a. Employees who are in possession of such substances as part of their ongoing job responsibilities or for training purposes will not be in violation of this policy. They should follow their department’s standard operating practices regarding the proper handling of these substances. For example, a police officer who confiscates drugs or drug paraphernalia from an individual and transports it to enter it into evidence would not be in violation of this policy.

(9) Post-Accident: Employees will be tested for drugs and/or alcohol after being involved in an accident

that has occurred while on Town business or while operating a Town vehicle or equipment.

D. Prohibited Drugs/Drugs Offenses

(1) Prescription Medications: The use of any controlled substance by an on-duty employee is prohibited except when prescribed by a health professional who has advised the employee that the substance does not adversely affect the employee’s ability to perform job functions.

(2) Over-the-counter medications: The use of any over the counter medication that may adversely affect an employees’ ability to safely perform job duties is prohibited while on duty, unless the employee has advised the Town that the substance does not adversely affect the employee’s ability to perform job functions.

(3) Physician Authorization: Employees who are taking either prescribed or over the counter medication that might affect job performance shall provide a doctor’s note indicating that the employee is:

- a. fit for duty while taking the medication and
- b. how long the employee will be taking the medication.

The note will be kept in a secure file.

(4) Drug Related Offenses: Employees who are charged and/or convicted of a controlled substance related violation under state or federal law must inform their department within five days of such charge or conviction or prior to the next scheduled work day, whichever occurs first.

(5) Town’s right to relieve employee of duties: Other policy provisions notwithstanding, the Town reserves the right to relieve any employee of his duties if, in the opinion of the Town, the employee presents a risk to himself or others while under the influence of any amount of alcohol or drugs.

E. Prohibited Alcohol Consumption/Alcohol Offenses

(1) Use and Possession of Alcohol: All employees are prohibited from using alcohol to the degree that it affects job performance. Alcohol includes any alcoholic beverage or substance such as medication, mouthwash, food or candy in which alcohol is present. Possessing an open alcohol container while on duty, on Town property, or in a Town vehicle is a violation of this policy.

- a. The possession of medicine containing alcohol is not prohibited when the packaging seals are unbroken.
- b. Employees who are in possession of open containers of alcohol as part of their ongoing job responsibilities or for training purposes will not be in violation of this policy. They should follow their department’s operating procedures regarding the proper handling of alcohol. For example, a police officer who confiscates alcohol from an underage individual and transports it to enter it into

evidence would not be in violation of this policy.

(2) Alcohol Related Offenses: Employees who are charged or convicted of alcohol related violations under state or federal law must inform their supervisor or designated employer representative within five days of such charge or conviction or the next scheduled work day, whichever is less.

(3) Law Enforcement Undercover Capacity: Law enforcement officers in the police department assigned in an undercover capacity may consume a quantity of alcohol below a level to cause intoxication if engaged on-duty in an undercover investigation where not partaking of alcohol could expose their status as an officer. Consumption or use of any other substance is prohibited.

F. Employee Assistance

(1) Counseling: Employees who need assistance in dealing with substance abuse or dependency are encouraged to voluntarily seek counseling or treatment through the Town Employee Assistance Program (EAP) or other counseling/treatment provider.

(2) Voluntary Admission Prior to Testing: Voluntary admission of a substance abuse problem by an employee prior to random, reasonable suspicion, or positive test result is considered, but does not exempt an employee from, disciplinary action.

(3) Participation in Employee Assistance or other Counseling Program: Participation in an EAP or other counseling or treatment program will be considered, but will not exempt an employee from disciplinary actions.

G. Required Consent for Drug and Alcohol Testing

(1) Required Testing: As a condition of employment, employees and applicants are required to consent to testing for the use of drugs and to testing for the use of alcohol upon hire or if the employee is moving to a position that is considered safety sensitive.

(2) Confidentiality: Results will be handled in a confidential manner. A Medical Review Officer (MRO) or substance abuse testing professional shall report results of testing as provided by law, to the designated employer representative.

H. Employee Testing Categories/Covered Employees

The situations under which an employee covered by this policy may be required to participate in drug and/or alcohol testing are contingent upon the circumstances, reasonable suspicion, and the duties of the position the employee holds. The Town has reviewed the actual duties performed by employees in all job classifications and has classified jobs into categories (as defined below).

(1) Commercial Driver's License: Employees that are required to hold a commercial driver's license are subject to the Drug and Alcohol Screening Department of Transportation (DOT) Commercial Driver's License (CDL) policy.

(2) Safety- Sensitive: Employees not covered by FTA or FMCSA, but who, as a core or essential function of their job, operate, inspect, or repair equipment or vehicles, utilize hazardous materials, or whose core duties or responsibilities directly impact the public's or employees' health and safety, or the protection of life, property, or environment **have been designated by the Town as 'Safety-Sensitive' employees.** A full list of designated Safety-Sensitive positions are found in the appendix of this policy.

(3) All Other Town Employees: Subject to this policy regardless of job classification or employment status.

F. Types of Drug Testing Conducted by the Town

(1) Pre-Employment Drug and Alcohol Testing: As a condition of employment, all employees and candidates who receive a conditional offer of employment are required to consent to drug and alcohol testing as specified in this policy.

a. Existing employees who are being considered for any safety sensitive position within the Town must be screened for drugs and alcohol as part of the employment process for the position.

(2) Reasonable Suspicion Testing for Any Employee: Any Town employee may be required to submit to a reasonable suspicion alcohol and/or drug test when the Town, acting through its supervisors and/or department heads, has reason to believe or suspect that an individual's ability to safely and efficiently perform his/her job is impaired.

a. Garrity Interview Required Prior to Testing: any employee who is tested under the provisions of this policy for reasonable suspicion must be administered a 'Garrity Interview' prior to being tested for alcohol or drugs. A Garrity Interview advises the employee that any information obtained by the Town during the course of testing will not be used to bring criminal charges against the employee. A supervisor must read the Garrity Interview to the employee before the employee is tested. The text of the Garrity Interview is available in the appendix of this policy.

b. Conditions for Reasonable Suspicion Testing: Before a supervisor can require an employee to submit to drug and/or alcohol testing, the supervisor must have reasonable suspicion, based on specific observations of the behavior, speech, appearance, body odor, or other physical indicators of the employee's impairment. These observations should be specified on the appropriate version of the Reasonable Suspicion Checklist included in the appendix of this policy. A supervisor who has not yet completed Reasonable Suspicion Training should engage the assistance of a supervisor who has completed Reasonable Suspicion Training.

The Town has prepared the following documents to assist supervisors and managers when making reasonable suspicion determinations and to document behaviors that support reasonable suspicion drug and alcohol screening.

- i. Signs and Symptoms of Drug Use or Abuse
- ii. Reasonable Suspicion Procedures
- iii. Reasonable Suspicion – Short Term Checklist
(used for specific incident that raises reasonable suspicion)
- iv. Reasonable Suspicion – Long Term Checklist
(used to document behavior over time that leads to reasonable suspicion)

The Town Manager can assist supervisors with questions about procedures and documentation.

c. Factors or Observations that support Reasonable Suspicion Testing:

Factors or observations, which will provide sufficient cause to request an employee to submit to drug or alcohol testing, include, but are not limited to, the factors listed below. Any combination of the following may constitute reasonable suspicion:

- i. Slurred speech;
- ii. The odor of illegal drugs or alcohol on or about the person or his/her vehicle or worksite;
- iii. Impaired movement or coordination with no other readily apparent cause;
- iv. A pattern of absenteeism or deterioration of work performance that suggests use of drugs or on duty use of alcohol;
- v. Confusion, disorientation, lack of coordination, marked personality changes, or irrational behavior;
- vi. Possession of drugs, drug paraphernalia and/or alcohol on the person, in a desk or locker or a Town assigned vehicle;
- vii. Direct observation of prohibited drug or alcohol use

d. Employee Placed on Leave Pending Test Results: Under departmental authority, any employee who is required to submit to a reasonable suspicion alcohol or drug test will be placed on paid leave pending the receipt of test results.

(3) Post –Accident Testing: Safety sensitive employees will be tested for the presence of drugs and alcohol after an accident occurs during work hours, while on Town property, or while using or operating Town-owned equipment and vehicles according to departmental standard operating procedures.

a. Non-Safety Sensitive Employee Testing after an Accident: After an accident, non-public safety employees may only be tested based on reasonable suspicion.

b. Safety Sensitive Employee Testing after an Accident: Safety-Sensitive

Employees are required to be tested for alcohol and controlled substances following a vehicle accident where:

- i. A fatality occurs;
- ii. The driver receives a citation under state or local law for a moving traffic violation arising from the accident AND an individual suffers a bodily injury which requires immediate medical treatment away from the scene;
- iii. The driver receives a citation under state or local law for a moving traffic violation arising from the accident AND any vehicle involved incurs disabling damage that requires the vehicle to be towed from the scene;
- iv. There is reasonable suspicion to believe the employee was under the influence of alcohol or drugs at the time of the accident.

c. Garrity Warnings Required Prior to Testing: Any employee who is tested under the provisions of this policy following an accident must be administered a ‘Garrity Interview’ prior to being tested for alcohol or drugs. A Garrity interview advises the employee that any information obtained by the Town during the course of testing will not be used to bring criminal charges against the employee. A supervisor must read the Garrity interview to the employee before the employee is tested. The text of the Garrity warning is available in the appendix.

d. Employee to Notify Management of Accident: Any employee who is involved in an accident with a Town vehicle or any other vehicle while on Town business must immediately notify their management of the incident.

e. Management to notify Town Manager: Upon learning that an employee has been in an accident, Department Heads should immediately notify the Town Manager and briefly provide the details of the accident, including location and any resulting injuries. Responding to individual injury or assisting others who are injured should take priority over the reporting notifications.

f. Criminal Investigation Takes Precedence: If alcohol or a controlled substance is believed to be a contributing factor to the accident and an employee is or may be criminally charged, the criminal investigation takes priority over any administrative investigation or procedure. Supervisors should defer to the criminal investigator with regards to obtaining the necessary testing samples from the employee. Once the criminal investigator has obtained the necessary samples from the employee for the criminal investigation, then the supervisor can proceed with drug testing as outlined in this policy.

g. Employee Must Remain Available for Testing: An employee who is subject to post-accident testing must be available for testing. An employee who fails to remain readily available for testing will be considered a refusal to test.

h. Timeframe for Post- Accident Testing: Employees must be tested for drugs within thirty- two (32) hours following an accident. Absent extenuating circumstances, alcohol tests must be conducted within two (2) hours following an accident. There are no circumstances under which an alcohol test will be conducted after eight (8) hours following an accident.

i. If Testing Timeline is Not Met after an Accident: If post-accident tests are not performed within the designated time requirements, the supervisor must prepare a memorandum for the record stating the reason a test was not promptly administered. This memorandum must be sent to the Town Manager. Failure by a supervisor to ensure appropriate tests are performed or to document the reason tests were not promptly administered will result in appropriate disciplinary action against the supervisor.

G. General Testing Guidelines for all Drug and Alcohol Tests

(1) Consent: Before a drug or alcohol test is administered, employees and candidates will be asked to sign a Chain of Custody consent form provided by the town's drug testing facility authorizing the test and permitting the release of the results to the designated employer representative(s). All test results will be kept confidential. Disclosures without the employee's consent will be in accordance with procedures established in this policy.

(2) Refusal to Test: Any employee or candidate who refuses to consent to a drug and/or alcohol test required by this policy, fails to appear for testing, fails to remain at the testing site prior to the commencement of the test, is found to have tampered with the sample or aborts or refuses to agree to the collection of the specimen before the test commences will be in violation of this policy and is subject to disciplinary action or the withdrawal of the contingent job offer. The employee or prospective employee will not be eligible for employment or promotion for a period of one year. Any of the following are considered refusal to test:

- a. Failure to complete and sign all necessary paperwork to facilitate testing or failure to cooperate with any part of the testing process.
- b. Failure to provide photo identification at the testing location.
- c. Failure to report to designated testing facility within two hours of being notified.
- d. Intentional failure to provide enough urine, or failure to provide blood or breath to facilitate testing within two hours of being notified, without a valid medical explanation.
- e. Leaving the testing facility without providing a useable sample of urine, blood, or

breathe unless the facility has to close and the employee or candidate is released by the MRO (Medical Review Officer).

f. Failure to remain at the test site and provide a specimen once the test is underway unless a sample is taken elsewhere (on site, etc.) or the facility closes before a sample can be collected.

g. Providing a tainted specimen or substituting a specimen for the employee or candidate's own.

h. Failure to permit the observation or monitoring of the collection of a urine specimen when required. The majority of specimens are provided in private; however, testing conducted under direct observation or monitoring may be required in limited situations.

i. Failure or declination to take a second test when directed by the collector or supervisor.

j. Failure to undergo a medical examination or evaluation as part of the verification process as otherwise required.

k. Leaving the scene of an accident, without just cause, prior to submitting to a drug or alcohol test when required to do so under this policy.

H. Testing Procedures for Post-Accident and Reasonable Suspicion

(1) General Procedures: All post-accident and reasonable suspicion testing will be scheduled by the Town Manager. If an emergency situation exists, the supervisor and/or Department Head may schedule the testing.

a. The employee will be escorted by a supervisor to the testing location. The supervisor shall watch the employee to assure that he or she does not eat or ingest anything or that he or she does not acquire "clean" urine from another person.

b. Upon arrival at the testing facility, the facility staff is responsible for the collection and chain of custody procedure. The supervisor shall not be the observer or a witness to the urine collection.

c. Whenever a reasonable suspicion test occurs, after the specimen has been obtained, the supervisor will escort the employee home (or to some other designated destination) or obtain transportation for the employee upon the completion of the collection/screening process; the supervisor will use every reasonable means to assure the employee reaches his or her destination safely.

d. All drug and alcohol collection and testing will be conducted at an officially approved facility that follows State and Federal regulations. The procedures will be

done in such a manner to protect the dignity of the employee, while following chain of custody procedures. Only certified laboratories will evaluate specimens.

e. An initial positive drug test will be confirmed by laboratory using a Gas Chromatography/ Mass Spectrometry (GC/MS) test. The testing thresholds used will be those established by the Department of Health and Human Services. Only in the case of positive GC/MS will the Medical Review Officer be notified of drug use by the applicant or employee.

d. A confirmation test is required for alcohol breath test registering 0.02. BAC or higher and will be conducted in accordance with normal procedures of testing facility contracted for testing.

(2) Status Pending Test Results

a. Employees tested on the basis of post-accident, reasonable suspicion, or tested because of admission of use or a confirmed report of use will be placed on leave with pay until the screening results are received.

I. Test Results

a. **Negative Results:** The employee may return to work, providing there are no other job performance considerations.

b. **Positive Results:** Any employee who tests positive for drugs or alcohol is considered in violation of this policy. Upon notification of a positive test result for drugs, or alcohol BAC of 0.02 or greater, or a refusal to test, the employee will be placed on leave pending the outcome of an investigation. Any resulting disciplinary actions will be administered in accordance with the Town's disciplinary process. Additional guidance based on the type of violation is outlined below.

c. Positive results will be reported to the Medical Review Officer, who will contact the employee to discuss and confirm the results. The MRO will contact the Town Manager who will then notify the employee's supervisor. The reports or test results may be disclosed to the tested employee, and to other Department or Town administrative officials on a strictly need to know basis.

d. The employee must provide documentation of any prescription medication to the MRO upon request.

e. Within 72 hours of notification of a confirmed positive drug test result, an employee or applicant may request that the original sample be sent to an approved laboratory for an additional test, at the employee's expense.

f. Applicants who test positive will be disqualified from further consideration for the

position.

g. Employees that test positive for drugs or alcohol are subject to disciplinary action, up to, and including, termination (see Personnel Actions outlined below). In the case of disciplinary actions, the employee has the rights of due process, including notification and the right to a hearing.

(1) Diluted Test Results:

a. When the Town is notified by the MRO that a positive drug test is diluted, the test will be treated as a verified positive test. The employee will be directed to provide another specimen for testing. The employee does not need to be observed while providing this second specimen.

b. If a Town employee receives a negative diluted test result with a creatinine concentration greater than or equal to 2 mg/dL but less than or equal to 5 mg/dL, the employee must provide another specimen for testing. The MRO will direct the Department to do a second collection immediately. This must be an OBSERVED collection. The employee will be directed to report for re-testing immediately. The result of the second collection will be the test result of record. If the second collection is also negative and diluted, unless directed by the MRO to perform another observed collection, the test result will stand as negative diluted.

(2) Challenges to Test Results: Employees have the right to challenge a confirmed positive test result. All challenges must be made to the MRO in writing with an explanation of the reason(s) for the challenge. The testing facility divides the sample provided by the employee so that it can be re-tested. This is called a “split sample.”

a. Employees will be given seventy-two (72) hours to request to have the additional sample tested at the employee’s expense at a Department of Health and Human Services (DHHS) Certified laboratory of his/her choice or the laboratory used by the Town.

b. If the employee requests a re-test, the split sample will be tested by Gas Chromatograph/Mass Spectrometry (GC/MS) only for the positive drug at the laboratory’s lowest limit of detection for that drug. If an employee challenges that the testing process is flawed, the Town Manager reserves the right to conduct additional testing.

c. If the split sample tests negative, or for any reason cannot be re-tested, the test results are reported back to the MRO as a negative test result and any previous disciplinary action issued will be rescinded.

d. In case of negative test results, employees will not be responsible for any costs associated with the drug or alcohol test. The Town will reimburse any reasonable

testing expenses paid by the employee.

J. Personnel Actions for Violation of Alcohol/Drug Policy

(1) Town Actions after Violation: Any employee found to have violated the alcohol and/or drug prohibitions specified in this policy will immediately be removed from the performance of duties, placed on disciplinary suspension without pay, referred for evaluation through EAP, and subject to disciplinary action, up to and including termination.

(2) EAP Referral: When such a referral is made by the Town to EAP, participation is mandatory; failure to participate and comply may result in termination.

(3) Disciplinary Process: All disciplinary actions will be administered in accordance with the Town's disciplinary process, which includes notice to the employee of the test results and a right to be heard through the pre-disciplinary process.

(4) Disciplinary Action: Disciplinary action, up to and including termination, is a consequence of violating this policy.

a. Factors considered in disciplinary decisions: Some factors used in determining the appropriate disciplinary action for a drug/ alcohol violation are:

- i.** Any damage to persons or property
- ii.** The employee's past work performance
- iii.** The extent that such actions impair an employee's ability to fulfill the responsibilities of his/her job
- iv.** The potential liability to the Town for the employee's actions, and/or the actual or potential impact that such actions bring discredit upon the Town and/or the Department.

(5) Self-Reporting prior to Testing: Employees who come forward and report their substance abuse problem before being tested for any reason may be permitted to continue in employment, depending on the circumstances of their situation. If continued employment is allowed, the employee is required to successfully complete a drug-abuse assistance program and a return-to-duty drug and alcohol testing, and agree to participate in follow-up testing for a period of at least (1) year as a condition of employment. The employee must be tested at least six times during that one year period.

K. Employee Awareness and Training

(1) New Employee Orientation: During their initial employee orientation, all new employees will be notified about the following:

- a. Expectations and consequences of violations of this policy;
- b. The dangers of drug and alcohol abuse in the workplace; and
- c. Available drug counseling, rehabilitation and employee assistance programs.

(2) Ongoing and Refresher Training for Current Employees: Departments may also offer or require attendance at additional training or refresher training for any employees. Additional awareness aids and resources, such as posters or brochures, will also be available and/or posted throughout the respective departments.

(3) Supervisor Training: In addition to the policy awareness and training for all departmental employees, supervisors are initially required to undergo additional training on the physical, behavioral and performance indicators of probable alcohol/drug use. Attendance at this training is mandatory before a supervisor is authorized to make a determination to require a reasonable suspicion drug or alcohol test by an employee. After the initial training, supervisors are required to attend refresher training as needed.

IV. DEFINITIONS

A. Alcohol: the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl alcohol. It also includes any substance containing any form of alcohol, including ethanol, methanol, propanol, and isopropanol.

B. Accident: Any occurrence involving a motor vehicle or Town equipment that results in a fatality; serious bodily injury to a person who, as a result of the injury; is transported and/or receives medical treatment from a medical professional away from the scene; or with one or more motor vehicles incurring disabling damage as a result of the accident, requiring the vehicle(s) to be transported away from the scene by a tow truck or other vehicle.

C. Alcohol and Substance Abuse: Any use of illegal drugs or controlled prescription drugs obtained unlawfully; or excessive use of lawfully obtained prescription drugs, over the counter drugs or alcohol when such use substantially impairs job performance, alters work behavior, and/or creates a risk to the health and/or safety of the employee or others.

D. Alcohol Test: Testing for the presence of alcohol in the body as determined through the use of a breath alcohol test, or blood screening.

E. Commercial Motor Vehicle: A motor vehicle that (1) has a gross combination weight rating of more than 26,000 pounds alone or inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds; (2) is designed to transport sixteen (16) or more passengers, including the driver; or (3) is any size transporting hazardous materials requiring placards.

F. Commercial Driver's License (CDL): Under the commercial motor vehicle act, ensures drivers of

large trucks and buses are qualified to safely operate those vehicles.

G. Disabling Damage: Damage to a vehicle which requires the vehicle to be towed from the accident scene or circumstances that present the risk of causing further damage if the vehicle is driven away from the scene. Disabling damage does not include the following: (1) damage which can be remedied temporarily at the scene of accident without special tools or parts; (2) tire disablement without other damage even if no spare tire is available; (3) or damage to headlights, tail lights, turn signals, horn, or windshield wipers, that makes them inoperative.

H. DOT: United States Department of Transportation

I. Drug: A controlled substance as defined in North Carolina General Statute 90-87 (5) or a metabolite thereof.

J. Drug Test and Drug Screening: The chemical analysis of an employee's urine or blood to detect any of the following:

1. Alcohol
2. 6 Acetyl Morphine
3. Amphetamines
4. Barbiturates
5. Benzodiazepines
6. Cannabinoids
7. Cocaine
8. MDMA
9. Methaqualone
10. Opiates
11. Phencyclidine
12. Propoxyphene

K. Employee Assistance Program (EAP): Counseling services available to Town employees to provide assistance, counseling, and referral for employees for emotional or relational concerns which could affect an employee's ability to do his/her/their job, as well as the quality of his/her/their life. Drug and alcohol counseling and referrals are among those services provided.

L. Failure of Drug and/or Alcohol Test: A verified positive drug test result, or an alcohol test 0.020 or greater.

M. Garrity Interview: An advisement of rights usually administered through an internal investigation. The Garrity interview advises employees of their criminal and administrative liability for any statements they may make. Employees do not have the right to remain silent in an administrative investigation after being apprised of their Garrity rights. However, any statements compelled by their employer cannot be used against them in a subsequent criminal investigation or proceeding

N. Medical Review Officer (MRO): A licensed physician, who is responsible for receiving laboratory results generated by the Department's drug testing program, has knowledge of substance disorders, and

has appropriate medical training to interpret and evaluate laboratory test results.

O. Negative Drug Test: A test result that does not show presence of drugs at a level specified to be a positive test.

P. Qualified negative results: A drug test in which the lab result is consistent with legal drug use.

Q. On Duty: An employee who is at the workplace, performing job duties, or during any other period of time for which he or she is entitled to be paid by the Town of Rutherfordton.

R. Other Substance: Any substance that has the potential to impair appreciably the mental or physical function of a person.

S. Positive Alcohol Test: The presence of alcohol in the employee's system at a level 00.02 or greater.

T. Positive Drug Test: A laboratory finding of the presence of a drug or a drug metabolite in the urine or blood of an employee at the levels identified by the Substance Abuse and Mental Health Services Administration (SAMHSA), or for drugs not subject to SAMHSA guidelines; second testing of all positive tests will be confirmed using a different technology than was used for the first test, such as the gas chromatography/mass spectrometry (GC/MS) process.

U. Safety-Sensitive Positions: Non FTA or FMCSA covered employees who as a core or essential function of their job operate, inspect, or repair equipment or vehicles, utilize hazardous materials, or whose core duties or responsibilities directly impact the public's or employees' health and safety, or the protection of life, property, or environment.

V. Voluntary Testing: Testing conducted on an employee where the employee volunteers to be tested. Normally voluntary testing will be paid for by the employee.

W. Work Location: All Town premises and vehicles, as well as customer locations at which employees perform services.

X. Controlled Substance: Means the following drug as set out in 49 C.F.R. § 40.85 (a) Marijuana metabolites; (b) Cocaine metabolites; (c) Amphetamines; (d) Opiate metabolites; and (e) Phencyclidine (PCP). It also means a drug, substance, or immediate precursor included in Schedules I through VI of Article 5 of Chapter 90 of the North Carolina General Statutes.

Y. Prescribed Medications: All employees in safety-sensitive functions taking prescribed medications that could impair their ability to safely operate a commercial motor vehicle or related activities associated with loading, unloading, inspection and maintenance or other activity that is classified as "on duty time" 49 CFR 395.2, must report this to their immediate supervisor or Department Head as directed by this policy. It also includes a prescription drug as that term is defined in Article 4A of Chapter 90 of the North Carolina General Statutes meaning a drug that under federal law is required, prior to being dispensed or delivered, to be labeled with the following statement: "Caution: Federal law prohibits dispensing without prescription."

For purposes of this policy, the term “drugs” and “controlled substances” are used interchangeably.

V. ADDITIONAL CONTACT

Town Manager

VI. SCOPE

As of January 1, 2021, this policy replaces and supersedes any previous policies or unwritten policies or practices covering the same subject.

VII. AUTHORIZATION

Doug Barrick
Town Manager

VIII. Appendices

A. Signs and Symptoms of Substance Abuse

B. Reasonable Suspicion Procedures

C. Reasonable Suspicion Checklist – Short Term

D. Reasonable Suspicion Checklist – Long Term

E. Garrity Interview

Appendix A

Signs and Symptoms of Substance Abuse

This list is not meant to be exhaustive. It is important to watch for any significant changes in an employee's physical appearance, personality, attitude or behavior. **The key is change.**

Physical Signs

- Loss of appetite, increase in appetite, any changes in eating habits, unexplained weight loss or gain.
- Slowed or staggering walk; poor physical coordination.
- Inability to sleep, awake at unusual times, unusual laziness.
- Red, watery eyes; pupils larger or smaller than usual; blank stare.
- Cold, sweaty palms; shaking hands.
- Puffy face, blushing or paleness.
- Smell of substance on breath, body or clothes.
- Extreme hyperactivity; excessive talkativeness.
- Runny nose; hacking cough.
- Needle marks on lower arm, leg or bottom of feet.
- Nausea, vomiting or excessive sweating.
- Tremors or shakes of hands, feet or head.
- Irregular heartbeat.

Behavioral Signs

- Change in overall attitude/personality with no other identifiable cause.
- Changes in friends; new hang-outs; sudden avoidance of old crowd; doesn't want to talk about new friends; friends are known drug users.
- Change in activities or hobbies.
- Drop in performance at work; skips work or is late for work.
- Change in habits at home; loss of interest in family and family activities.
- Difficulty in paying attention; forgetfulness.
- General lack of motivation, energy, self-esteem, "I don't care" attitude.
- Sudden oversensitivity, loss of temper, or resentful behavior.
- Moodiness, irritability, or nervousness.
- Silliness or giddiness.
- Paranoia
- Excessive need for privacy; unreachable.
- Secretive or suspicious behavior.
- Car accidents.
- Chronic dishonesty.
- Unexplained need for money, stealing money or items.
- Change in personal grooming habits.
- Possession of drug paraphernalia

Appendix A (continued)

Signs and Symptoms of Substance Abuse

Drug Specific Symptoms:

Marijuana: Glassy, red eyes; loud talking and inappropriate laughter followed by sleepiness; a sweet burnt scent; loss of interest, motivation; weight gain or loss.

Alcohol: Clumsiness; difficulty walking; slurred speech; sleepiness; poor judgment; dilated pupils.

Depressants: (including barbiturates and tranquilizers) Seems drunk as if from alcohol but without the associated odor of alcohol; difficulty concentrating; clumsiness; poor judgment; slurred speech; sleepiness; and contracted pupils.

Stimulants: Hyperactivity; euphoria; irritability; anxiety; excessive talking followed by depression or excessive sleeping at odd times; may go long periods of time without eating or sleeping; dilated pupils; weight loss; dry mouth and nose.

Inhalants: (Glues, aerosols, and vapors) Watery eyes; impaired vision, memory and thought; secretions from the nose or rashes around the nose and mouth; headaches and nausea; appearance of intoxication; drowsiness; poor muscle control; changes in appetite; anxiety; irritability; an unusual number of spray cans around.

Hallucinogens: Dilated pupils; bizarre and irrational behavior including paranoia, aggression, hallucinations; mood swings; detachment from people; absorption with self or other objects, slurred speech; confusion.

Heroin: Needle marks; sleeping at unusual times; sweating; vomiting; coughing and sniffing; twitching; loss of appetite; contracted pupils; no response of pupils to light.

Health Risks Associated with Use or

Abuse: Tobacco and Nicotine

Smokers are more likely than nonsmokers to contract heart disease. Lung, larynx, esophageal, bladder, pancreatic, and kidney cancers also strike smokers at increased rates. Thirty percent of cancer deaths are linked to smoking. Chronic obstructive lung diseases, such as emphysema and chronic bronchitis, are 10 times more likely to occur among smokers than among nonsmokers. Smoking during pregnancy also poses risks, such as spontaneous abortion, pre-term birth, and low birth weights. Fetal and infant deaths are more likely to occur when the pregnant woman is a smoker. Nicotine is both psychologically and physically addictive.

Alcohol

Low doses significantly impair the judgment and coordination needed to operate vehicles. Small amounts can also lower inhibitions. Moderate to high doses cause marked impairments in higher mental functions, and loss of memory and the ability to learn and remember information. High doses cause respiratory

Appendix A (continued)

Signs and Symptoms of Substance Abuse

depression and death. Long-term consumption, particularly when combined with poor nutrition, can also lead to dependence and permanent damage to vital organs such as the brain and the liver. If combined with other depressants of the central nervous system, much lower doses of alcohol will produce the effects just described. Mothers who drink alcohol during pregnancy may give birth to infants with fetal alcohol syndrome. These infants have irreversible physical abnormalities and mental retardation.

Cannabis (Marijuana, Hashish, Hashish Oil, Tetrahydrocannabinol)

Physical effects of cannabis include increased heart rate, bloodshot eyes, dry mouth and throat, and increased appetite. Use of cannabis may impair or reduce short-term memory and comprehension, alter sense of time, reduce ability to perform tasks requiring concentration and coordination, and impair driving ability. Motivation and cognition may be altered, making the acquisition of new information difficult. Marijuana, hashish, THC, etc., can also produce paranoia and psychosis. Long term use may result in possible lung damage, reduced sperm count and sperm motility, and may affect ovulation cycles. Cannabis can also be psychologically addictive.

Inhalants (Nitrous Oxide, Amyl Nitrite, Butyl Nitrite, Chlorohydrocarbons, Hydrocarbons)

Immediate effects of inhalants include nausea, sneezing, coughing, nosebleeds, fatigue, lack of coordination, and loss of appetite. Solvents and aerosol sprays also decrease the heart and respiratory rates and impair judgment. Amyl and butyl nitrite cause rapid pulse, headaches, and involuntary passing of urine and feces. Long- term use may result in hepatitis or brain damage. Deeply inhaling vapors, or using large amounts over a short time, may result in disorientation, violent behavior, unconsciousness, or death. High concentrations of inhalants can cause suffocation by displacing oxygen in lungs. Long-term use can cause weight loss, fatigue, electrolyte imbalance, muscle fatigue, and permanent damage to the nervous system.

Cocaine (Crack)

Cocaine stimulates the central nervous system. Its immediate effects include dilated pupils and elevated blood pressure, heart rate, respiratory rate, and body temperature. Occasional use can cause nasal irritation; chronic use can ulcerate the mucous membrane of the nose. Crack or freebase rock is extremely addictive. Physical effects include dilated pupils, increased pulse rate, elevated blood pressure, insomnia, loss of appetite, tactile hallucinations, paranoia, and seizures. The use of cocaine can cause death by cardiac arrest or respiratory failure.

Stimulants (Amphetamines, Methamphetamines, Crank, Ice)

Stimulants cause increased heart and respiratory rates, elevated blood pressure, dilated pupils, and decreased appetite. Users may experience sweating, headache, blurred vision, dizziness, sleeplessness, and anxiety. Extremely high doses can cause rapid or irregular heartbeat, tremors, loss of coordination, and physical collapse. Amphetamine injection creates a sudden increase in blood pressure that can result in stroke, very high fever, or heart failure. In addition to physical effects, feelings of restlessness, anxiety, and moodiness can result. Use of large amounts over a long period of time can cause amphetamine psychosis

Appendix A (continued)

Signs and Symptoms of Substance Abuse

that includes hallucinations, delusions, and paranoia. The use of amphetamines can cause physical and psychological dependence.

Depressants (Barbiturates, Methaqualone, Tranquilizers)

Small amounts can produce calmness and relaxed muscles, but somewhat larger doses can cause slurred speech, staggering gait, and altered perception. Large doses can cause respiratory depression, coma, and death. Combination of depressants and alcohol can multiply effects of the drugs, thereby multiplying risks. Babies born to mothers who abuse depressants during pregnancy may be physically dependent on the drugs and show withdrawal symptoms shortly after birth. Birth defects and behavioral problems may also result. The use of depressants can cause both physical and psychological dependence.

Hallucinogens (PCP, LSD, Mescaline, Peyote, Psilocybin)

Phencyclidine (PCP) interrupts the functions of the neocortex, the section of the brain that controls intellect and instinct. PCP blocks pain receptors, and users can have violent PCP episodes resulting in self-inflicted injuries. Lysergic acid diethylamide (LSD), mescaline, and psilocybin cause illusions and hallucinations. The physical effects may include dilated pupils, elevated body temperature, increased heart rate and blood pressure, loss of appetite, sleeplessness, and tremors.

Narcotics (Heroin, Methadone, Codeine, Morphine, Meperidine, Opium)

Narcotics initially produce a feeling of euphoria that often is followed by drowsiness, nausea, and vomiting. Users may experience constricted pupils, watery eyes and itching. Overdoses may produce respiratory depression, clammy skin, convulsions, coma and death. Addiction in pregnant women can lead to premature, stillborn, or addicted infants who experience severe withdrawal symptoms. Use of narcotics can cause physical and psychological dependence.

Designer Drugs (Analog of Fentanyl, Analog of Meperidine, MDMA, Ecstasy Analog of PCP)

Many "designer drugs" are related to amphetamines and depressants and have mild stimulant and depressant properties. Use can produce severe neurochemical damage to the brain. Narcotic analogs can cause symptoms such as those seen in Parkinson's disease: uncontrollable tremors, drooling, impaired speech, paralysis, and irreversible brain damage. Analog of amphetamines and methamphetamines cause nausea, blurred vision, chills or sweating, and faintness. Psychological effects include anxiety, depression, and paranoia. Analog of PCP cause illusions, hallucinations, and impaired perception.

Anabolic Steroids

Steroid users subject themselves to more than 70 side effects, ranging in severity from acne to liver cancer, including psychological as well as physical reactions. The liver and cardio-vascular and reproductive systems are most seriously affected by use. In males, use can cause withered testicles, sterility, and impotence. In females, irreversible masculine traits can develop along with breast reduction and sterility. Psychological effects in both sexes include very aggressive behavior, known as "roid rage",

Appendix A (continued)
Signs and Symptoms of Substance Abuse

and depression. While some side effects appear quickly, others, such as heart attacks and strokes, may not show up for year.

Appendix B Reasonable Suspicion Procedures

Before beginning the employee interview, complete the following steps:

1. Begin the **Incident Report: Reasonable Suspicion Testing (long term or short term)** to document reasonable suspicion.
Documentation should be based on the following:
 - Policy and/or safety precaution violation(s)
 - Accident or incident that occurred
 - Other details surrounding the incident
 - Your assessment of whether the employee is able to perform his/her job responsibilities
2. **Obtain the assistance** of your supervisor (or designee) or, if unavailable, another supervisor or manager (preferably in your department) to assist you during the investigation.
3. **Maintain confidentiality** by only discussing your suspicions with those who are authorized to know (Department Head and/or Town Manager)
4. **Remove the employee** from the work area.
 - Do not leave the employee unattended
 - Do not ask the employee to sit in the employee lounge or other public area
 - Do ask the employee to sit in a discreet location such as an office
 - Do not isolate yourself in a location where you cannot be easily helped in case of an emergency
 - Begin to use the **Incident Report: Reasonable Suspicion Testing (long term or short term)** to note what you have seen, heard, smelled, touched, etc.
 - Complete the Incident Report Form
5. **Contact your supervisor**, Department Head or Town Manager to inform them of the possible concern.

Appendix C
Incident Report: Reasonable Suspicion Checklist – Short Term

TOWN OF RUTHERFORDTON REASONABLE SUSPICION SHORT-TERM			
Employee Name	Job Title	Department	Division

Complete this checklist for any incident where reasonable suspicion exists that an employee is intoxicated, under the influence of, or otherwise shows signs of recent use of a prohibited drug or alcohol. Indicate all relevant behavior and physical symptoms of recent substance use. Check each item on this form and add any additional facts or conditions which you have observed. If there are long-term behavioral indicators of substance abuse which support this checklist, please also include the Reasonable Cause Drug Test Long-Term Observation Checklist.

A. NATURE OF INCIDENT

- Observed possession or use of an unknown substance or drug paraphernalia
- Apparent drug or alcohol intoxication
- Observed abnormal or erratic behavior consistent with drugs or alcohol
- Arrest or conviction for drug-related offense
- Other observations consistent with prohibited drug use or alcohol misuse (e.g., reports by passenger or reliable/credible third party, flagrant violation of safety or serious misconduct, fighting or argumentative/abusive language, refusal of supervisor instruction, unauthorized absence on the job).

NOTE: PLEASE DESCRIBE BELOW

B. BEHAVIORS OBSERVED (CHECK ALL THAT APPLY)

- Verbal abusiveness
- Extreme aggressiveness or agitation
- Withdrawal, depression, tearfulness, or unresponsiveness
- Other erratic or inappropriate behavior (e.g., hallucinations, disoriented, excessive euphoria, and talkativeness, confused)

NOTE: PLEASE DESCRIBE BELOW:

Appendix C
Incident Report: Reasonable Suspicion Checklist – Short Term (continued)

C. Physical Symptoms

- Slurred or incoherent speech
 - Disheveled appearance or out of uniform
 - Unsteady gait, loss of physical control, poor coordination
 - Shaking hands or body tremors/twitching
 - Dilated or constricted pupils or unusual eye movement
 - Extreme fatigue or sleeping on the job
 - Nausea or vomiting
 - Odor of marijuana
 - Runny nose or sores around the nose
 - Rapid, irregular or difficulty breathing
 - Bloodshot or watery eye
 - Extreme excitement or nervousness
 - Dizziness or fainting
 - Odor or alcohol
 - Dry mouth
 - Puncture marks or “tracks” over veins
 - Other - PLEASE DESCRIBE BELOW:
-
-

D. WRITTEN SUMMARY Please summarize the facts and circumstances of the incident, employee response, supervisor actions taken, and any other pertinent information not previously noted. Please note the date, time, and location(s) of the Reasonable Cause observation(s). Note if the employee REFUSED the test. Attach additional sheets as needed.

Supervisors Signature

Title

Date/Time

Witness Signature

Title

Date/Time

**Appendix D
Incident Report: Reasonable Suspicion Checklist – Long Term**

TOWN OF RUTHERFORDTON REASONABLE SUSPICION SHORT-TERM			
Employee Name	Job Title	Department	Division

**A. GENERAL JOB PERFORMANCE
AVIALABLE**

(CHECK ALL THAT APPLY)

- Excessive use of sick leave
- Frequent Monday/Friday/after holiday absences or similar pattern
- Frequent unexplained disappearances or trips to rest the room

- Excessive "extension" of breaks or lunch
- Frequently leaves work early
- Frequent personal phone calls
- Increased concern from others about, or instances of, safety
- Experiences, or causes, job accidents
- Interferes with or ignores established procedures
- Inability to follow through on performance recommendation

DOCUMENTATION

(Indicate Yes/No beside each)

B. PERSONAL MATTERS (CHECK ALL THAT APPLY)

- Changes in or unusual personal appearance (dress, hygiene)
- Changes in usual speech (incoherent, loud, stuttering or slurred)
- Changes in or unusual facial expressions, flushed or clammy face, bloodshot eyes
- Much increased or reduced level of activity (fatigue, sleeping on the job, etc.)
- Increasingly irritable, tearful, excitable, nervous
- Persistently boisterous or rambunctious
- Unpredictable or out-of-control displays of emotions
- Engages in discussions about obtaining drugs or alcohol
- Makes unfounded accusations toward others (i.e. feeling persecuted)
- Secretive or furtive

Appendix D

Incident Report: Reasonable Suspicion Checklist – Long Term (continued)

C. Memory problems (difficulty recalling instructions, data, past behavior)

- Frequent colds, flu, or other illness
- Excessive fatigue
- Makes unreliable or false statements
- Unrealistic self-appraisal or grandiose statements
- Temper tantrums or angry outbursts
- Demanding, rigid, inflexible
- Major changes in physical health

D. OTHER OBSERVATIONS (Attach additional sheets as needed)

Supervisor Signature

Date/Time

Appendix E
Garrity Interview

You are presently the subject of an administrative investigation regarding a disciplinary matter as it relates to your conduct. Specifically, it is alleged that you violated _____ of the _____ Department's Policies and Procedures or Section _____ of the Town of Rutherfordton Personnel Policy. The purpose of this investigation is to determine whether the facts as alleged are true and whether Departmental or Town Policies and Procedures _____ have been violated. As an employee of the Town of Rutherfordton involved in an internal investigation, you do not have the right to refuse to answer questions that are directly and narrowly related to your official duties. Similarly, you do not have the right to refuse to answer questions that are narrowly and directly related to this investigation. You shall answer all questions honestly, completely and to the best of your ability. Failure to cooperate with this investigation, whether by evasion, untruthfulness or choosing not to answer the questions asked of you, may result in disciplinary action, up to, and including, dismissal. This is an administrative investigation; it is not designed to discover criminal violations. If any criminal conduct is revealed during the course of the investigation, any incriminating statement that you may have made after being compelled to answer, and in the absence of your Miranda rights, would not be admissible in a criminal prosecution against you. Incriminating statements that have been compelled will be admissible in an administrative hearing. This investigation and interview are confidential to the extent allowed by law. To ensure that the integrity of the investigation is preserved and that all applicable Departmental and Town Policies and Procedures are understood and followed, you shall not discuss this investigation, nor allow anyone else to gain access to that information, without the expressed authorization of your Department Head. You may, however, discuss this matter with your supervisor or, if applicable, your attorney without prior approval.

Employee's Signature: _____

Date: _____ Time: _____

Administered By: _____

Witnessed By: _____

The Garrity interview must be read to and signed by any employee who is being tested or investigated for possible substance use or abuse due to reasonable suspicion. The purpose of this warning is to assure the employee that information uncovered during this investigation will not be used to bring criminal charges against the employee



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DRUG & ALCOHOL SCREENING

Department of Transportation (DOT) Commercial Driver's License (CDL)

I. POLICY

The use, possession, purchase, sale or manufacture of alcohol, illegal drugs, or non-prescribed drugs or being impaired because of the use of alcohol, illegal drugs, or non-prescribed drugs while on Town property, while operating Town vehicles, or while engaging in Town business is strictly prohibited.

The U.S. Department of Transportation (DOT) requires testing for amphetamines, cannabinoids, cocaine, opiates, phencyclidine, acetyl morphine, ecstasy, and illegal substances or non-prescribed drugs.

II. PURPOSE

It is the intent of the Town of Rutherfordton to maintain a drug and alcohol-free work force and to eliminate the safety risks, lost time, and reduced productivity that results from the use of and the influence of alcohol and/or drugs in the workplace. Along with this policy, the Town will conduct screenings after a conditional job offer to a candidate is made.

The Town of Rutherfordton will ensure that testing procedures are conducted in a fair and unbiased manner and the rights of applicants subject to testing are protected. The Town will make every effort to protect the dignity and self-esteem of those being tested by complying with the standards of confidentiality set forth in this policy. The implementation of this program is intended to deter the use of drugs and alcohol in the workplace in accordance with the United States Department of Transportation (USDOT) Federal Highway Administration (FHWA) regulations found at Volume 49 Code of Federal Regulations (CFR), Part 40 entitled, "Procedures for Transportation Workplace Drug Testing Programs," and Volume 49 CFR Part 382, entitled "Controlled Substances and Alcohol Use and Testing."

III. LEGISLATION

Title 49, the Code of Federal Regulations, Part 382, entitled, "Controlled Substances & Alcohol Use and Testing", and Part 40, entitled, "Procedures for Transportation Workplace Drug Testing Programs".

Article 3 of Chapter 20 of the North Carolina General Statutes.

Articles 4A and 5 of Chapter 90 of the North Carolina General Statutes.

IV. PROVISIONS

This policy shall apply to candidates who have accepted a conditional job offer for full-time and part-time positions and jobs at the Town and all employees being considered for, or currently hold a CDL license as defined by Title 49, Code of Federal Regulations. This applies to every person who operates a commercial motor vehicle in interstate or intrastate commerce, and is subject to the commercial driver's license requirements of 49 CFR Part 383 and North Carolina state law.

A. Participation as a Requirement of Employment

(1) Participation in the Federal Department of Transportation Commercial Driver's License (CDL) program is a requirement for all employees that operate a vehicle that requires the driver to hold a CDL, and therefore, is a condition of employment. CDL requirements apply to operators of motor vehicles or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:

- Has a gross combination weight rating of 26,001 or more pounds inclusive of towed unit with a gross weight rating of more than 10,000 pounds; or
- Has a gross weight of 26,001 or more pounds; or
- Is designed to transport 16 or more passengers, including the driver; or
- Is of any size and is used in the transport of materials found to be hazardous for the purpose of the Hazardous Materials Transportation Act and which require the motor vehicles to be placarded under Hazardous Material Regulations 49 CFR 172, Subpart F.

B. Prohibited Conduct

(1) Any misuse of alcohol and/or any drug use that could affect performance of CDL driver is prohibited including, but not limited to the following:

Alcohol:

- a. Use while performing CDL functions;
- b. Use 4 hours prior to performing CDL functions;
- c. Reporting for duty or remaining on duty to perform CDL functions with an alcohol concentration of 0.04 or greater;
- d. Possession of alcohol, unless the alcohol is manifested and transported as part of a shipment or unless such alcohol has been seized pursuant to lawful authority. This

includes the possession of medicines containing alcohol (prescription or over-the counter), unless the packaging seal is unbroken;

- e. Use during the 8 hours following an accident.
- f. Refusing to take a required alcohol test.

Controlled Substance:

- a. Use of any drug, except by doctor's prescription, and then only if the doctor has advised the employee that the drug will not adversely affect the employee's ability to safely perform his/her/their job functions.
- b. Testing positive for drugs.
- c. Refusal to take a required drug test.

C. Consequences and Disqualifications

- a. The employee shall not perform or be permitted to perform, a CDL function if any of the prohibited conduct listed above.
- b. Any employee violating these prohibitions will be referred to a Substance Abuse Professional for evaluation, regardless of employment status.

D. Controlled Substances

(1) Use of any drug, except by doctor's prescription, and then only if the doctor has advised the driver that the drug will not adversely affect the employee's ability to safely operate the CDL vehicle.

E. Testing Circumstances

(1) Pre-Employment Testing: All final candidates for part-time or full-time CDL positions and all persons transferring from non-safety-sensitive positions to CDL positions with the Town are required to submit to a drug test. A drug test will be conducted during the pre-employment process and a final candidate can be rejected from consideration for employment if a positive drug test result occurs.

(2) Post-accident Testing: If any employee is required to hold a CDL for their position, while operating a Town vehicle or equipment, is involved in an accident that involves:

- a. A fatality;
- b. Any accident in which the employee is issued a citation under state or local law for a moving traffic violation arising from the accident;

c. If any vehicle involved was towed or any person in any vehicle involved was transported for medical treatment.

i. In the event that an employee is involved in an accident as set forth in this subsection, the employee will be required to submit to a DOT Alcohol and a Controlled Substance test. Testing will be administered immediately following the accident or as soon as medically and legally possible.

ii. If any employee in a CDL position, while operating a Town vehicle or equipment, is involved in an accident that involves:

- 1.** A vehicle being towed or rendered inoperative;
- 2.** An accident causing total aggregated property damage of at least \$2,500;
- 3.** The employee operating the town vehicle or equipment has had 3 accidents while operating a town vehicle or equipment, determined to be the fault of the employee within a 12-month period;
- 4.** The employee operating the vehicle or equipment has an accident with an immovable object or no object at all (i.e. rollover, buildings, streetlights, street signs or barriers, unattended parked vehicles);

a. In the event that an employee is involved in an accident as set forth in this subsection, the employee will be required to submit to a DOT Alcohol and a Controlled Substance test. Testing will be administered immediately following the accident or as soon as medically and legally possible.

b. If possible, tests for the presence of alcohol will be administered within two hours following the accident and in no case shall more than 8 hours elapse before the test is administered. It is the employee's responsibility to notify the Town immediately to ensure actions are taken to meet the testing requirements. Nothing in this requirement should be construed as to require the delay of necessary medical attention for injured people following an accident. The driver must refrain from using alcohol for eight hours following the accident, or until he/she submits to an alcohol test, whichever comes first.

c. Tests for the presence of drugs must be administered within 32 hours following the accident. The driver must remain available for testing, or the Town will consider the driver to have refused to submit to testing. Nothing in this requirement should be construed as to require the delay of necessary medical attention for injured people following an accident.

(3) Random Testing: All employees of the Town in required to hold a CDL for their positions will be subject to random testing for alcohol and controlled substances. Random testing will be done on a percentage basis in a fair and equal manner. On an annual basis, 10% of CDL employees are randomly tested for alcohol and 50% are randomly tested for controlled substances. For drug and alcohol testing, an employee may be tested at any time the employee is at work for the Town. Selection of employees for random testing will be made by a scientifically valid method by a third party vendor, such as a random number table or a computer-based random number generator that is matched with drivers' Social Security numbers, payroll identification numbers, or other comparable identifying numbers. Each time a random selection is made, every employee will have an equal chance of being selected. Tests will be unannounced and be completed each quarter of the calendar year. Upon being notified that they have been selected for random testing, an employee is required to proceed immediately to the collection site.

(4) Reasonable Suspicion Testing: Any employee in a CDL position, while operating a Town vehicle, or while engaging in Town business, that acts in a manner sufficient to cause reasonable suspicion that he/she/they have violated this policy, he/she/they will be required to submit to an alcohol and/or a controlled substance test upon the approval and direction of supervisor. In all cases of reasonable suspicion testing, the employee will be driven to the testing site by a supervisor or manager.

(5) Less than 30 Day Rule: In cases of leave less than 30 days, when the employee has not been taken out of the random selection pool, a DOT pre-employment test is not required prior to returning to a safety sensitive position.

(6) 30 – 60 Day Rule: Under the sole authority of the Town, if leave extends over 30 days (regardless of the reason (temporary layoff, vacation, leave of absence, lost time, FMLA, Workers Compensation, etc.), but less than 90 days, the employee must have a NON-DOT pre-employment test with verified negative results prior to resuming safety-sensitive functions.

(7) 90 Day Rule: If an employee has not performed safety sensitive functions for more than 90 or more consecutive days regardless of the reason (temporary layoff, vacation, leave of absence, lost time, FMLA, Workers Compensation, etc.) and the employee has not been chosen through random selection during that time, the Town will ensure that the employee takes a DOT pre-employment drug test with a verified negative result prior to resuming safety-sensitive functions.

F. Testing Procedures

(1) Breath Alcohol Technician (BAT): Alcohol testing will only be performed by a certified Breath Alcohol Technician (BAT) trained and certified in the principles of Evidential Breath Testing Devices (EBT) methodology, operation, and calibration checks; the fundamentals of breath analysis for alcohol content; and the procedures required for obtaining a breath sample, and interpreting and recording EBT results.

(2) Evidential Breath Testing Devices (EBT): Alcohol testing will only be performed using evidential breath testing devices (EBT's) approved by the National Highway Traffic Safety Administration (NHTSA). Alcohol testing must be either performed by a Certified BAT employed by

the Town or an outside BAT. All alcohol testing will be conducted in a location that affords visual and aural privacy to the individual being tested. Unauthorized persons will not be permitted access to the testing location when a test is in progress. Alcohol testing will be performed using only the U.S. Department of Transportation Breath Alcohol Testing Form.

(3) Alcohol Testing Procedures:

- a.** Alcohol testing will be conducted at Rutherford Occupational Medicine located at 212 Allendale Drive, Forest City, NC 28043 or Rutherford Regional Medical Center ER located at 288 S Ridgecrest Ave., Rutherfordton, NC 28139 (after hours & weekends only). Using the Evidential Breath Testing Device the certified Breath Alcohol Technician will open an individually sealed mouthpiece and attach it to the EBT. The employee will be instructed to blow into the mouthpiece forcefully until an adequate amount of breath has been obtained. The EBT will record the result and display it on the device and print the result immediately. The result will be recorded on the Breath Testing Form and attached to the form with tamper proof tape.
- b.** When the result is less than .02 no further testing is authorized and the result will be transmitted to the Town in a confidential manner and will be stored to insure confidentiality is maintained.
- c.** When the result is less than 0.02-.039, the employee cannot return to duty until the next day or the start of the employee's next regularly scheduled duty period, but not less than 24 hours following the test.
- d.** Following the completion of the test, the BAT will date the form and sign the certification on the form. The employee will sign the certification and fill in the date on the form. This insures that each employee is attesting to the fact that the reported result is specific to the employee. Refusal to test or failure to cooperate during the testing process will be treated the same as if the result is 0.04 or greater.
- e.** The Town will maintain alcohol and drug test results in a secure and confidential manner, so that disclosure of information to unauthorized persons does not occur. Employee information shall only be released as required by law or as expressly authorized below.
 - i.** An employee shall have access to any of his/her/their alcohol and drug testing records upon written request.
 - ii.** The Town must allow any DOT authorized agency access to facilities and records in connection with the Town's alcohol misuse and drug abuse prevention program.
 - iii.** When requested, the Town shall disclose post-accident testing information to the National Transportation Safety Board as part of an accident investigation.
 - iv.** The Town will make records available to a subsequent employer upon receipt of a written request from the employee.

v. The Town may disclose information to the employee or to the decision-maker in a lawsuit, grievance, or other proceeding initiated by or on behalf of the individual. This may include worker's compensation, unemployment compensation, or other proceeding relating to a benefit sought by the employee.

1. If an employee attempts but fails to provide an adequate amount of breath the Town will be immediately notified and will direct the employee to obtain, as soon as practical, an evaluation from a licensed physician who is acceptable to the Town concerning the employee's medical inability to provide an adequate amount of breath. The visit to the physician will be at the cost of the employee. If the physician determines that there is a medical reason that prevents the employee from providing an adequate amount of breath, he/she/they will provide the Town with a written statement of the basis for his/her/their conclusion. If the physician determines there is no medical reason to prevent the employee from providing an adequate amount of breath, he/she/they will provide the Town with a written statement of the basis for his/her/their conclusion and it will be regarded as a refusal to take the test. The terms of this policy will then be administered.

(4) Drug Testing Procedures

a. Specific guidelines will be followed in urine specimen collections for the purpose of drug testing. Drug testing will be conducted at Rutherford Occupational Medicine located at 212 Allendale Drive, Forest City, NC 28043 or Rutherford Regional Medical Center ER located at 288 S Ridgecrest Ave., Rutherfordton, NC 28139 (after hours & weekends only). This facility meets security requirements as specified by DHHS guidelines. The collection site will be a secure location to allow for maximum privacy, which includes a toilet for completion of urination, a source of water for washing hands and, where practicable, excluded from the area provided for urination.

b. No other person will be present or gain access to the collection area during the collection process. All specimens must remain in the direct control of the collection site person. No one other than the collection site person may handle specimens prior to their being placed securely in the mailing container.

c. When reporting to a collection site for specimen collection each employee will be required to provide a photo I.D. Employees will be asked to remove all unnecessary outer garments (i.e., coat or jacket), and secure all personal belongings (individual may retain his/her/their wallet). Employees will be allowed to provide his/her/their specimen in the privacy of a stall. A split sample method of collection will be used. At least 45 ml of urine must be collected, 30 ml to be used as the primary specimen and 15 ml to be used as the split specimen. Both bottles will be shipped in a single container.

d. If the collection site person believes tampering or adulteration has occurred, a second specimen shall be collected immediately under the direct observation of a same gender

collection site person. Both samples will be sent to the lab. Refusal to test will be handled the same as a verified positive result.

e. Pursuant to standards established by the U.S. Department of Transportation, in all cases the employee and the collection site person shall keep the specimen in view at all times prior to being sealed and labeled. The specimen will be labeled with tamperproof seals and the employee will sign appropriate places on the Chain of Custody and initial the seal on the bottle attesting to the fact that the specimen is specific to the individual providing the sample.

G. Testing Results

Only laboratories certified by the Department of Health and Human Services (DHHS) will be used for drug urinalysis. Every specimen is required to undergo an initial screen followed by confirmation of all positive screen results. This screen-confirmation process utilizes highly sophisticated techniques to detect minute levels of prohibited substances in urine.

(1) Reporting of Results: The laboratory is required to report the test results directly to the Medical Review Officer (MRO) within five working days. The report shall indicate the drug/metabolites tested for, whether the results are positive or negative, the specimen number assigned by the Town, and the drug testing laboratory identification number.

a. Review of Results/MRO: The medical review officer (MRO) is a licensed physician and possesses knowledge of drug abuse disorders. The MRO may be an employee of the Town or one contracted to provide the services required. The MRO will review and interpret positive results obtained from the laboratory. The MRO through a verification process will assess and determine whether alternate medical explanations could account for the positive test results. The MRO may conduct medical interviews of the employee, review the employee's medical history and review any other relevant bio-medical factors. Additionally, the MRO will examine all medical records and data made available by the tested individual, such as evidence of prescribed medications.

b. Negative Results: The employee may return to work, providing there are no other job performance considerations.

c. Positive Results: Any employee who tests positive for drugs or alcohol is considered in violation of this policy. Upon notification of a positive test result for drugs, or alcohol BAC of 0.02 or greater, or a refusal to test, the employee will be placed on leave pending the outcome of an investigation. Any resulting disciplinary actions will be administered in accordance with the Town's disciplinary process.

i. Positive results will be reported to the Medical Review Officer, who will contact the employee to discuss and confirm the results. The MRO will contact the Town Manager who will then notify the employee's supervisor. The reports or test results may be disclosed to the tested employee, and to other Department or Town administrative officials

on a strictly need to know basis.

- e. The employee must provide documentation of any prescription medication to the MRO upon request.
- f. Within 72 hours of notification of a confirmed positive drug test result, an employee or applicant may request that the original sample be sent to an approved laboratory for an additional test, at the employee's expense.
- g. Applicants who test positive will be disqualified from further consideration for the position.
- h. Employees that test positive for drugs or alcohol are subject to disciplinary action, up to, and including, termination (see Personnel Actions outlined below). In the case of disciplinary actions, the employee has the rights of due process, including notification and the right to a hearing.

(2) Diluted Test Results:

- a. When the Town is notified by the MRO that a positive drug test is diluted, the test will be treated as a verified positive test. The employee will be directed to provide another specimen for testing. The employee does not need to be observed while providing this second specimen.
- b. If a Town employee receives a negative diluted test result with a creatinine concentration greater than or equal to 2 mg/dL but less than or equal to 5 mg/dL, the employee must provide another specimen for testing. The MRO will direct the Department to do a second collection immediately. This must be an OBSERVED collection. The employee will be directed to report for re-testing immediately. The result of the second collection will be the test result of record. If the second collection is also negative and diluted, unless directed by the MRO to perform another observed collection, the test result will stand as negative diluted.

(3) Challenges to Test Results: Employees have the right to challenge a confirmed positive test result. All challenges must be made to the MRO in writing with an explanation of the reason(s) for the challenge. The testing facility divides the sample provided by the employee so that it can be re-tested. This is called a "split sample."

- a. Employees will be given seventy-two (72) hours to request to have the additional sample tested at the employee's expense at a Department of Health and Human Services (DHHS) Certified laboratory of his/her/their choice or the laboratory used by the Town.
- b. If the employee requests a re-test, the split sample will be tested by Gas Chromatograph/Mass Spectrometry (GC/MS) only for the positive drug at the laboratory's lowest limit of detection for that drug. If an employee challenges that the

testing process is flawed, the Town reserves the right to conduct additional testing.

c. If the split sample tests negative, or for any reason cannot be re-tested, the test results are reported back to the MRO and Designated Employer Representative as a negative test result and any previous disciplinary action issued will be rescinded.

d. In case of negative test results, employees will not be responsible for any costs associated with the drug or alcohol test. The Town will reimburse any reasonable testing expenses paid by the employee.

F. Discipline and Consequences

(1) Pre-Employment/Pre-duty: A final candidate for part-time or full-time employment, or transfer from a non-safety sensitive position to a requiring a CDL for their position with a verified positive controlled substance test result or a confirmed breath test result of 0.04 or greater will be denied employment. The alcohol breath test result is 0.04 the applicant will be denied employment.

If an applicant is not hired because of a positive controlled substance or breath test, he/she/they will not be hired and will not be considered for employment for a two-year period following the date of the test.

The applicant will only again be considered for employment when:

- a. A two-year period has passed from the positive test as indicated above; and
- b. He/she/they provides proof of successfully completing a drug and/or alcohol rehabilitation program; and
- c. He/she/they passes a pre-placement drug and/or alcohol test.

(2) Post-Employment: An employee with a verified positive controlled substance test result and/or a confirmed breath test is subject to the following disciplinary actions:

a. Alcohol (Any confirmed test result over .02-.039)

- i. The employee cannot return to duty until the next day or the start of the employee's next regularly scheduled duty period, but not less than 24 hours following the test.

b. Alcohol (Any confirmed test result over .04)

- i. Immediate remove the employee from the Department of Transportation safety-sensitive position.

- ii. Referred to a Substance Abuse Counselor

Substance Abuse Professional (SAP) Services: In all cases where there is a verified positive controlled substance test result and/or a confirmed alcohol breath test result, the employee will be referred to a Substance Abuse Professional (SAP) for evaluation, referral, and treatment. The referral to the SAP applies even if the employee is terminated through the Town's Unsatisfactory Performance and Disciplinary Policy.

- iii. Notification of Division of Motor Vehicles if .04 or greater if applicable

- iv. Subject to the Unsatisfactory Performance and Discipline Policy

c. Controlled Substance (Any confirmed test result)

- i. Immediate remove the employee from the Department of Transportation safety-sensitive position.

- ii. Referred to a Substance Abuse Counselor

Substance Abuse Professional (SAP) Services: In all cases where there is a verified positive controlled substance test result and/or a confirmed alcohol breath test result, the employee will be referred to a Substance Abuse Professional (SAP) for evaluation, referral, and treatment. The referral to the SAP applies even if the employee is terminated through the Town's Unsatisfactory Performance and Disciplinary Policy.

- iii. Notification of Division of Motor Vehicles

- iv. Subject to the Unsatisfactory Performance and Discipline Policy

1. Any refusal to submit to a test for alcohol or controlled substance, or failure to provide an adequate sample for testing unless a verifiable medical condition exists, will be subject to the Unsatisfactory Performance and Discipline Policy.

2. In a post-accident situation, if an employee uses alcohol, a controlled substance, or a prescribed medication unless under the direction of a physician, within eight hours following the accident, or prior to submitting to an alcohol or controlled substance test, whichever comes first, the employee will be subject to the Unsatisfactory Performance and Discipline Policy.

3. In a post-accident situation, if an employee does not remain available for alcohol or drug testing following the accident (within 32 hours), the

employee will be immediately terminated. Unless special circumstances under the town managers authority exist.

(3) Self Reporting Prior to Testing: Employee who come forward and report their substance abuse problem before being tested for any reason may be permitted to continue in employment, depending on the circumstances of their situation. If continued employment is allowed, the employee is required to successfully complete a drug-abuse assistance program and a return-to-duty drug and alcohol testing, and agree to participate in follow-up testing for a period of at least (1) year as a condition of employment. The employee must be tested at least six times during the one year period from the time of self-reporting.

(4) Supervisory Training & Required Educational Materials: As required by DOT, supervisory training will be provided any supervisor responsible for the supervision of CDL drivers. Educational materials as required by DOT will be provided to all employees in CDL positions via this policy.

V. DEFINITIONS

A. Alcohol: the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl alcohol. It also includes any substance containing any form of alcohol, including ethanol, methanol, propanol, and isopropanol.

B. Controlled Substance: Means the following drug as set out in 49 C.F.R. § 40.85 (a) Marijuana metabolites; (b) Cocaine metabolites; (c) Amphetamines; (d) Opiate metabolites; and (e) Phencyclidine (PCP). It also means a drug, substance, or immediate precursor included in Schedules I through VI of Article 5 of Chapter 90 of the North Carolina General Statutes.

C. Prescribed Medications: All employees in safety-sensitive functions taking prescribed medications that could impair their ability to safely operate a commercial motor vehicle or related activities associated with loading, unloading, inspection and maintenance or other activity that is classified as "on duty time" 49 CFR 395.2, must report this to their immediate supervisor or Department Manager as directed by this policy. It also includes a Prescription drug as that term is defined in Article 4A of Chapter 90 of the North Carolina General Statutes meaning a drug that under federal law is required, prior to being dispensed or delivered, to be labeled with the following statement: "Caution: Federal law prohibits dispensing without prescription."

For purposes of this policy, the term “drugs” and “controlled substances” are used interchangeably.

VI. ADDITIONAL CONTACT

Town Manager

VII. SCOPE

As of January 1, 2021, this policy replaces and supersedes any previous policies or unwritten policies or practices covering the same subject.

VIII. AUTHORIZATION

Doug Barrick
Town Manager



EMPLOYEE BENEFITS SECTION:

- **EMPLOYEE BENEFITS POLICY**
- **EMPLOYEE ASSISTANCE PROGRAM (EAP)**
- **RETIREMENT BONUS INCENTIVE**
- **BEREAVEMENT PAY**
- **TUITION ASSISTANCE PROGRAM**
- **CERTIFICATION & EDUCATION INCENTIVES**
- **LONGEVITY**
- **LAW ENFORCEMENT SEPARATION ALLOWANCE**



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EMPLOYEE BENEFITS POLICY

I. POLICY

The Town offers a variety of group insurance benefits to provide insurance to eligible employees and their families. All provisions of group insurance plan benefits are subject to budgetary allocations, including plans offered, services covered, payment arrangements and the Town’s contribution to premiums.

II. PURPOSE

The town cares about the health and well-being of its employees and as such provides a variety of group benefit plans.

III. PROVISIONS

A. Eligibility

Full-time employees who are scheduled to work 30 hours or more per week on a continuous year-round basis may, if they so desire, enroll themselves and qualified dependents in core benefits (medical, dental, and vision). Medical insurance benefits will comply with all provisions outlined by the Affordable Care Act (ACA).

B. Medical, Dental and Vision Insurance

Full-time employees who are scheduled to work 30 hours or more per week on a continuous year-round basis are eligible for medical, dental, and vision benefits. A pro-rated amount of the cost of coverage paid for a full-time employee shall be paid by the Town with the remainder of the cost being paid by the employee. This pro-rated amount shall be based on regularly scheduled hours.

C. Life Insurance

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

D. Other Optional Group Insurance Plans

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

E. Retirement

Each employee who is expected to work for the Town 1,000, or more, hours annually shall join the North Carolina Local Governmental Employees' Retirement System as a condition of employment. New hires who are current members of the NC local or State Government Employees' Retirement Systems shall be covered under the retirement system by the Town on their first day of employment.

F. 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) or 457(b) benefits as prescribed by North Carolina State Law. Each general employee may receive supplemental benefits as approved by the Town Council.

G. Social Security

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

H. 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.

Claiming compensation under the Workers' Compensation Act is the responsibility of 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 department head will assist the employee in filing the claim.

I. 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 North Carolina Division of Employment Security office, where a determination of eligibility will be made.

IV. SCOPE

As of January 1, 2021, this policy replaces and supersedes any previous policies or unwritten policies or practices covering the same subject.

V. AUTHORIZATION

Doug Barrick
Town Manager

I.	Policy
II.	Purpose
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EMPLOYEE ASSISTANCE PROGRAM (EAP)

I. POLICY

The town will provide confidential and voluntary assistance through its Employee Assistance Program (EAP) to all employees who may be faced with challenges of financial concerns, legal issues, alcohol or drug problems, marital problems, illness of a family member, emotional worries, child care problems, etc. For the welfare of employees as well as effective business operations, the town encourages its employees to take advantage of this valuable benefit of employment.

II. PURPOSE

The Town cares about the health and well-being of its employees and recognizes that a variety of personal issues can disrupt their personal and work lives. While many employees solve their problems either on their own or with the help of family and friends, sometimes employees need professional assistance and advice.

III. PROVISIONS

A. Eligibility

This policy shall apply to all persons holding a paid position as an employee of the town. Town employees shall be defined as those employees in departments and offices for which the Town Council serves as the final budget authority.

B. Employee Referral

Employees can refer themselves to the EAP. The program may be reached 24 hours a day on weekdays and weekends.

EAP counselors are available to meet with employees to assess a problem and develop a plan for resolution. The counselors may suggest a referral to an outside resource, such as a therapist, agency, physician, treatment facility or other professional that would be appropriate to assist in resolving the problem or situation.

Where an employee may be in need of information, a referral or suggestion may be made over the telephone. The cost of the referral services of the EAP based on the vendor contractual agreement.

C. Formal Referral

When an employee's job performance or attendance is unsatisfactory or there appears to be signs of other problems during the workday, the supervisor should counsel the employee in consultation with Town Manager or designee with an end toward resolving the situation. If the employee appears to be unable or unwilling to correct the situation, the employee may be referred to the EAP to assist in the resolution of the problem. Depending on the situation, the employee may accept or refuse participation in the EAP. However, there may be situations where continued employment with the town may be contingent upon the employee calling the EAP for assistance.

D. Participation

Participation in the EAP program does not jeopardize job security or promotional opportunities. However, it does not excuse the employee from following town policies and procedures or meeting required standards for satisfactory job performance except where specific accommodations are required by law.

Employees who voluntarily visit the EAP during regular work hours must use leave accruals in the following order (1) compensatory time (2) vacation (3) sick time. If illness is involved, sick, vacation or other available leave may be used for treatment or rehabilitation on the same basis that it is granted for other health problems. At the supervisor's discretion, employees may be allowed to make up any work hours missed instead of using leave. Mandatory referrals will be counted as time worked; however, any follow-up treatment or rehabilitation will require the use of employee leave on the same basis that it is granted for other health problems.

The EAP counselors will make every effort to coordinate referral for ongoing treatment with the employee's health insurance coverage as well as his/her ability to pay.

E. Confidentiality

All contact between an employee and the EAP is confidential. In cases where an employee's continued employment is contingent upon calling the EAP, the EAP counselor will only verify whether or not the employee has contacted the EAP and whether ongoing treatment is necessary.

IV. SCOPE

As of January 1, 2021, this policy replaces and supersedes any previous policies, or unwritten policies or practices covering the same subject.

V. AUTHORIZATION

Doug Barrick
Town Manager



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RETIREMENT BONUS INCENTIVE

I. POLICY

The Town of Rutherfordton will issue a lump-sum payout equal to half of the employee’s yearly salary at retirement. The retirement bonus incentive is a benefit offered by the employer but is not guaranteed.

II. PURPOSE

The purpose of the retirement bonus incentive is to provide long term employees of the Town of Rutherfordton a supplement to help cover retiree insurance.

III. PROVISIONS

A. Qualifications

To receive the retirement bonus, an employee must qualify for full retirement benefits from LGERS with at least the final 10 years being served for the Town of Rutherfordton.

Employees may qualify for full retirement benefits from LGERS by meeting any of the following criteria:

- Reach age 65 and complete 5 years of creditable service
- Reach age 60 and complete 25 years of creditable service
- Complete 30 years of creditable service at any age

To qualify for the bonus any retirement plans shall be made known to management by March 1 of the fiscal year prior to expected date of retirement. Failure to make formal notification within these timelines can result in denial of the retirement bonus incentive.

B. Procedures

The following schedule should be followed to qualify for the retirement bonus:

- Inform management of any retirement plans by March 1 of the fiscal year prior to expected date of retirement.
- During the last pay cycle for which you will be working have respective Department Head submit a letter to the Town Manager requesting your retirement bonus.

C. Approvals and Payments

All retirement bonus requests will be approved by the Town Manager and signed off on by the Town Finance Director. Since this bonus is directly tied to retirement, contributions from this bonus cannot be made to 401k or 457b to avoid taxes. Therefore, this lump-sum payment is subject to all applicable payroll and income taxes.

IV. SCOPE

As of January 1, 2021, this policy replaces and supersedes any previous policies, or unwritten policies or practices covering the same subject.

V. AUTHORIZATION

Doug Barrick
Town Manager



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BEREAVEMENT PAY

I. POLICY

Full-time Town employees shall be granted bereavement in the event of death in an employee's family.

II. PURPOSE

It is important for employees take time off during times of grief and mourning to maintain healthy work-life balance.

III. PROVISIONS

A. Usage

In the event of a death in an employee's immediate family, the Town of Rutherfordton will allow 24 scheduled work hours of employer paid bereavement leave. The Town will allow one (1) scheduled work day of employer paid bereavement leave upon the death of non-immediate family members. The employee is expected to make arrangements with his/her supervisor prior to being absent from work as necessary. If more days are required, the employee may make a request his/her supervisor to use additional time in the following order: (1) compensatory (2) vacation and (3) sick time.

B. Proof

The Town Manager and/or Department Head may require employees to show proof of the death of the family member for which bereavement time is being taken. Examples of proof could include: an obituary, a name of the deceased, date of death, city of death, relationship to the deceased, etc.

C. Eligibility

Full-time employees and those serving a probationary period will qualify for this benefit.

Part-time, Contract, Temporary, Seasonal or Inmate Employee: Do not qualify for bereavement pay.

IV. DEFINITIONS

- A. Immediate Family:** The term “immediate family member” is defined as spouse, parent, sibling, child, grandparent, grandchild, guardian plus the various combinations of half, step, in-law, and adopted relationships that can be derived from those names, or anyone living in the same household.

- B. Non-Immediate Family:** The term “non-immediate family member” is defined as any family member not defined as immediate family member

V. ADDITIONAL CONTACTS

Human Resources

VI. SCOPE

As of January 1, 2021, this policy replaces and supersedes any previous policies, or unwritten policies or practices covering the same subject.

VII. AUTHORIZATION

Doug Barrick
Town Manager



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TUITION ASSISTANCE PROGRAM

I. POLICY

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 who have applied for reimbursement and who have successfully completed approved courses may have tuition reimbursed, up to the fiscal year reimbursement limit, in accordance with the provisions of this policy

II. PURPOSE

The purpose of the tuition assistance program is to provide reimbursement for education that is not covered under training.

III. PROCEDURE

A. Application

- (1) Employees must submit a written request for tuition assistance to the employee's Department Head before their selected course begins. If reimbursement has to be denied due to lack of funding or other reasons, the employee will know beforehand that the course is not eligible for reimbursement or funding is not available. Requests for tuition assistance that are submitted after the course begins may be rejected due to lack of funding or other reasons.
- (2) Requests for reimbursements must be made within 30 days of course completion. The employee is responsible for getting all documentation (receipt, grades, etc.) to the Department Head.
- (3) If the tuition reimbursement request comes after approval of the annual budget, tuition reimbursement may not be issued until the following fiscal year.
- (4) After completion of the course: submission of grades or other certification of completion to the Department Head, along with a receipt showing actual course costs.

B. Amount of Reimbursement

- (1) Full-time employees pursuing an Associate’s Degree are eligible to receive up to \$1,000 per fiscal year for reimbursement of tuition, books and fees.
- (2) Full-time employees pursuing a Bachelor’s Degree or a Master’s Degree are eligible to receive up to \$2,500 per fiscal year for reimbursement of tuition, books and fees.

IV. ADDITIONAL CONTACTS

Human Resources

V. DEFINITIONS

A. Eligible Employees: All full-time employees who have completed the initial probationary period are eligible for tuition assistance.

VI. RESPONSIBILITIES

It is the responsibility of the employee to submit a written request to the Department Head to verify reimbursement eligibility and fund availability.

VII. SCOPE

As of January 1, 2021, this policy replaces and supersedes any previous policies, or unwritten policies or practices covering the same subject.

VIII. AUTHORIZATION

Doug Barrick
Town Manager



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CERTIFICATION & EDUCATION INCENTIVES

I. POLICY

Full-time employees who have completed initial probation may qualify for pay increases and/or bonuses based on a determined list of certifications and associated increase percentages.

II. PURPOSE

The purpose of the certification and education incentive is to reward employees for attaining and maintaining certifications that increase the employee's value to the Town.

III. PROCEDURE

- (1) Employees must submit written notification to his/her Department Head regarding the completion of certificate, degree, etc. along with proof of completion.
- (2) Notification must be given within 30 days of completion. The employee is responsible for getting all documentation to the Department Head.
- (3) Pay increase requests will then be made from Department Head to the Town Manager/Finance Director. Once approved, the pay increase will begin the first pay period following approval.
- (4) Bonus requests will be made from Department Head to the Town Manager/Finance Director. Once approved, the bonus check will be processed in the following weekly check run.
- (5) If the incentive request comes after approval of the annual budget, the Town Manger reserves the right to postpone salary increase until the following fiscal year for budgetary reasons.

IV. ADDITIONAL CONTACTS

Human Resources

V. DEFINITIONS

A. Eligible Employees: All full-time employees who have completed the initial probationary period are eligible for tuition assistance.

VI. RESPONSIBILITIES

It is the responsibility of the employee to submit a written notification to the Department Head to verify eligibility and fund availability.

VII. SCOPE

As of December 15, 2022 this policy replaces and supersedes any previous policies, or unwritten policies or practices covering the same subject.

VIII. AUTHORIZATION

Doug Barrick
Town Manager

Town of Rutherfordton
Employee Education Incentive Program

Merit Raises for Advancement

- 2.0% Associates Degree
- 4.0% Bachelors Degree
- 5.0% Masters Degree

One-Time Bonuses for Certifications

- 1.0% Fire Inspector Certification Levels I-III (*1% per level of certification*)
- 1.0% CDL Certification
- 1.0% Finance Officer's Certification Program
- 1.0% Fire & Life Safety Educator III
- 1.0% Fire Officer II
- 1.0% Fire or Rescue Instructor Qualification
- 1.0% Hazardous Materials Technician
- 1.0% IIMC Certified Municipal Clerk (International)
- 1.0% Law Enforcement Tactical Training Certificate
- 1.0% Law Enforcement Community Policing Certificate
- 1.0% Law Enforcement Criminal Investigation Certificate
- 1.0% Law Enforcement General Instructor Certificate
- 1.0% Law Enforcement Traffic Enforcement & Investigation Certificate
- 1.0% Wastewater Collection Levels 1, 2, 3, 4, and Advanced
- 1.0% Wastewater Operator Class 1, 2, 3, and 4
- 1.0% Law Enforcement Specialized Instructor Certificate
- 1.0% NC Emergency Medical Technician Basic (EMT-B) (**non-fire personnel only*)
- 1.0% Notary Public
- 1.5% Law Enforcement Intermediate Certificate
- 1.5% Fire Officer III
- 2.0% Law Enforcement Management Development Certificate
- 3.0% Law Enforcement Advanced Certificate

December 15, 2022



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LONGEVITY PAY

I. POLICY

It is the policy of the Town to provide longevity pay to all full-time and part-time employees working over one year of service.

II. PURPOSE

The Town of Rutherfordton recognizes the benefit of having long-term employees and has established longevity pay to recognize long-term employees.

III. PROVISIONS

A. Longevity Pay: Longevity pay is given for years of service by payment of a longevity supplement based on one weeks pay at the normal rate for that employee after one full year of service to the Town. Years of service are calculated on a calendar year basis as of December 1 of each year. Longevity pay will be issued on the last regular pay period in November, or on a date in November or early December designated by the Town Manager.

IV. SCOPE

As of August 1, 2020 this policy replaces and supersedes any previous policies, or unwritten policies or practices covering the same subject.

V. AUTHORIZATION

Doug Barrick
Town Manager



I.	Policy
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LAW ENFORCEMENT SEPARATION ALLOWANCE

I. POLICY

Every sworn law enforcement officer, as defined by N.C. Gen. Stat. § 128-21(11b) or N.C. Gen. Stat. § 143-166.50, of the Town who shall be and remains retired under the provisions of N.C.G.S. 128-27(a), shall be eligible for a separation allowance, as provided by N.C. Gen. Stat. § 143-166.42, in the amount specified in N.C. Gen. Stat. § 143-166.41(a).

II. PURPOSE

The purpose of the law enforcement separation allowance is to comply with the NC General Statues.

III. PROCEDURE

A. Qualification

- (1) In order to qualify for the allowance, the Officer shall Have completed 30 or more year of creditable service; or, have attained 55 years of age and completed five (5) or more years of “creditable service” (as the term “creditable service” is defined in N.C.G.S. 143-166.41(b); and,
- (2) Have not yet attained the age of 62, or
- (3) Have completed at least fine (5) years of continuous service as a law enforcement officer, as herein defined, with the Town of Rutherfordton immediately preceding a service retirement, as defined by N.C. Gen. Stat. §§ 143-166.41(a)(3) and 143-166.41(b).

B. Discontinuation of Payments

The special separation allowance payments to a retired sworn officer will cease at the for of:

- (1) The death of the officer.
- (2) The officer attains 62 year of age; or
- (3) The first day of reemployment by a local government employer in any capacity.

Notwithstanding the provisions of subdivision (3) of this subsection, a local government employer may employ retired Officers in a public safety position in a capacity not requiring participation in the Local Governmental Employees' Retirement System, and doing so shall not cause payment to cease to those Officers under the provisions of this section. Once payment is terminated, the Officer shall not be entitled to further special separation allowance unless he/she shall otherwise once again meet the requirements of the applicable statutory language.

Any Officer who is entitled to receive a special separation allowance from the Town shall, within five (5) days of any change in his/her employment status, report the same to the Town Manager.

IV. ADDITIONAL CONTACTS

Town Manager

V. RESPONSIBILITIES

It is the responsibility of the employee to submit a written notice of retirement to the Town Manager.

VI. SCOPE

As of January 1, 2021, this policy replaces and supersedes any previous policies, or unwritten policies or practices covering the same subject.

VII. AUTHORIZATION

Doug Barrick
Town Manager



HOLIDAYS AND LEAVES OF ABSENCE SECTION:

- **HOLIDAY PAY**
- **COMPENSATORY TIME FOR FLSA EXEMPT EMPLOYEES**
- **SICK LEAVE**
- **VACATION LEAVE**
- **PARENTAL SCHOOL LEAVE**
- **CIVIL LEAVE**
- **MILITARY/USERRA LEAVE**
- **FAMILY MEDICAL LEAVE ACT (FMLA)**



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HOLIDAY PAY

I. POLICY

The Town may provide holiday leave to all full-time employees and provide proportionately equivalent amounts to part-time employees working over 1,000 hours annually.

II. PURPOSE

The purpose of this policy is to provide a uniform holiday leave policy.

III. PROVISIONS

A. Schedule

(1) **Calendar:** The Town will follow the holiday schedule for the State of North Carolina. The Town Manager will prepare a holiday schedule prior to the start of each calendar year and post it for employee information. In order to receive a paid holiday, an employee must be on paid status the work day before and the work day after the holiday. When a holiday falls on a Saturday, the previous Friday shall be observed. When a holiday falls on a Sunday, the following Monday shall be observed.

Holiday	Number of Days Observed
New Year's Day	1
Martin Luther King, Jr. Day	1
Good Friday	1
Memorial Day	1
Independence Day	1
Labor Day	1
Veterans Day	1
Thanksgiving	2
Christmas	3

(2) **Earned Hours:** Each full-time employee of the Town shall earn holiday leave at the following schedule, respectively, prorated by the average number of hours scheduled in the work week:

Employee Status	Number of Work Week Hours	Holidays Accrued Each Year	Hours for Each Holiday
General Employee	40	12	8
Law Enforcement	42.75	12	8.55
Fire	56	12	11.2

*Employees working over 1,000 hours annually, but less than full-time will earn 4 hours for each holiday that falls on a regularly scheduled workday.

(3) 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.

(4) Compensations When Work is Required or Regularly Scheduled Off for Shift Personnel:

Employees required to perform work on regularly scheduled holidays shall receive the proportionally equivalent amount off for the holiday or receive pay in lieu of time off as described in Section 15 of this Article.

If a holiday falls on a regularly scheduled off-duty day for shift personnel, the employee shall receive pay for the proportionately equivalent holiday leave hours.

Contract, Temporary, Seasonal or Inmate Employee: Do not earn holiday pay. If appointed to a regular full-time position, the holiday pay will begin on the first holiday after the appointment.

IV. SCOPE

As of January 25, 2021, this policy replaces and supersedes any previous policies, or unwritten policies or practices covering the same subject.

V. AUTHORIZATION

Doug Barrick
Town Manager



I.	Policy
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COMPENSATORY TIME FOR FLSA EXEMPT EMPLOYEES

I. POLICY

Employees in positions determined to be “exempt” from the Fair Labor Standards Act (FLSA) will **not receive pay for hours worked in excess of their normal work periods**. Employees exempted from overtime compensation are expected to perform the duties required in their jobs, regardless of the amount of time involved. However, the town wishes to treat all employees fairly, and recognizes the physical and psychological health implications created by excessive overtime. Therefore, exempt employees are encouraged to flex their schedule where the operational needs of the department allows. If the operational needs of the department do not allow, the employee is eligible to earn Comp Time.

II. PURPOSE

To compensate exempt employees for hours worked beyond the normal weekly base hours.

III. PROVISIONS

A. Eligibility: Employees in FLSA exempt positions are eligible to earn Comp Time for hours worked beyond those normally scheduled for the position.

(1) Examples: This work may be required due to circumstances such as:

- a. Evening meetings, special projects and special events
- b. Field monitoring of services or programs
- c. Unforeseen circumstances
- d. Additional office hours or work at home needed to accomplish regularly assigned tasks.

(2) Authorized by Supervisor: Supervisors will approve Comp Time Earned and Comp Time Taken through the timecard approval process.

B. Accrual Rate and Usage:

(1) Comp Time will be earned on an hour-for-hour basis (rounded down to the quarter hour) up to a maximum of 80 hours at any point in time.

- (2) Once an employee has reached 80 hours in their accrual bank they will stop accruing until the balance goes below 80 again.
- (3) Use of Comp Time will be approved based on the same parameters in the Vacation Leave Policy
- (4) Comp Time must be exhausted before use of Vacation or Sick Time

C. Pay Out: Upon termination of employment exempt employees shall not be paid for any unused Comp Time.

D. Recording and Monitoring Comp Time

A. Timesheets: Time actually worked, whether or not approved as Comp Time, should be recorded under the correct date on the timesheets, with accompanying supervisory approvals.

B. Payroll Records: Balances of accrued and taken should be monitored by the supervisor. These records will be created by the Finance Department and are subject to their audit, or the town's financial auditors.

C. Emergencies and Declared Emergencies: In emergency situations, where employees are required to work long and continuous hours the Town Manager may grant time off with pay for rest. In declared emergencies, exempt employees may be compensated for overtime as approved by the Town Manager.

IV. DEFINITIONS

A. Exempt Employee: An exempt status employee is one who is not covered by the minimum wage and overtime pay provisions under the Fair labor Standards Act (FLSA) defined by Regulations 29 CFR Part 541.

B. Non-Exempt Employee: An employee who is covered by the minimum wage and overtime pay provisions under the Fair labor Standards Act (FLSA) defined by Regulations 29 CFR Part 541.

V. Policies to Reference

- (1) Vacation Leave Policy

VI. Additional Contacts

Human Resources
Finance and Payroll

VI. SCOPE

As of January 1, 2021, this policy replaces and supersedes any previous policies or unwritten policies or practices covering the same subject.

VII. AUTHORIZATION

Doug Barrick
Town Manager



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SICK LEAVE

I. POLICY

Sick leave is a privilege granted by the Town for the benefit of an employee for personal or family illness and is not a right which an employee may demand. 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.

II. PURPOSE

Safe and healthy employees are valued by the Town. This policy creates paid leave for employees to maintain their own well-being as well as those around them. This policy also addresses abuse of sick leave.

III. PROVISIONS

A. Usage

Accrued sick leave may be used if an employee must be absent from work due to any of the following conditions: sickness, mental illness, bodily injury, temporary disability, quarantine, required physical or dental examinations or treatment, or exposure to a contagious disease when continued work might jeopardize the health of others. Accrued sick leave may also be used to care for an employee's immediate family member, as defined by this policy.

Sick leave may also be used for death in the employee's immediate family but may not exceed three days for any single occurrence. Additional leave time required for such occurrence may be charged to comp time, vacation or other approved leave when approved by the department head and/or Town 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 employee may not exceed the regular salary amount using this provision.

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.

(1) Accrued Leave: Sick leave shall accrue at a rate of one day per month of service or twelve days per year; however, sick leave for full-time employees working other than the basic 40 hours work schedule shall be pro-rated as described in Article VII, Section 16. Sick leave will be cumulative for an indefinite period of time and may be converted upon retirement for service credit consistent with the provisions of the North Carolina Local Governmental Employees' Retirement System.

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

Any accrued compensatory time must be used prior to the use of any sick leave.

(2) Probationary Employees: An employee who requests sick leave during probation, must exhaust any accrued sick and compensatory time first, then may accrue a negative sick balance of no more than forty (40) hours. A negative accrual request must be submitted to the immediate supervisor. The request will be given to Human Resources, who will make a recommendation to the Town Manager for final approval. All subsequent sick leave accrued will reduce the negative balance. Subject to the requirements of the Fair Labor Standards Act, a negative balance remaining at the time of separation must be paid back in full to the town at the employee's hourly rate at the time of separation or withheld from the final paycheck.

B. Sick Leave Accrual

Each full-time employee of the Town shall earn sick leave at the following schedule, respectively, prorated by the average number of hours scheduled in the workweek:

Employment Classification	Work Week Hours	Sick Hours Accrued Each Month	Sick Hours Accrued Bi-weekly
General Employee	40	8	3.69
Part-Time Employee	20+	4	1.84
Law Enforcement Officer	42.75	8.55	3.94
Fire Protection Personnel	56	11.2	5.17

Part-Time Employee is defined as an employee working over 1,000 hours annually, but less than full-time status.

When using sick time, employees must report the actual hours missed from their scheduled shift.

Contract, Temporary, Seasonal or Inmate Employee: Do not earn sick leave.

C. Sick Leave Maximum Accrual

Sick leave shall be cumulative with no maximum accrual and may be converted upon retirement for service credit consistent with the provisions of the North Carolina Local Government Employees' Retirement System (LGERS).

D. Excessive Absenteeism

In the event that an employee is absent from work for a period of time which exceeds approved paid leave or an approved unpaid leave granted by the town, such absenteeism shall be grounds for disciplinary action up to and including termination. Other patterns of unapproved absenteeism may also be considered grounds for disciplinary action up to and including termination.

E. Sick Leave Abuse

Claiming or taking sick leave under false pretense to obtain time off with pay shall be considered sick leave abuse. Employees found to be abusing sick leave shall be subject to disciplinary action up to and including termination of employment.

Examples of sick leave abuse may include, but are not limited to:

1. An employee calls in sick on a day that had been previously denied as a vacation day.
2. An employee establishes a pattern of taking sick leave around a weekend, scheduled days off, or surrounding holidays.
3. An employee establishes a pattern of taking sick leave as soon as it is accrued.

F. Three-Day Rule

If an employee takes more than three consecutive days of sick time, the employee is required to report the status of his/her sickness to their immediate supervisor and Town Manager. Town Manager reserves the right to determine if the sickness falls under the provisions of Family Medical Leave Act (FMLA). If the sickness does fall under the provisions, Family Medical Leave policy will become effective.

G. Medical Examination and Physician Certification:

To ensure that sick leave privileges are used only for authorized purposes, employees may be asked to obtain medical certification. Employees who are absent for more than three (3)

consecutive days may be required to provide medical certification of the illness to their supervisor upon returning to work.

H. Effects of Termination Upon Sick Leave

All sick leave accrued by an employee shall end and terminate without compensation when the employee retires, resigns or is terminated by the town.

I. Reinstatement

An employee in good standing who resigns or is terminated due to a reduction in force and rehired in the same or equivalent position with the town within twelve (12) months following the last day worked shall retain the unused sick leave previously accrued.

J. Transfer of Sick Leave from Previous Employer

The Town will accept the transfer of sick leave for employees from other employers which are participants in the North Carolina Local Government or State Employees Retirement System if the sick leave amount is certified by the most recent employer. There are no limits on the amount of earned, unused sick leave that can be transferred from the most recent employer. The transfer of leave must be made within 30 days of the date of hire. The sick leave is credited upon hire and may be taken after the employee successfully completes the initial hire probationary period.

IV. DEFINITIONS

A. Unexcused Absence: A supervisor may consider an absence as unexcused if the employee fails to comply with this policy.

B. Immediate Family: For town policies other than FMLA, the term “immediate family members” shall include parents, step parents, parent-in-laws, grandparents, children, grandchildren, siblings (when employee is the sole care provider) and spouses. For the Town’s FMLA limitations, please refer the FMLA policy.

C. Most Recent Employer: A previous employer within the last 90 days that participates in the North Carolina Local Government or State Employees Retirement System.

D. Pay Status, Full-Time Positions: A full-time employee is considered to be in “pay status” if the employee’s work hours and/or use of paid leave for a pay period are equivalent to at least 50% of regular working week.

E. Pay Status, Part-Time Positions: A part-time employee is considered to be in “pay status” if the employee’s work hours and/or use of paid leave for a pay period is equivalent to at least 50% of the employee’s regular working week.

F. Unpaid Status: An employee is considered to be in unpaid status if the employee's work hours and/or use of paid leave for a pay period are less than 50% of that employee's regular working week.

V. ADDITIONAL CONTACTS

Town Manager

VI. SCOPE

As of August 2, 2021, this policy replaces and supersedes any previous policies, or unwritten policies or practices covering the same subject.

VII. AUTHORIZATION

Doug Barrick
Town Manager



I.	Policy
II.	Purpose
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VACATION LEAVE

I. POLICY

The policy of the Town is to provide vacation leave to full and part-time employees (working over 1,000 hours per year). Accrued vacation leave can be used once all accrued compensatory leave has been exhausted.

II. PURPOSE

The purpose of this policy is to provide a uniform vacation leave policy.

III. PROCEDURE

A. Usage

- (1) **Accrual:** Vacation leave must be accrued and no negative balances are permitted. All accrued compensatory leave must be exhausted before vacation can be used. Employees must be in paid status to receive vacation leave accruals.
- (2) **Rest and Relaxation Appointments:** Vacation leave may be used for rest and relaxation, appointments, and other personal needs once all accrued compensatory leave has been exhausted.
- (3) **Religious Holidays:** Vacation leave may also be used by employees who wish to observe religious holidays other than those granted by the town if all accrued compensatory leave has been exhausted. An employee who wishes to use leave for religious observances must request leave from the Department Head. Vacation leave for religious observance may be denied only when granting the leave would create an undue hardship for the town.
- (4) **Probationary Employees:** Employees serving a probationary period may accumulate vacation leave but shall not be permitted to take vacation leave during the probationary period. Employees shall be allowed to take accumulated leave after six months of service.
- (5) **Medical Needs:** Vacation leave may be used for medical appointments when the employee has exhausted all available sick and compensatory time. Any accrued compensatory time must be used prior to the use of any vacation leave.

B. Accruals

Accrued Rates: Each full and part-time (working over 1,000 per year) employee shall earn vacation as follows:

General Employees

Annual Hours Scheduled to Work: 2,080

Year of Service	Annual Hours Accrued	Hours accrued bi-weekly
Date of hire to end of 4 th year	80	3.08
Beginning of 5 th year to end of 9 th year	96	3.69
Beginning of 10 th year to end of 14 th year	128	4.92
Beginning of 15 th year and all future years	144	5.54

Law Enforcement Officers

Annual Hours Scheduled to Work: 2,184

Year of Service	Annual Hours Accrued	Hours accrued bi-weekly
Date of hire to end of 4 th year	84	3.23
Beginning of 5 th year to end of 9 th year	101	3.88
Beginning of 10 th year to end of 14 th year	134	5.15
Beginning of 15 th year and all future years	151	5.81

Fire Protection Personnel

Annual Hours Scheduled to Work: 2,912

Year of Service	Annual Hours Accrued	Hours accrued bi-weekly
Date of hire to end of 4 th year	112	4.31
Beginning of 5 th year to end of 9 th year	135	5.19
Beginning of 10 th year to end of 14 th year	180	6.92
Beginning of 15 th year and all future years	202	7.77

Part-Time Employees

Annual Hours Scheduled to Work: More than 1,000, but less than full-time status

Year of Service	Annual Hours Accrued	Hours accrued bi-weekly
Date of hire to end of 4 th year	40	1.54
Beginning of 5 th year to end of 9 th year	48	1.84
Beginning of 10 th year to end of 14 th year	64	2.46
Beginning of 15 th year and all future years	72	2.77

Contract, Temporary, Seasonal or Inmate Employee: Do not earn vacation. If appointed to a regular full-time or part-time position working over 1,000 hours annually the accrual date will begin the first day of service in such position.

C. Maximum Accrual Limits

(1) Converted to Sick Leave: Upon July 1 each year, general employees with over 240 hours, part-time employees with over 120 hours, law enforcement with over 252 hours and fire protection with over 318 hours of accumulated vacation leave shall have the excess vacation accumulation converted to sick leave.

D. Scheduling

(1) Approval by Department Head: Departments will schedule and approve leave based on town's needs, departmental interests and employees' interests. Employees shall be granted the use of earned vacation leave upon request in advance at those times designated by the Department Head which will least obstruct normal operations of the Town. Department heads are responsible for ensuring that approved vacation leave does not hinder the effectiveness of service delivery. Vacation may be taken in one-hour (1 hour) increments.

(2) Vacation Leave Accumulation: 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.

(3) Vacation Must be Earned: Vacation leave shall not be advanced to any employee regardless of status.

(4) Two-Week Notice: If possible, employees should request vacation leave two weeks in

advance. All employees shall communicate with their supervisor on scheduling of vacation leave.

E. Employee Status

(1) Resignation, Rehire and Retirement

- a. Voluntary Resignation:** Employees who have resigned their employment with the Town, have completed their new hire probationary period and who have provided at least two weeks' notice in the event of a voluntary resignation will be paid for accumulated vacation leave not to exceed a maximum of 240 hours for general employees, 120 hours for part-time employees, 252 hours for law enforcement officers and 318 hours for fire protection personnel. Any employee failing to give the notice required by this section shall forfeit payment for accumulated leave unless authorized by the Town Manager.
- b. Involuntary Resignation:** Employees that are terminated involuntarily are not eligible for payout of accrued vacation leave.
- c. Retirement:** Employees retiring will have the option to be paid out for vacation up to the thresholds established under *maximum accruals* or may convert all remaining vacation hours to sick hours to be used for retirement service credit.
- d. Rehire:** Employees who separate from the town and are rehired shall not be eligible to use past service for determining vacation accrual rates unless retired within 12 months of termination date.
- e. Past Service:** Employees with prior service in the public sector (i.e. North Carolina State employment, North Carolina county or municipal employment) shall not be eligible to use past service for determining vacation accrual rates unless authorized by the Town Manager.

F. Death

(1) The estate of an employee who dies while employed by the town shall be entitled to payment of accumulated vacation leave credited to the employee's account not to exceed 240 hours for general employees, 120 hours for part-time employees, 252 hours for law enforcement officers and 318 hours for fire protection personnel.

IV. SCOPE

As of January 25, 2021, this policy replaces and supersedes any previous policies, or unwritten policies or practices covering the same subject.

V. AUTHORIZATION

Doug Barrick
Town Manager



I.	Policy
II.	Purpose
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PARENTAL SCHOOL LEAVE

I. POLICY

A Town employee who is a parent, guardian, or person standing in loco parentis (in place of the parent) may take up to one working day of paid leave annually in order to be involved in school activities of his or her child(ren).

II. PURPOSE

The Town strives to encourage employees to be involved with and keep informed of their child(ren)'s education and progress by providing for leave to participate in the child(ren)'s education during work hours.

III. PROCEDURE

A. Notification

The employee must notify his/her department head and the leave must be at a time mutually agreed upon by the employee and the supervisor. If possible, the employee should request the leave in writing at least forty-eight (48) hours prior to the desired leave.

B. Written Verification

The Department Head may require written verification from the child's school that the employee was involved at the school during the leave time.

C. Accrued Leave

Paid leave (compensatory leave or if none exists, vacation leave) taken by an employee to attend school activities of his or her child shall count toward the fulfillment of this provision by the Town.

IV. RESPONSIBILITIES

(1) Employee Responsibilities: The employee is responsible for communicating with his/her supervisor about the need to take parental school leave.

V. SCOPE

As of January 1, 2021, this policy replaces and supersedes any previous policies, or unwritten policies or practices covering the same subject.

VI. AUTHORIZATION

Doug Barrick
Town Manager



I.	Policy
II.	Purpose
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CIVIL LEAVE

I. POLICY

An 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, without charge to accumulated leave.

II. PURPOSE

The Town strives to create a cooperative work environment by providing for leave with pay for jury duty or when called as a court witness.

III. DEFINITIONS

A. Notification: Upon notification by the court of jury duty or of subpoena, the employee should inform his or her supervisor by presenting a copy of the notification.

B. Jury Duty: An employee called to serve on jury duty shall be granted leave with full pay for the duration of the period for which called, or until released, without charge to accumulated leave.

C. Witness: An employee subpoenaed as a witness or requested by an official of the court or town to appear in a court of law shall be granted leave with full pay for the period necessary to present testimony, without charge to accumulated leave. The Department Head may refuse to grant civil leave to employees subpoenaed in out-of-state misdemeanor cases.

D. Voluntary Witness: An employee who serves as a voluntary witness (without subpoena) or is in court on their own case, either as a defendant or plaintiff, may take accumulated leave (when appropriate) or leave without pay for the period necessary.

E. Public Safety Personnel: This policy is not applicable to sworn law enforcement and fire protection employees attending court in their professional capacity.

F. Expenses: 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.

IV. RESPONSIBILITIES

The employee is responsible for keeping his/her supervisor informed of the need to be absent and specific dates as known.

V. SCOPE

As of January 1, 2021, this policy replaces and supersedes any previous policies, or unwritten policies or practices covering the same subject.

VI. AUTHORIZATION

Doug Barrick
Town Manager



I.	Policy
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MILITARY/USERRA LEAVE

I. POLICY

The intent of this policy is to comply with all applicable laws, rules and regulations and to provide support for employees who choose to serve as members of the United States Armed Forces, Armed Forces Reserves, and the National Guard.

II. PURPOSE

The Uniformed Services Employment and Reemployment Act (USERRA) requires employers to give employees job-protected leave without pay for a period of up to five years to serve in the United States Armed Forces. The primary purpose of USERRA is to protect the careers of those employees who serve the country by putting them in the same position with respect to seniority and benefits that they would have been if they not taken time off to serve in the military. This policy permits employees to take military leave for active duty in the armed services of the United States, and permits employees who are former and inactive members of the armed services, or current members of the reserve forces of any of the United States armed services or the National Defense Executive Reserve to take military leave in accordance with federal and state law.

III. PROCEDURE

A. USERRA Leave

For the purposes of USERRA covered employees are the following:

- (1) Armed Forces Active and Reserve (Army, Navy, Marine Corps, Air Force, Coast Guard);
- (2) Army National Guard and Air National Guard
- (3) FEMA's Disaster Assistance Teams;
- (4) Commissioned Corps of the Public Health Service;
- (5) Military Service Academies; and
- (6) Reserve Officer's Training Corps (ROTC)

Employees taking leave under USERRA shall be eligible to take accumulated vacation leave, accrued compensatory time or be placed in a leave without pay status and the provisions of that leave shall apply. While taking USERRA leave, the employee's unused leave balances will be retained and any seniority-based benefits such as leave accrual rates will continue to accrue.

Employees performing USERRA duty of more than 30 days may elect to continue the Town's health care for up to 24 months but will be responsible for paying the insurance premiums up to 102% of the premium costs. Employees whose USERRA duty is less than 30 days will have their health insurance coverage paid as if they were at work with the Town. (This may not apply with Rutherfordton's insurance policy.)

B. Military Training

Due to annual training being scheduled on a federal fiscal year basis, an employee may be required to attend two periods of training in one calendar year. For this purpose, only, an employee shall be granted an additional ten days of military leave during the same calendar year. If such duty is required beyond these ten workdays, the employee shall be eligible to take accumulated vacation leave or be placed 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.

C. Reinstatement Following Military Service

The Town will fully comply with the requirements of USERRA and other related federal regulations. An employee called to extended active duty with the United States military forces, who does not volunteer for service beyond the period for which called, shall be reinstated with full benefits provided the employee:

- 1) Applies for reinstatement within ninety days after the release from military service; and
- 2) Is able to perform the duties of the former position or similar position; or
- 3) Is unable to perform the duties of the former position or a similar position due to disability sustained as a result of the military service, but is able to perform the duties of another position in the service of the Town. In this case the employee shall be employed in such other position as will provide the nearest approximation of the seniority, status, and pay which the employee otherwise would have been provided, if available.

IV. ADDITIONAL CONTACTS

Town Manager

V. SCOPE

As of January 1, 2021, this policy replaces and supersedes any previous policies or unwritten policies or practices covering the same subject.

VI. AUTHORIZATION

Doug Barrick
Town Manager



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FAMILY & MEDICAL LEAVE ACT (FMLA)

I. POLICY

The Town will comply with the provisions of the Family Medical Leave Act (FMLA) at which time the number of Town employees meets the number required under the FMLA. At that time, the Town will grant up to 12 weeks of family and medical leave twelve-month period 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 and Leave Without Pay policies. Employees may not use accumulated compensatory leave while on FMLA leave. To qualify for FMLA coverage, the employee must work for an employer with 50 employees in a 75- mile radius.

Federal Regulation 29 CFR Part 825

II. PURPOSE

The Town of Rutherfordton's Family and Medical Leave Act (FMLA) policy recognizes the importance of an employee's ability to balance work and family life. The policy also recognizes that the Town has an operational interest in serving the Town's residents and customers. This policy is written to encourage proactive planning and on-going communication about an employee's family medical needs.

III. PROCEDURE

A. Eligibility Requirements

(1) Hours Worked: Employees are eligible for Family Medical Leave if they have been employed by the Town for at least twelve (12) months and have worked at least 1,250 hours in the twelve (12) months preceding the start of the leave. Military leave counts as hours worked.

(2) Qualifying Reason (12 Weeks): Eligible employees may request up to twelve (12) weeks of Family Medical Leave for the following reasons:

- a. **Birth or Placement of Child:** Employees may request a Family Medical Leave to provide care for a child following the child's birth, adoption or foster placement in the employee's home. This leave must conclude twelve (12) weeks after the child is born, adopted, or placed in the employee's home.
- b. **Illness of a Family Member:** Employees may request Family Medical Leave to provide care for a child, parent or spouse who has a serious health condition as certified by a licensed physician.
- c. **Illness of an Employee:** Employees may request Family Medical Leave if they are unable to work due to their own serious health condition as certified by a licensed physician.
- d. **Qualified Exigency Leave for Families of Members of the National Guard or Reserves or of a Regular Component of the Armed Forces:** An employee whose spouse, son, daughter or parent has been notified of an impending call or order to covered active military duty or who is already on covered active duty may request Family Medical Leave as certified by the call-up notice. This type of leave may commence as soon as the individual receives the call-up notice.

(3) Qualifying Reason: Eligible employees may request up to twenty-six (26) weeks of Family Medical Leave for the following reason:

- a. **Military Caregiver Leave:** Employees may request a leave of absence to care for an injured or ill covered service member or veteran. An employee whose son, daughter, parent, or spouse, is a covered service member or an employee who is the next of kin of a covered service member, may take up to twenty-six (26) weeks in a single 12-month period to care for that service member. An employee who has used twenty-six (26) weeks of Military Caregiver Leave is not entitled to an additional twelve (12) weeks of Family Medical Leave, for other qualifying reasons, that may occur later that in the year.

B. Leave Duration

(1) Up to Twelve (12) Work Weeks: For the birth, adoption or placement of a child, serious health condition of the employee or the employee's qualifying family member; or due to a qualifying exigency.

(2) Up to Twenty-Six (26) Work Weeks: To care for an injured service member.

C. Application Process

(1) When to Apply for Family Medical Leave

- a. **Foreseeable Leave:** Employees seeking to use Family Medical Leave are required to provide a 30-day advance notice of the need to take Family Medical Leave when the need is foreseeable and such notice is practical. If leave is foreseeable, less than 30 days in advance, the employee must provide notice as soon as practical – generally, either the same or the next business day.
- b. **Non-Foreseeable Leave:** When the need for leave is not foreseeable, the employee must provide notice to the employer as soon as practical under the facts and circumstances of the particular case.

(2) Application Submission

The request for the use of leave must be made in writing by the employee and approved by the department head *or* Town Manager. The Town will return the employee to the same status the employee would occupy had the FMLA not been taken with equivalent status, pay, benefits and other employment terms and/or a position with equivalent skill, effort, responsibility and authority.

(3) Approval Notification

Once Family Medical Leave is approved for an employee, the Town Manager will notify the Department Head and Finance Department.

(4) Medical Certification

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 Town Manager.

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

IV. FORMS / INSTRUCTIONS

Family Medical Leave requests and medical certification forms may be obtained from Human Resources and U.S. Department of Labor (DOL).

V. ADDITIONAL CONTACTS

Human Resources

VI. RELATED INFORMATION

A. Family and Medical Leave Act (FMLA) of 1993 and Amendments

B. Coordination with Additional Policies: Depending on the circumstances of the employee's situation, the provisions of this policy may interact with other provisions in the Medical Leave Cluster of personnel policies as well as health insurance and disability benefits offered by the town (see lists below). Employees should consult with Human Resources for more information.

VII. SCOPE

As of January 1, 2021, this policy replaces and supersedes any previous policies or unwritten policies or practices covering the same subject.

VIII. AUTHORIZATION

Doug Barrick
Town Manager



WORKERS COMPENSATION SECTION:

- **WORKERS COMPENSATION LEAVE**
- **LIGHT DUTY FOR INJURED OR ILL EMPLOYEES**
- **RETURN TO WORK**



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WORKERS COMPENSATION LEAVE

I. POLICY

The Town participates in a workers' compensation program at no cost to employees. If an employee is accidentally injured or contracts an occupational disease, as defined by the North Carolina Workers' Compensation Act, in the course of their employment with the town, the employee's authorized medical expenses related to the injury or disease will be paid through the program. All claims are managed in accordance with the North Carolina Workers' Compensation Statutes and the North Carolina Industrial Commission, as provided in the General Statutes of North Carolina, Chapter 97.

II. PURPOSE

The purpose of this policy is to provide workers' compensation lost wage and medical benefits to employees who suffer work related injuries and illness and to manage the injured employee's return to work.

III. PROCEDURE

A. When an Injury/Illness Occurs on the Job

(1) Report: Employees are responsible for immediately reporting to the supervisor any accident or injury that occurs at work or on the job. Failure to report a work-related injury or illness could result in denial of the employee's workers' compensation claim or disciplinary action.

(2) Seek Medical Attention: Unless emergency treatment is necessary, employees must seek treatment for work related injuries from the healthcare provider(s) designated by the Town. Under the North Carolina workers' compensation law, the Town has the right to direct medical care for employees who suffer work related injuries or illnesses. Violation of this procedure may result in denial of workers' compensation benefits.

(3) Document: The employee must immediately (within 24 hours) provide any written documentation, including work restrictions, to his or her supervisor. Any subsequent change in his or her restrictions or work status must be reported to the supervisor immediately. The employee must follow the restrictions imposed by the designated healthcare provider.

(4) Communicate: The employee must communicate with their supervisor and human resources at the conclusion of the visit to the designated healthcare provider to discuss whether the employee will return to work that day.

B. Workers Compensation Coverage

(1) Time of Injury: No leave is charged on the day of injury if the designated healthcare provider instructs the employee not to return to work. The employee will be paid for their normal work day. If the employee decides not to return to work, without instructions from the designated healthcare provider, they must use accrued leave time in the following order: (1) compensatory (2) vacation (3) sick leave.

(2) Initiate Coverage: If the designated healthcare provider determines that the employee cannot return to work due to the injury, the employee is considered to be subject to the conditions of North Carolina's Workers' Compensation law.

- a. **Family Medical Leave Act (FMLA):** When an employee qualifies for workers compensation; FMLA will run concurrently with workers' compensation leave during a work-related injury/illness. FMLA will begin on the eighth day (8) after the initial workers compensation seven (7) day waiting period.

Cross Reference: FMLA Policy

C. Conditions of North Carolina's Workers Compensation Law

(1) Lost Time Compensation Overview: North Carolina's Workers' Compensation law provides medical and disability compensation including a weekly compensation benefit for time lost from work which is a percentage of the employee's average weekly wage up to a maximum established annually by the North Carolina Industrial Commission. Benefits are provided to employees through the worker's compensation insurance provider if the injury/illness meets their eligibility guidelines.

(2) Waiting Period: There is a seven (7) calendar day waiting period where no compensation for lost time will be provided. During the seven (7) calendar day waiting period, employees must use leave in the following order: (1) compensatory time, (2) vacation (3) sick leave in order to receive pay.

(3) Waiting Period for Multiple Absences Related to the Same Injury: There is only one seven (7) calendar day waiting period for each separate workers' compensation injury/illness claim even if multiple leaves of absence are required for the treatment for the same injury.

(4) Lost Time Compensation Starting Point: On day eight (8) of the absence, the employee will begin receiving weekly disability benefits if the claim is approved by the workers compensation provider. Disability benefits will be provided directly from the workers' compensation insurance provider to the employee.

(5) Lost Time Compensation Supplement: The employee has the option to supplement weekly payments to cover other expenses normally paid through payroll deductions and to supplement the remaining one-third of salary, except employees may not exceed their regular salary using this provision. The employee must use paid leave in the following order: (1) compensatory time, (2) vacation and (3) sick. Once all leave is exhausted, the employee will receive only the weekly disability benefit from the workers' compensation insurance provider.

(6) Maintenance of Benefits: While the employee is on leave, the Town will continue to pay the employers' share of medical and disability insurance. Employees are responsible for any deductions they have withheld from their paycheck including dependent healthcare premiums, dental insurance, voluntary disability coverage, 401(k), child support and other miscellaneous deductions.

(7) Sick and Vacation Accrual: If an employee is in paid status sick and vacation will continue to accrue. If the employee is in unpaid status accruals will not continue. Weekly payments from the workers compensation carrier do not count as paid time.

(8) Holiday Pay: If an employee is in paid status the day before and day after a town-recognized holiday falls, the employee is entitled to holiday pay. Otherwise, if the employee is in unpaid status, the employee is not entitled to holiday pay. Weekly payments from the workers compensation carrier do not count as paid time.

*Cross Reference: Health Insurance
Coverage and Payment Policy*

- a. **Retroactive Compensation for Waiting Period:** Employees will receive retroactive disability pay for the days missed during the seven (7) calendar day wait period once they have been out of work twenty-one (21) calendar days or more. This payment is provided directly from the workers' compensation insurance provider.
- b. **Eligibility:** Employees out of work fewer than twenty-one (21) calendar days are not eligible to receive retroactive disability pay for the seven (7) calendar day wait period.

D. Return to Work

(1) Notice: The employee is responsible for communication with the town about work restrictions and their schedule to return to a regular or modified work duty schedule information.

*Cross Reference: Return to
Work/Modified Duty Policy*

(2) Report to Work: Once the Town is in receipt of the designated healthcare provider's release to return to regular or modified work duty, employees must report for their next scheduled work day.

(3) Modified Duty: If the designated healthcare provider determines that the injured employee cannot return to his or her job without restrictions, a modified work assignment (also referred to as light duty) of the regular job or reassignment to a different job will be made if possible. The modified duty assignment will end when any of the following occur: the employee is released to pre-injury job status by the designated healthcare provider, the workers compensation case is closed, the employee has accepted an alternate position, or the employee reaches maximum medical improvement. If the employee declines a modified duty assignment that meets all the restrictions set forth by the designated healthcare provider, the workers' compensation disability benefit will cease and in some cases, the employee may be terminated consistent with applicable law.

(4) FMLA: If the employee was on Family and Medical Leave prior to the workers' compensation claim then per FMLA regulations, section 825.207 (e), "If the healthcare provider treating the employee for the workers' compensation injury certifies the employee is able to return to a "light duty job" but is unable to return to the same or equivalent job, the employee may decline the employer's offer of a "light duty job." As a result the employee may lose workers' compensation payments, but is entitled to remain on Family and Medical Leave until the employee's Family and Medical Leave entitlement is exhausted.

(5) Maximum Medical Improvement: If the employee reaches maximum medical improvement but cannot return to the original job, Human Resources will work directly with the employee regarding other available options. If there is no position available and separation occurs, the town will assist the employee in obtaining all available benefits.

(6) Questions: Employees who have questions should contact the Human Resources.

IV. FORMS/INSTRUCTIONS

NCIC Form 18 (voluntary to be filled out by employee, but be provided to employee by workers compensation vendor)

NCIC Form 19 (required to be submitted by supervisor)

V. ADDITIONAL CONTACTS

Human Resources

VI. RESPONSIBILITIES

Employee Responsibility:

- Employees are responsible for immediately reporting to their supervisor any accident or injury that occurs at work or on the job.
- Employees are responsible for cooperating with Human Resources in coordination treatment, recovery and return to work phases of the workers' compensation process.
- Unless an emergency, employees cannot seek medical treatment for work related injuries from healthcare providers other than those designated by the town or insurance provider.
- Employees must immediately provide any written documentation, including work restrictions, to his or her supervisor.
- If the designated healthcare provider instructs the employee to remain out of work for any length of time, the employee must forward written documentation to his or her supervisor immediately (in person, by fax, or email)
- The employee must follow the physical restrictions imposed by the designate healthcare provider.
- All employees should understand their benefits and responsibilities under the workers' compensation system.

VII. SCOPE

As of January 1, 2021, this policy replaces and supersedes any previous policies, or unwritten policies or practices covering the same subject.

VIII. RELATED INFORMATION

- A. North Carolina Workers' Compensation Act (1929 c. 120, s.1; 1979, c.714 s,1.):** The town provides Workers' Compensation insurance to town employees. The insurance carrier makes all decisions related to compensable injuries or illnesses and makes payments for benefits and to employees for those injuries and illnesses deemed compensable. North Carolina Industrial Commission establishes benefits, which includes weekly disability compensation, the maximum weekly benefit and reimbursable expenses.
- B. Coordination with Additional Policies:** Depending on the circumstances of the employee's situation, the provisions of this policy may interact with other provisions in the Family Medical Leave Act of the personnel policy as well as health insurance and disability benefits offered by the town (see below lists). Employees should consult with the Human Resources for more information.

IX. AUTHORIZATION

Doug Barrick
Town Manager



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LIGHT DUTY FOR INJURED OR ILL EMPLOYEES

I. POLICY

When an employee is capable of providing a needed service to the Town during the rehabilitation process, the Town will seek to place the employee in a light duty status.

II. PURPOSE

The purpose of light duty is to allow employees to return to work sooner than allowed under full duty requirements.

III. PROCEDURE

A. Eligibility

- (1) An employee is eligible for light-duty status when the employee suffers from either a job-related or non-job-related injury or illness which restricts the employee's ability to perform the essential functions of his or her job. The employee must provide the Town with the certification of a licensed physician knowledgeable about the employee's condition(s) and the requirements of the job, which sets out a definite time after which the employee should be able to return to full duty. The physician must also certify that in the interim the employee can safely perform duties as described.
- (2) In a worker's compensation situation, if the examining physician certifies that the employee is able to safely resume light duty work, upon the Town's request that the employee return to light duty work, the employee must do so.
- (3) In a non-worker's compensation situation, if the employee wishes to report for light duty the employee must submit to an evaluation by a physician chosen by the Town, which evaluation must be paid for by the employee. If the physician certifies that the employee is capable of light duty work, the employee may report for light duty if such work is available.
- (4) In order to be allowed light-duty status, duties must exist which can safely be performed by a person with the restrictions indicated by the physician.

B. Approval Process

- (1) Light duty status will only be approved if the proposed duties are needed by the Town.
- (2) Light duty status must be approved by the Town Manager, following consideration of recommendations by the department head.
- (3) Light duty status may not extend for more than thirty days without review, an updated medical certification and approval by the Town Manager, following consideration of recommendations by the department head.
- (4) If extended, similar reviews must occur every thirty days or as directed by Town Manager.

C. Options Available

Light duty status may deviate from an employee's normal position, including, but not limited to the following ways:

- (1) The employee's schedule may provide for fewer working hours and/or different working hours.
- (2) Duties may be different and/or the same as required in the employee's normal position.
- (3) Light duty may be performed under different supervision than the employee's normal position.
- (4) Light-duty responsibilities may be adjusted as the employee's recovery progresses.

D. Return from Light Duty

An employee will be returned to regular duty with certification from the employee's treating physician. Transfer back to regular duty must be approved by the Town Manager, following consideration of recommendations by the department head. Once approved, the employee must immediately return to regular duty. Failure to comply is shall be grounds for discipline, including dismissal.

IV. DEFINITIONS

Light Duty is non-strenuous work which is restricted to the capacities of the employee.

V. ADDITIONAL CONTACTS

Town Manager

VI. RESPONSIBILITIES

It is the responsibility of the employee to submit a written request for light duty to the Town Manager.

VII. SCOPE

As of January 1, 2021, this policy replaces and supersedes any previous policies, or unwritten policies or practices covering the same subject.

VIII. AUTHORIZATION

Doug Barrick
Town Manager



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RETURN TO WORK

I. POLICY

The Town of Rutherfordton shall comply with all applicable parts of the Americans with Disabilities Act (ADA) and with all appropriate parts of the Family and Medical Leave Act (FMLA) and applicable state laws to make every effort to bring injured employees or employees with medical conditions back to work as long as this will not cause any harm to the employee, others, or town property. The Town of Rutherfordton shall strive to assist the employee to return to his or her former position and to cooperate in the employee's rehabilitation.

II. PURPOSE

The purpose of the Return to Work Policy is to facilitate remaining at work or a safe, timely return to work from absence due to injury, illness or a medical condition.

III. PROCEDURE

A. Modified Work Assignment

Each department will attempt to provide a modified work assignment (may also be referred to as light duty) whenever possible and practical. Whenever possible, attempts will be made to allow the employee to remain in his or her classification with modified work. However, the Town maintains the right to assign employees on modified work to any job within Town facilities/operations that will not exceed their restrictions and which they are capable of doing.

In all cases, managers and supervisors are expected to work with employees to identify modified duty opportunities with the primary focus being the return of the employee to their regular job. If a suitable modified duty position cannot be found, human resources should be contacted to assist in finding reasonable accommodations, including tasks within the department that may be a different job.

Employees who return to a modified duty assignment must perform the work assigned, within the restrictions indicated by the healthcare provider.

Employees must report to their next scheduled shift once the healthcare provider releases them to work and appropriate placement has been made.

B. Workers' Compensation Injury

The Town of Rutherfordton will provide a modified work assignment whenever possible for all employees; however; employees with open workers' compensation cases will have priority.

If an employee refuses a modified work assignment or restricted duty that is consistent with the restrictions imposed by the physician, the Town will exercise its legal rights under the Workers' Compensation Act. Under the Act, if an employee unjustifiably refuses suitable employment procured for him or her by the Town, the North Carolina Industrial Commission could suspend compensation during the refusal. Failure to report to a modified duty assignment may result in disciplinary action.

C. Duration

Employees who have open workers' compensation cases may be part of the modified work assignment until they reach Maximum Medical Improvement (MMI). Other employees may also be assigned modified duties until they are released by their medical professional for full duty or until such time that it is determined that they employee can no longer perform the essential functions of the job. The Town may also require that the employee be released by the town medical provider.

D. Employee Responsibilities

Employees are responsible for providing their supervisor with written notice of the healthcare provider's change(s) in restrictions.

E. Wage Compensation

When an employee returns to work full-time but with medical restrictions, he or she will receive their regular rate of pay. If an employee is assigned limited work hours, he or she will receive their regular rate of pay for the hours worked and workers' compensation will pay two-thirds of the difference between an employee's average weekly wages at the time of injury and the wage he or she receives while working limited hours.

IV. FORMS/INSTRUCTIONS

Medical Release /Return to Work Form (provided by the healthcare provider)

V. ADDITIONAL CONTACTS

Town Manager

VI. DEFINITIONS

A. Maximum Medical Improvement (MMI): A point at which the employee's condition is unlikely to improve further and/or has reached his or her pre-incident condition.

VII. RELATED INFORMATION

A. Coordination with Additional Policies: Depending on the circumstances of the employee's situation, the provisions of this policy may interact with other provisions in the Medical Leave

Cluster of personnel policies as well as health insurance and disability benefits offered by the Town (see below lists). Employees should consult with Human Resources for more information.

B. Medical Leave Cluster of Policies

- Family and Medical Leave Act
- Sick Leave
- Workers' Compensation

C. Benefit Policies

Health Insurance Coverage

VIII. SCOPE

As of January 1, 2021, this policy replaces and supersedes any previous policies, or unwritten policies or practices covering the same subject.

IX. AUTHORIZATION

Doug Barrick
Town Manager



UNSATISFACTORY JOB PERFORMANCE AND DETRIMENTAL PERSONAL CONDUCT SECTION:

- **UNSATISFACTORY JOB PERFORMANCE AND DISCIPLINE POLICY**
- **SEPARATION AND REINSTATEMENT POLICY**
- **EXIT INTERVIEW POLICY**
- **GRIEVANCE PROCEDURE POLICY**



I.	Policy
II.	Purpose
III.	Provisions
IV.	Definitions
V.	Scope
VI.	Authorization

UNSATISFACTORY PERFORMANCE AND DISCIPLINE POLICY

I. POLICY

While every employee should strive to achieve the highest level of job performance and conduct possible, it is the responsibility of each employee to maintain at least the standard level of job performance and conduct which is acceptable to his/her supervisor.

When the personal conduct or performance of an employee falls below a desirable standard, supervisors should point out deficiencies to the employee at the time they are observed. Immediate disciplinary action may occur whenever it is appropriate and in the best interest of the town. Whenever feasible, the practice of progressive discipline should be applied. However, the suggested progressive disciplinary is not a prerequisite for an employee's termination.

Absolutely no **explicit or implicit right to continued employment** is intended, or shall be interpreted to exist in this or any other town policy. *This policy does not modify the status of employees as "employees at will" or, in any way, restrict the town's right to bypass the disciplinary procedure suggested.*

Discipline will be administered without regard to race, ethnicity, color, religion, sex, gender identity, national origin, age, disability, sexual orientation, or other non-performance-related factors.

All disciplinary action shall be executed under the scope of the Town Manager's direct or delegated authority. The Town Manager may remove, with or without cause and at will, any employee of the town not appointed by the Town Council or otherwise where the power is limited by law.

This policy shall apply to all persons holding a paid position as an employee of the town, except the Town Manager, Town Attorney, a member of any appointed or volunteer board or committee, or any others that may be hired or appointed by the Town Council. For this purpose, and subject to exceptions set out herein, employees shall be defined as those employees in departments and offices for which the Town Council serves as the final budget authority.

II. PURPOSE

It is the intent of this policy to establish clear guidelines for correcting and preventing job performance deficiencies and misconduct and for administering employee disciplinary action.

III. PROVISIONS

A. General Provisions

The Town Manager should be consulted at any time a Department Head wishes to pursue a disciplinary action other than counseling or warnings (oral or written). The Department Head may change the order of the disciplinary steps, and/or may choose not to utilize each step, depending on the facts of the case. Nothing herein shall preclude the Department Head from using alternative discipline procedures where those procedures have been approved by the Town Manager. Nothing herein shall preclude the Town Manager from suspending, demoting or dismissing an employee without notice.

B. Unsatisfactory Job Performance

Unsatisfactory job performance includes any aspect of the employee's job performance that does not meet the expectations of the Department Head or Town Manager. Examples of unsatisfactory job performance include, but are not limited to the following:

- (1) Demonstrated inefficiency, negligence, or incompetence in the performance of duties.
- (2) Careless, negligent, personal or improper use of town resources, such as time, finances, vehicles, property and equipment.
- (3) Physical or mental incapacity to perform duties.
- (4) Discourteous treatment of the public or other employees.
- (5) Absence without approved leave.
- (6) Repeated improper use of leave privileges.
- (7) Habitual pattern of failure to report for duty at the assigned time and place.
- (8) Failure to complete work within time frames established in work plan or work standards.
- (9) Failure to meet work standards over a period of time.
- (10) Creates a hostile work environment for other employees.
- (11) Failure to acquire or maintain any certification or licenses required to perform the essential job functions as defined in the job description.

- (12) Other performance issues that in the opinion of the Town Manager require disciplinary action.

In some instances, examples listed above may be considered detrimental specifically by public safety departments (i.e. police and fire departments). Normally employees receive counseling, coaching, or warnings before disciplinary actions result from unsatisfactory job performance but some kinds of job performance are very serious, such as extremely unsafe behavior. In those cases, disciplinary action (suspension, demotion, possible termination) may occur after a single incidence and without prior warning.

C. Detrimental Conduct

Detrimental personal conduct includes behavior of such a serious nature that 1) the functioning of the town may be or has been impaired; 2) the safety of person or property may be or has been threatened; and /or 3) a law may have been violated. Examples of such conduct include, but are not limited to the following:

- (1) Engaging in acts of dishonesty, fraud, theft or sabotage;
- (2) Conviction of a felony or the entry of a plea of nolo contendere thereto;
- (3) Falsification of, destroying, or making a material omission on forms, records or reports including timesheets, employment applications, personnel records, customer records or other town documents, for personal profit or benefit.
- (4) Willful misuse or gross negligence in the handling of Town funds;
- (5) Willful or wanton damage or destruction to property;
- (6) Willful or wanton acts that endanger the lives and property of others;
- (7) Possession of unauthorized firearms or other lethal weapons on the job;
- (8) Brutality in the performance of duties;
- (9) Reporting to work intoxicated or under the influence of non-prescribed drugs.
- (10) Engaging in incompatible employment or serving a conflicting interest;
- (11) Request or acceptance of gifts in exchange for favors or influence;
- (12) Conduct that the town manager feels reflects adversely on the employee, program/department or town.

- (13) Engaging in such other behaviors as the Town Manager determines may be inconsistent with the ordinary and reasonable rules of conduct necessary to the welfare of the town, its employees or citizens.
- (14) Harassment or intimidation of an employee or the public with threatening or obscene language and/or gestures;
- (15) Violation of the town's non-discrimination and /or anti-harassment policy;
- (16) Failure to follow safety or security policies, procedures and regulations.
- (17) Stated refusal to perform assigned duties or flagrant violation of work rules and regulations; or
- (18) Disclosure of confidential information.

Detrimental personal conduct is so serious and unacceptable that severe discipline (disciplinary suspension, demotion, termination) may be imposed after the first incidence and without oral warning or counseling, written warning and/or Personnel Improvement Plan.

D. Progressive Discipline

Depending on the circumstances, unsatisfactory job performance should generally follow the steps outlined below.

Oral and Written Warnings

Step One: *Oral Warning or Counseling*

Where appropriate, unsatisfactory job performance or inappropriate conduct may be addressed by an oral warning or counseling to see if it can be corrected without becoming a disciplinary issue. Oral warning and counseling are an attempt to help an employee make job or conduct corrections.

Oral warnings should be documented by the employee's supervisor and kept in the employee's performance evaluation file. This will not be included in the personnel file maintained by the Town Manager.

Step Two: *Written Warning and Performance Improvement Plan (PIP)*

The written warning usually follows an oral warning or counseling and serves as notification to the employee that the employee's conduct, performance or attendance is below the standards that are expected. It also serves as notice that corrected performance must take place immediately in order to avoid disciplinary suspension, demotion or dismissal.

Written warnings shall provide the following information:

- (1) The specific employee act(s) and dates which demonstrated the unacceptable behavior or conduct.
- (2) The expected behavior or conduct.
- (3) That such act(s) must not be repeated.
- (4) That further action will result if the employee fails to show and maintain satisfactory improvement.

Step Two Continued: *Performance Improvement Plan (PIP), See Appendix A*

A performance improvement plan must be included with written warning. It shall consist of timely discussions between the Department Head and the employee with the following provided in writing:

- (1) The specific unacceptable deficiency in the employee's performance or conduct, with documentation, if available, of previous warnings;
- (2) The necessary improvement;
- (3) The period of time in which improvement must occur;
- (4) A statement that further consequences, including dismissal or demotion, will result if the employee fails to show and maintain satisfactory improvement;

A copy of the written warning and PIP will be given to the employee. The written warning and PIP becomes part of the employee's personnel file which is maintained by the Town Manager. Employees may, however, provide a written response/rebuttal that will be attached to the written warning and PIP in the personnel file maintained by the Town Manager. Additionally, the employee will be required to acknowledge the receipt of the written warning and PIP. Written warnings and PIPs may not be appealed through the grievance process.

Step Three: *Disciplinary Suspension*

If performance does not improve by oral warning or counseling, written warning which includes a Personal Improvement Plan or if the employee's conduct is considered detrimental, the employee may be placed on disciplinary suspension.

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 scheduled working days for non-exempt employees (up to 24 hours for general employees, 36 hours for law enforcement and 72 hours for fire protection personnel). Employees that are considered exempt shall be suspended for one full work week in accordance with FLSA requirements to maintain exempt status. All disciplinary suspensions are unpaid unless otherwise determined by the Town Manager. The employee may be told to leave Town property and to report back to his/her supervisor at a specific date/time. In

specific circumstances, employees may be asked to surrender town issued equipment while on suspension.

Furthermore, the employee shall be given a *Notice of Disciplinary Action – Suspension* (See Appendix B) and shall have the right to respond to the Department Head to the alleged charges within two (2) calendar days of receiving the document. The response/rebuttal to the suspension that will be attached to the notice in the employees personnel file. Suspensions may be appealed through the grievance procedure.

E. Investigative Suspension

Suspensions pending the result of an internal affairs investigation are not disciplinary, and may be either paid or unpaid, depending upon the circumstances. If the investigative suspension is unpaid, the employee *may* be allowed to use accumulated leave balances. Upon completion of the investigation or proceedings, the employee may be eligible to resume work under terms and conditions specified by the Town Manager and Department Head.

F. Demotions

- (1) Demotions result in employees being moved into jobs with lower responsibility levels and/or lower classification. Pay rates after a demotion will be reviewed on a case-by-case basis.
- (2) The employee shall be given a written *Notice of Disciplinary Action - Demotion* (See Appendix C) which sets forth the reason for the demotion.
- (3) *The Notice of Disciplinary Action - Demotion* will be maintained in the employee's personnel file in the Town Manager. The employee may provide a written response/rebuttal to the demotion that will be attached to the notice in the personnel file.
- (4) Demotions may be appealed through the grievance process.

G. Dismissals

Dismissals Result in Termination of Town Employment.

Prior to initiating a dismissal, the Department Head or his/her/their designee shall confer with the Town Manager and present all the relevant facts, circumstances, and information. The Town Manager will review the information and discuss available options, including whether the employee will be suspended with or without pay, pending the outcome of the proposed dismissal. The Town Manager shall review the information and discuss available options and their consequences with the respective Department Head. It is the responsibility of the Department Head to decide whether to initiate a dismissal and to communicate this decision to the Town Manager. The Town Manager is responsible for the dismissal of any town employee.

Step One: The employee shall be given a *Notice of Pre-Dismissal Hearing* (See Appendix D) and the employee shall have the right to provide a written or oral response at the scheduled hearing. The hearing shall occur within two business days of providing the notice to the employee unless the employee waives such response or the particular circumstance requires a different period. Additionally, the notice will note the time and location of the hearing.

Additional Information: The *Notice of Pre-Dismissal Hearing* should include an explanation of why the dismissal is proposed, such as alleged policy violations, so the employee may adequately respond. The hearing will be conducted by the Town Manager along with other persons deemed necessary to the process (i.e. Department Head).

Pre-Dismissal Hearing: At the hearing, the employee presents his/her/their response in writing to the proposed dismissal to the Department Head or designee. The Town Manager or his/her/their designee shall notify the employee of his/her/their decision within two business days of receiving the employee's response/rebuttal.

Additional Information: If the hearing results in the dismissal of the employee by the Town Manager, the employee will be provided a *Notice of Dismissal* setting forth the specific acts or omissions for the dismissal. The *Notice of Dismissal* will be made publically available. The employee will receive his/her final paycheck for hours worked. A non-exempt employee also will receive any accrued compensatory time. Any accrued vacation or sick time will not be paid out unless authorized by the Town Manager. The employee will also be able to purchase his/her/their health insurance in accordance with COBRA provisions.

Appeal: If the employee would like to appeal the decision, it is the employee's responsibility to reference the grievance procedure.

Cross Reference: Grievance Procedure

H. Criminal Offenses (Work Related)

If, during the course of any disciplinary investigation, the possibility exists that an action of an employee is considered a criminal offense, the town manager and/or his/her/their designee will determine if the criminal investigation will be conducted by the town's police department or an outside law enforcement agency with jurisdiction over the alleged offense. Additionally, it will be determined by the town manager and/or his/her/their designee (with consultation with chosen law enforcement agency and the District Attorney's Office) if the employee will receive a Garrity interview (commonly referred to as a Garrity warning). Garrity interviews will be given by Department Head and/or his/her/their designee. If the Department Head is the subject of the investigation, the Town Manager and/or designee will conduct the interview. All interviews will be electronically recorded.

Garrity Interview: This interview is intended to inform an employee that he/she/they is/are being required to answer questions as part of an administrative investigation but that such answers are not a waiver of the employee's Fifth Amendment protection against self-incrimination. The imposition of discipline, in whatever form, shall in no way preclude a further sanction imposed against an employee in subsequent criminal or civil proceedings.

If the employee is given the Garrity interview, the employee is required to cooperate fully in the investigation. Any failure on the part of the employee to cooperate fully in the investigation shall be considered insubordination. Failure on the part of a supervisor to administer the Garrity interview is not a defense for the failure or refusal to truthfully answer questions and cooperate fully in the disciplinary action.

I. Criminal Offenses (Non-Work Related)

Conviction of any felony or the entry of a plea of nolo contendere to a felony will be cause for discipline, up to and including dismissal. Conviction of any offense, that affects the ability of an employee to perform his/her/their job as an employee who has contact with the general public, may be cause for disciplinary action, up to and including dismissal.

IV. DEFINITIONS

A. Demotion: A demotion occurs when an employee voluntarily or involuntarily moves to a different position that is in a lower salary range or official rank.

B. Department Head: The individual who is directly responsible for the operation and administration of a department.

C. Disciplinary Action: Disciplinary actions are sanctions that are imposed because of an employee's job performance or conduct such as written reprimand, performance improvement plan, disciplinary suspensions, without pay, involuntary demotion, and dismissal.

D. Disciplinary Suspension: Disciplinary suspension is a penalty and is therefore unpaid. Suspensions are used for a range of offenses, from certain types of preventable accidents to insubordination, failure to pass a random drug test, or failing to follow town or department policies, and usually range from one day to a week, although longer suspensions may be appropriate in some cases.

E. Employee: Any person working for the Town; but not independent contractors, committees, or volunteers.

F. Exempt Employee: An exempt status employee is one who is not covered by the minimum wage and overtime pay provisions under the Fair Labor Standards Act (FLSA) defined by Regulations 29 CFR Part 541.

G. Employee, Non-Exempt: An employee who is covered by the minimum wage and overtime pay provisions under the Fair Labor Standards Act (FLSA) defined by Regulations 29 CFR Part 541.

H. Supervisor: A person working in a position that is responsible for the work activities, evaluation and disciplinary action of an employee or a group of employees

I. Termination, or Dismissal, Involuntary: The end of an employee's employment with the town, initiated by the town.

V. SCOPE

As of January 1, 2021, this policy replaces and supersedes any previous policies or unwritten policies or practices covering the same subject.

VI. AUTHORIZATION

Doug Barrick
Town Manager

Appendix A: Personal Improvement Plan (PIP)

Employee Name: _____ Date: _____

Type of Warning: Oral Warning Written Warning Disciplinary Suspension

Violations/Reasons for Warning:

- Inefficient/negligent performance Improper use of town resources
- Absence without approved leave Failure to report for duty habitually (time/place)
- Failure to complete work Creating a hostile work environment
- Failure to maintain certification/license to perform job duties Dishonesty, fraud, theft
- Conviction of felony Falsification of forms/records/reports for personal profit/benefit
- Willful acts of damage or destruction of property Willful acts that endanger lives
- Possession of unauthorized firearms or other lethal weapons on the job
- Reporting to work intoxicated or under the influence of non-prescribed drugs
- Serving a conflicting interest Acceptance of gifts in exchange for favors
- Other: _____

Details of violations:

Plan for improvement:

Violation of this personal improvement plan or failure to achieve the goals set forth in this plan will result in:

Further Action Disciplinary Suspension Dismissal

I completely understand the reason(s) for this Personal Improvement Plan (PIP) and the goals established for its duration. I understand that if I fail to reach the goals my supervisor(s) have set for me, or if I violate my probationary period by continued infraction, I will be subject to the action outlined above.

Employee Signature

Date

Department Head Signature

Date

Appendix B: Notice of Disciplinary Action – Suspension

Employee Name: _____ Date: _____

In accordance with the Town of Rutherfordton Personnel Policy Chapter 26, Section 3D, the employee may be placed on disciplinary suspension if performance does not improve by oral warning, written warning, or if the employees conduct is considered detrimental.

Disciplinary suspensions are for the purpose of communicating the seriousness of the performance deficiency, not for the purpose of punishment, and should not exceed three scheduled working days for non-exempt employees (up to 24 hours for general employees, 36 hours for law enforcement and 72 hours for fire protection personnel). Employees that are considered exempt shall be suspended for one full work week in accordance with FLSA requirements to maintain exempt status. All disciplinary suspensions are unpaid unless otherwise determined by the Town Manager. The employee may be told to leave Town property and to report back to his/her supervisor at a specific date/time. In specific circumstances, employees may be asked to surrender town issued equipment while on suspension.

The employee shall have the right to respond to the Department Head to the alleged charges within two (2) calendar days of receiving the document. The response/rebuttal to the suspension that will be attached to the notice in the employees personnel file. Suspensions may be appealed through the grievance procedure.

I completely understand the reason(s) for my suspension and the goals established for its duration. I understand that dismissal does not serve as a purpose of punishment and are unpaid unless otherwise determined by the Town Manager. I understand that I have the right to respond to these alleged charges and submit a response to this suspension.

Employee Signature

Date

Department Head Signature

Date

Appendix C: Notice of Disciplinary Action – Demotion

Employee Name: _____ Date: _____

In accordance with the Town of Rutherfordton Personnel Policy Chapter 26, Section 3F, the employee may be demoted as a disciplinary action. if performance does not improve by oral warning, written warning, or if the employees conduct is considered detrimental. Demotions result in employees being moved into jobs with lower responsibility levels and/or lower classification. Pay rates after a demotion will be reviewed on a case-by-case basis. Demotions may be appealed through the grievance process.

I completely understand the reason(s) for my demotion and the goals set forth by this disciplinary action. I understand that the pay rates will be reviewed by a case-by-case basis. I understand that I have the right to appeal this action through the grievance process.

Employee Signature

Date

Department Head Signature

Date

Appendix D: Notice of Pre-Dismissal Hearing

Employee Name: _____ Date: _____

Alleged Violations:

- ___ Inefficient/negligent performance ___ Improper use of town resources
- ___ Absence without approved leave ___ Failure to report for duty habitually (time/place)
- ___ Failure to complete work ___ Creating a hostile work environment
- ___ Failure to maintain certification/license to perform job duties ___ Dishonesty, fraud, theft
- ___ Conviction of felony ___ Falsification of forms/records/reports for personal profit/benefit
- ___ Willful acts of damage or destruction of property ___ Willful acts that endanger lives
- ___ Possession of unauthorized firearms or other lethal weapons on the job
- ___ Reporting to work intoxicated or under the influence of non-prescribed drugs
- ___ Serving a conflicting interest ___ Acceptance of gifts in exchange for favors
- ___ Other: _____

Details of violations:

I understand that I must submit my response to the Notice of Dismissal in writing, and I shall receive the Town Manager's or designee's decision within two (2) business days of receiving my response/rebuttal. I understand that I have the right to appeal the decision, and it is my responsibility to reference the grievance procedure.

Employee Signature

Date

Department Head Signature

Date



I.	Policy
II.	Purpose
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SEPARATION AND REINSTATEMENT POLICY

I. POLICY

It is the intent of this policy to establish clear guidelines for separation and reinstatement of employees of the Town.

II. PURPOSE

All separations of employees from positions in the service of the Town shall be designated as one of the following types and shall be accomplished in the manner indicated: Resignation, reduction in force, disability, voluntary retirement, dismissal, or death. Upon separation, employees must return all issued Town property prior to receiving any and all types of final pay or funds will be deducted to meet this financial obligation.

III. PROVISIONS

1. 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 Town Manager.

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

2. Reduction in Force.

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

3. Disability

An employee who cannot perform the essential duties of a position because of a physical or mental impairment may be separated for disability. The Town will first determine if reasonable accommodation may be provided, or if other provisions of the Americans With Disabilities Act apply. 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 Town Manager. The Town may require an examination, at the Town's expense, performed by a physician of the Town's choice. Employees who meet the requirements of the North Carolina Local Governmental Employees Retirement System may qualify for a disability retirement

4. Voluntary Retirement

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

5. Death

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

6. Dismissal

An employee may be dismissed in accordance with the provisions and procedures of the unsatisfactory performance and discipline policy.

7. Reinstatement

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

8. Rehiring

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

VI. SCOPE

As of January 1, 2021, this policy replaces and supersedes any previous policies, or unwritten policies or practices covering the same subject.

VII. AUTHORIZATION

Doug Barrick
Town Manager



I.	Policy
II.	Purpose
III.	Procedures
IV.	Responsibilities
V.	Scope
VI.	Authorization

EXIT INTERVIEW POLICY

I. POLICY

The goal of the Town of Rutherfordton is to be recognized as a diverse community and to be capable of attracting and developing the most qualified staff. The Town will use information gained from exit interviews to help achieve this goal.

II. PURPOSE

The purpose of the Town of Rutherfordton's Exit Interview Policy is to provide a structure that enables the Town to elicit valuable information regarding the experience of employees who are leaving the Town. The Town will seek to discover the reasons behind the employee's decision to depart and what could be improved with respect to the Town's basic operations, systems, workload, management and supervision. The information will be analyzed to highlight areas of the Town's performance that could be enhanced, to increase employee's job satisfaction, and to create retention strategies.

III. PROCEDURES

A. Voluntary Departure

All departing, permanent employees who leave employment voluntarily should be asked to participate in an exit interview. The Town Manager and/or their designee will conduct the interview no later than the last working day of the employee's employment. Another individual may attend the interview to take notes but the employee's direct supervisor will not be present for the exit interview.

B. Confidentiality

Any feedback by the employee on improvement or concerns regarding town operations will be shared with appropriate officials. If the employee requests that their response remain confidential, the Town will make a great effort to keep all information confidential wherever possible, and as allowed by law. Information that relates to harassment, discrimination, or illegal activity will be acted upon immediately and it will not be possible to keep the source of this information confidential.

C. Accruals and Benefits

The employee will also confer with the Town Manager or Finance Director regarding the employee's accrued leave benefits, and conversion/withdrawal options for insurance and retirement benefits. The employee will need to provide a forwarding address to the Finance Director to facilitate the forwarding of correspondence, including COBRA notification and W-2 forms.

IV. RESPONSIBILITIES

The Town Manager or their designee is responsible for scheduling the exit interview.

V. SCOPE

As of January 1, 2021, policy replaces and supersedes any previous policies or unwritten policies or practices covering the same subject.

VI. AUTHORIZATION

Doug Barrick
Town Manager



I.	Policy
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GRIEVANCE PROCEDURE POLICY

I. POLICY

Complaints arising in the workplace should be resolved fairly and promptly. It is the policy of the Town to provide a just procedure for the presentation, consideration, and disposition of employee grievances (complaints). Employees utilizing the grievance procedure shall not be subjected to retaliation or any form of harassment from supervisors or employees for exercising their rights under the grievance procedure. Supervisors, or other employees who violate this policy, shall be subject to disciplinary action up to and including termination from the town.

Additionally, this Grievance Procedure is established to meet the requirements of the Americans with Disabilities Act of 1990 ("ADA"). It may be used by anyone who wishes to file a complaint alleging discrimination on the basis of disability in the provision of services, activities, programs, or benefits by the Town of Rutherfordton. The Town's Personnel Policy governs employment-related complaints of disability discrimination.

Grievances are limited to the following:

- (1) Safety or health matters
- (2) Unsatisfactory physical facilities, surroundings, materials, or equipment
- (3) Alleged unfair or disciplinary (including demotions and suspensions) or supervisory practices
- (4) Alleged unjust treatment by fellow workers
- (5) Unreasonable work quotas, or
- (6) Any other grievance related to conditions of employment
- (7) Discrimination on the basis of disability

II. PURPOSE

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

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

III. PROVISIONS

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

A. Grievance Process

- (1) **Step 1 - Informal Resolution:** Prior to the submission of a formal grievance, the employee and his/her supervisor, the Department Head or the ADA Coordinator, should meet to discuss the problem and seek to resolve it informally. Either the employee or the supervisor may involve the respective Department Head, Human Resources or Town Manager or his/her designee as a resource to help resolve the grievance.
- (2) **Step 2 - Department Head:** If no resolution to the grievance is reached informally, the employee who wishes to pursue a grievance shall present the grievance to the Department Head in writing (if the Department Head's actions are the subject of the complaint, the employee may present his/her grievance to the Town Manager) or in a format accessible to the complainant, such as large print, Braille, or audio tape. See *Section C* below for guidance on a written grievance. The grievance must be presented to the Department Head within ten (10) calendar days of the event or

within ten (10) calendar days of learning of the event or condition. The Department Head shall respond to the grievance within ten (10) calendar days after receipt of the grievance. The Department Head along with Human Resources should, and is encouraged to, consult with any employee of the Town in order to reach a correct, impartial, fair and equitable determination or decision concerning the grievance. Any employee consulted by the Department Head is required to cooperate to the fullest extent possible. The response from the Department Head shall be in writing or in a format accessible to the complainant, such as large print, Braille, or audio tape and the employee shall also sign a copy to acknowledge receipt thereof. If the employee is unable to sign due to a disability, accommodations will be made to acknowledge receipt thereof. Copies of the grievance and response shall be sent to Human Resources. If the written grievance is presented to the Town Manager initially, Step 3 is inapplicable. The Town Manager's decision is final.

(3) Step 3 - Next Level Town Manager: If the grievance is not resolved to the satisfaction of the employee by the Department Head, the employee may appeal, in writing or in a format accessible to the complainant, such as large print, Braille, or audio tape, to the Town Manager or his/her designee within ten (10) calendar days after receipt of the response from Step 2. The Town Manager shall respond to the appeal in a format accessible to the complainant, such as large print, Braille, or audio tape, stating the determination of decision within ten (10) calendar days after receipt of the appeal. The Town Manager's decision shall be the final decision. The Town Manager shall notify the Town Council of any impending legal action.

B. Grievance and Adverse Action Appeal Procedure for Discrimination

When an employee, former employee, or applicant, believes that any employment action discriminates illegally (i.e. is based on age, gender, race, color, national origin, religion, creed, sexual orientation political affiliation, or non-job related disability), he or she has the right to appeal such action using the grievance procedure outlined in this policy. While such persons are encouraged to use the grievance procedure, they shall also have the right to appeal directly to the Town Manager. Employment actions subject to appeal because of discrimination include promotion, demotion, training, classification, pay, disciplinary action, reduction in force, transfer, failure to hire, or termination of employment. An employee or applicant should appeal an alleged act of discrimination within thirty calendar days of the alleged discriminatory action, but may appeal for up to six months following the action.

C. Written Grievance Guidance

Generally, the following information should be included in a written grievance:

- (1) Name of employee
- (2) Description of the specific incident forming the basis of the grievance (date, circumstances and parties involved)
- (3) An outline of the steps taken so far to resolve the matter
- (4) Desired outcome

(5) Any additional information and/or documentation relevant to the grievance

* Alternative means of filing complaints, such as personal interviews or a tape recording of the complaint, will be made available for persons with disabilities upon request.

IV. DEFINITIONS

See applicable definitions in Unsatisfactory Job Performance.

V. SCOPE

As of January 1, 2021, this policy replaces and supersedes any previous policies or unwritten policies or practices covering the same subject.

VI. AUTHORIZATION

Doug Barrick
Town Manager



**FRAUD PREVENTION AND
WHISTLEBLOWER PROTECTIONS**



I.	Policy
II.	Purpose
III.	Procedures
IV.	Scope
V.	Authorization

FRAUD PREVENTION AND WHISTLEBLOWER PROTECTION

I. POLICY

The Town of Rutherfordton prohibits discrimination or retaliatory action against an employee because the employee in good faith does or threatens to file a claim or complaint, initiate any inquiry, investigation, inspection, proceeding or other action, or testify or provide information to any person with respect with respect to all applicable local, state and federal laws, rules or regulations, hereafter protected activities.

II. PURPOSE

The Town of Rutherfordton prohibits fraudulent activity or dishonest acts involving employees, administrators, officials, consultants, vendors, contractors, outside agencies, or employees of local boards, agencies and commissions or other parties having a business relationship with the Town of Rutherfordton (hereafter, “covered individuals”).

III. PROCEDURES

A. Fraudulent Activity Defined

The Town Manager and all levels of management within the Town of Rutherfordton are responsible for the prevention and detection of fraud, misappropriation, and other inappropriate conduct, including discrimination or retaliatory actions against employees who engage in protected activities or report fraudulent activity or dishonest acts by covered individuals. As used in this policy, the term “fraudulent activity or dishonest act” includes, but is not limited to, the following:

- 1) A willful or deliberate act or failure to act by one of the covered individuals, with an intention of obtaining an unauthorized or inappropriate financial benefit for himself or another person with whom he has a close familial, business or other associational relationship;
- 2) Any dishonest or fraudulent act;
- 3) Forgery or alteration of a check, bank draft, or any other financial document or account;
- 4) Misappropriation of funds, securities, supplies, or other assets;
- 5) Impropriety in the handling or reporting of money or financial transactions;

- 6) Accepting or seeking anything of material value from vendors, contractors, or other persons providing services or materials to the Town;
- 7) Using Town funds to make unauthorized purchases;
- 8) Authorizing or receiving compensation for hours not worked.

B. Code of Ethics

No person acting on behalf of the Town shall, and it shall be considered misconduct on the part of an employee and a violation of the Code of Ethics on the part of any other covered individual, to:

- 1) Dismiss, or threaten to dismiss, any employee;
- 2) Discipline, suspend, or threaten to discipline or suspend an employee;
- 3) Impose any penalty upon an employee; or
- 4) Intimidate or coerce an employee

Because the employee has acted in accordance with the requirements of this policy to in good faith report the suspicion or detection of a fraudulent activity or dishonest act by a covered individual. However, it shall also be a violation of this policy for any informant to make a baseless allegation of fraudulent activity or dishonest act that is made with reckless disregard for the truth and that is intended to be disruptive or to cause harm to another individual.

C. Whistleblower Protection

Any fraudulent activity or dishonest act by a covered individual, or discrimination or retaliation against a Town employee for reporting any fraudulent activity or dishonest act, or discrimination or retaliation against a Town employee for engaging in a protected activity, shall be reported immediately to the Town Manager, who will conduct an investigation into the alleged activity, involving other applicable personnel and law enforcement agencies as the Town Manager deems necessary or appropriate. An employee found to have engaged in any dishonest acts or fraudulent activity, or who is involved in discriminating or retaliating against a person who reports such activity or otherwise engages in protected activities, is subject to disciplinary action for misconduct by the Town of Rutherfordton, which may include dismissal and referral to the Rutherford County District Attorney for prosecution, depending on the circumstances. Any dishonest act or fraudulent activity by a non-employee, covered individual may be referred to the appropriate law enforcement agency or Rutherford County District Attorney for investigation and prosecution.

D. Reporting

Any employee of the Town of Rutherfordton who has a reasonable basis for believing fraudulent activity or dishonest act has occurred or is occurring has a responsibility to promptly notify the Town Manager, and the failure to do so may be considered misconduct by the Town, depending on the circumstances.

- 1) Elected officials of the Town of Rutherfordton have a responsibility to immediately notify the Town Attorney of fraudulent activity or any dishonest act involving covered individuals which is reported to them or which they detect or suspect. If the alleged fraudulent activity or dishonest act involves a Town employee, the Town Attorney shall refer the matter to the Town Manager for appropriate investigation or action. If the alleged fraudulent activity or dishonest act involves the Town Manager or other covered individual other than a Town employee, the Town Attorney may investigate the matter, involve law enforcement personnel to investigate the matter, or refer the matter to the Rutherford County District Attorney for prosecution, depending on the circumstances.
- 2) Other individuals can report suspected fraudulent activity or dishonest acts by a covered individual anonymously by sending written notice in a sealed envelope to the Town of Rutherfordton administrative offices to the attention of the Town Manager or Town Attorney. Depending on the classification of the covered individual about whom the fraudulent activity or dishonest act is alleged, the Town Manager or Town Attorney shall proceed, as appropriate, pursuant to paragraph V or VII.

E. Grievance Report:

An employee who believes that he has been discriminated or retaliated against due to a good faith report of fraudulent activity or dishonest act, or for engaging in a protected activity, shall be entitled to file a grievance in accordance with Article XI of the Town of Rutherfordton Personnel Policy.

IV. SCOPE

As of January 1, 2021, this policy replaces and supersedes any previous policies, or unwritten policies covering the same subject.

V. AUTHORIZATION

Doug Barrick
Town Manager



RECORDS AND REPORTS SECTION:

- **CONFIDENTIAL INFORMATION**
- **CONFLICT OF INTEREST**

I.	Policy
II.	Purpose
III.	Provisions
IV.	Scope
V.	Authorization



CONFIDENTIAL INFORMATION

I. POLICY

It is the policy of the Town to provide a policy with best practices for confidential information.

II. PURPOSE

The Town expects that employees will use this policy and good judgement with confidential information in the workplace.

III. PROVISIONS

A. Confidential Information

Confidential information has the potential for greater negative impact if disclosed than other information, and hence requiring greater protection. Employees are encouraged to use common sense judgment when handling confidential information. If an employee is uncertain of the classification of a particular piece of information, the employee should contact their Department Head or Town Manager for clarification.

Confidential information may include, but is not limited to, medical records, citizen related discussions, employee records, other personal information regarding Town employees or former employees, economic development information, records of criminal investigations, business or financial records, and records regarding the use of library resources and services.

We recognize the need to comply with public information requirements as mandated by federal, state and town laws and regulation.

(1) Information gained while employed: During the course of employment, employees may learn, see or acquire confidential information about the Town, other employees, or our citizens. Such information must be handled in strict confidence and is to be shared only with those persons within the Town who need to know such information. Employees are expected to deal with confidential information in a manner which complies with state and federal laws and regulations. Unauthorized access to confidential information is prohibited.

(2) Breach of confidentiality: Employees must recognize the unauthorized disclosure of confidential information could cause irreparable harm and be detrimental to the Town of Rutherfordton. Any violation may result in disciplinary action, up to and including termination. Employees who violate confidentiality laws may also be subject to sanctions as imposed by federal or state law.

(3) Personnel Information:

- a. All Town of Rutherfordton personnel information is categorized into two main classifications with regard to disclosure: **Public** and **Confidential**.
- b. The information covered in this policy includes all personnel information within the Town's information systems that is processed, stored, or transmitted via any means. This includes: electronic information, information on paper, and information shared orally or visually.

Only the following items in an employee's personnel file must be disclosed to the public when requested:

- The employee's name.
- The employee's age.
- The date of the employee's original employment or appointment.
- The terms of any contract by which the employee is employed, whether written or oral, past and current, to the extent that the Town has the written contract or a record of the oral contract in its possession;
- The employee's current position title.
- The employee's current salary.
- The date and the amount of each increase or decrease in the employee's salary.
- The date and type of each employee's promotion, demotion, transfer, suspension, separation or other change in position classification.
- Date and general description of the reasons for each promotion with the Town;
- The date and type of each employee's dismissal, suspension, or demotion for disciplinary reasons. If the disciplinary action was a dismissal, a copy of the written notice of the final decision setting forth the specific acts or omissions that are the basis of the dismissal.
- The office or station to which the employee is currently assigned.

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

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

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

B. Access to Confidential Information

All information contained in a Town employee's personnel file, other than the aforementioned information, is confidential and shall be open to inspection only in the following instances, in accordance with NCGS 160A-168(c) and (c1):

- a. The employee or his/her duly authorized agent may examine all portions of his/her personnel file except letters of reference solicited prior to employment, and information concerning a medical disability, mental or physical, that a prudent physician would not divulge to the patient.
- b. A licensed physician designated in writing by the employee may examine the employee's medical record.
- c. A Town employee having supervisory authority over the employee may examine all material in the employee's personnel file.
- d. By order of a court of competent jurisdiction, any person may examine all material in the employee's personnel file.
- e. An official of an agency of the State or Federal Government, or any political subdivision of the State, may inspect any portion of a personnel file when such inspection is deemed by the Town Manager to be necessary and essential to the pursuit of a proper function of the inspecting agency, but no information shall be divulged for the purpose of assisting in a criminal prosecution of the employee, or for the purpose of assisting in an investigation of the employee's tax liability. However, the official having custody of the personnel records may release the name, address, and telephone number from a personnel file for the purpose of assisting in a criminal investigation.
- f. An employee may sign a written release to be placed in his/her personnel file that permits the record custodian to provide, either in person, by telephone, or by mail, information specified in the release to prospective employers, educational institutions, or other persons specified in the release.
- g. The Town Manager, with the concurrence of the Town Council, may inform any person of the employment, non-employment, promotion, demotion, suspension or other disciplinary action, reinstatement, transfer, or termination of a Town employee, and the reasons for that action. Before releasing that information, the Town Manager shall determine in writing that the release is essential to maintaining the level and quality of Town services. The written determination shall be retained by Human Resources, is a record for public inspection, and shall become a part of the employee's personnel file.
- h. Individuals requesting access to confidential information will be requested to submit satisfactory proof of identity.

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.

C. Precautions

- (1) Keep all confidential personnel documents out of view and locked away from your desk.
- (2) Confidential personnel information on your personal computer should always be password protected and should never be left open when stepping away from your desk. Screen savers should also be used and should be password protected.
- (3) Electronic confidential personnel documents should be filed on a secured, password protected. If documents must be shared, documents must be password protected.
- (4) Monitor the printer when printing a confidential personnel document. Do not leave confidential personnel print jobs unattended.
- (5) Remove all confidential personnel documents from the photocopy machine when jobs have been completed. In the event of a machine jam, make sure all confidential papers are removed and shredded.
- (6) Close doors when confidential personnel discussions occur during meetings. Erase and/or remove all white boards, flip charts, and papers once the meeting has concluded. Be discrete in communications with others to ensure that unauthorized disclosure of confidential personnel information does not occur. *Be cautious of what you say.*
- (7) Confidential personnel related mail can be sent via regular mail courier envelopes, but should be sent in a sealed envelope within the messenger envelope and marked appropriately. Confidential mail should be hand carried to local destinations (within reasonable traveling distance). Please instruct administrative staff that incoming mail marked "Confidential" should be delivered unopened to the recipient immediately. Confidential papers (including notes and working papers) should not be discarded in wastebaskets or recycle bins. Confidential personnel papers should be shredded.
- (8) Using the fax machine for transmitting confidential personnel information is not recommended. However, if necessary, arrangements should be made at both ends of the transmission to monitor the fax machine until the entire fax has been sent and received. Do not leave a fax machine unattended when sending or receiving a confidential personnel document.
- (9) All conference calls where confidential personnel information may be discussed should be conducted behind closed doors.
- (10) Individuals should be cautious of their surroundings when leaving voice mail messages that may contain confidential personnel information.

D. Personnel Actions

The Town Manager will prescribe necessary forms and reports for all personnel actions, and will retain records necessary for the proper administration of the personnel system. There shall be one set of official personnel files, centrally located as designated by the Town Manager. Any document not located there is not an official part of that employee's personnel record. Official personnel files shall contain documents such as employment applications and related materials, records of personnel actions, documentation of employee warnings, disciplinary actions, performance evaluations, letters of recommendation, and other personnel-related documents.

E. Records of Former Employees

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

F. Remedies of Employees Objecting to Material in File

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

G. Penalties for Permitting Access to Confidential Records

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

H. 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.

I. Destruction of Records Regulated

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

IV. SCOPE

As of January 1, 2021, this policy replaces and supersedes any previous policies or unwritten policies or practices covering the same subject.

V. AUTHORIZATION

Doug Barrick
Town Manager

I.	Policy
II.	Purpose
III.	Provisions
IV.	Scope
V.	Authorization



CONFLICT OF INTEREST POLICY (REGARDING TAX EXEMPT STATUS)

I. POLICY

It is the policy of the Town to supplement but not replace any applicable state and federal laws governing conflict of interest applicable to nonprofit and charitable organizations.

II. PURPOSE

The purpose of the Conflict of Interest policy is to protect the Town of Rutherfordton's interest when it is contemplating entering into a transaction or arrangement that might benefit the private interest of an officer or director of the Town or might result in a possible excess benefit transaction.

III. PROVISIONS

A. Duty to Disclose

In connection with any actual or possible conflict of interest, an interested person must disclose the existence of the financial interest and be given the opportunity to disclose all material facts to the directors and members of committees with governing board delegated powers considering the proposed transaction or arrangement.

B. Determining Whether a Conflict of Interest Exists

After disclosure of the financial interest and all material facts, and after any discussion with the interested person, s/he shall leave the governing board or committee meeting while the determination of a conflict of interest is discussed and voted upon. The remaining board or committee members shall decide if a conflict of interest exists.

C. Procedures for Addressing the Conflict of Interest

- (1) An interested person may make a presentation at the governing board or committee meeting, but after the presentation, he/she shall leave the meeting during the discussion of, and the vote on, the transaction or arrangement involving the possible conflict of interest.

- (2) The chairperson of the governing board or committee shall, if appropriate, appoint a disinterested person or committee to investigate alternatives to the proposed transaction or arrangement.
- (3) After exercising due diligence, the governing board or committee shall determine whether the Organization can obtain with reasonable efforts a more advantageous transaction or arrangement from a person or entity that would not give rise to a conflict of interest.
- (4) If a more advantageous transaction or arrangement is not reasonably possible under circumstances not producing a conflict of interest, the governing board or committee shall determine by a majority vote of the disinterested directors whether the transaction or arrangement is in the Town's best interest, for its own benefit, and whether it is fair and reasonable. In conformity with the above determination, it shall make its decision as to whether to enter into the transaction or arrangement.

D. Violations of the Conflicts of Interest Policy

- (1) If the governing board or committee has reasonable cause to believe a member has failed to disclose actual or possible conflicts of interest, it shall inform the member of the basis for such belief and afford the member an opportunity to explain the alleged failure to disclose.
- (2) If, after hearing the member's response and after making further investigation as warranted by the circumstances, the governing board or committee determines the member has failed to disclose an actual or possible conflict of interest, it shall take appropriate disciplinary and corrective action.

E. Records of Proceedings

The minutes of the governing board and all committees with board delegated powers shall contain:

- (1) The names of the persons who disclosed or otherwise were found to have a financial interest in connection with an actual or possible conflict of interest, the nature of the financial interest, any action taken to determine whether a conflict of interest was present, and the governing board's or committee's decision as to whether a conflict of interest in fact existed.
- (2) The names of the persons who were present for discussions and votes relating to the transaction or arrangement, the content of the discussion, including any alternatives to the proposed transaction or arrangement, and a record of any votes taken in connection with the proceedings.

F. Compensation

- (1) A voting member of the governing board who receives compensation, directly or indirectly, from the Town for services is precluded from voting on matters pertaining to that member's compensation.
- (2) A voting member of any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the Town for services is precluded from voting on matters pertaining to that member's compensation.
- (3) No voting member of the governing board or any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the Town, either individually or collectively, is prohibited from providing information to any committee regarding compensation.

G. Annual Statements

Each director, principal officer and member of a committee with governing board delegated powers shall annually sign a statement which affirms such person:

- (1) Has received a copy of the conflicts of interest policy,
- (2) Has read and understands the policy,
- (3) Has agreed to comply with the policy, and
- (4) Understands the Town is charitable and in order to maintain its federal tax exemption, it must engage primarily in activities which accomplish one or more of its tax-exempt purposes.

H. Periodic Reviews

To ensure the Town operates in a manner consistent with charitable purposes and does not engage in activities that could jeopardize its tax-exempt status, periodic reviews shall be conducted. The periodic reviews shall, at a minimum, include the following subjects:

- (1) Whether compensation arrangements and benefits are reasonable, based on competent survey information, and the result of arm's length bargaining,
- (2) Whether partnerships, joint ventures, and arrangements with management organizations conform to the Organization's written policies, are properly recorded, reflect reasonable investment or payments for goods and services, further charitable purposes and do not result in inurement, impermissible private benefit or in an excess benefit transaction.

I. Use of Outside Experts

When conducting the periodic reviews as provided for in Article VII, the Town may, but need not, use outside advisors. If outside experts are used, their use shall not relieve the governing board of its responsibility for ensuring periodic reviews are conducted.

IV. SCOPE

As of February 2, 2021, this policy replaces and supersedes any previous policies or unwritten policies or practices covering the same subject.

V. AUTHORIZATION

Doug Barrick
Town Manager