

TOWN OF WILKESBORO



"Where the Mountains Begin"

PERSONNEL BOOKLET

REVISED October 7, 2013

Notes

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Article I. General Provisions

Section 1. Purpose

The purpose of this document is to establish a personnel system that will promote a fair and effective means of employee recruitment and selection, develop and maintain an effective and responsible work force, and provide the means for removal of unsatisfactory employees. This policy is established under the authority of G.S. 160A-164 of the General Statutes of North Carolina.

Section 2. Coverage

All employees in the Town's service are subject to this document, except the Wilkesboro Town Council, the Town Manager, the Town Attorney, and law enforcement personnel where they are governed by other policies. Whenever any policy of law enforcement officers conflicts with the policy of the Town, the policy of the Town rules.

Section 3. Limitations

This is not a contract of employment. Any individual may voluntarily leave upon proper notice and may be terminated by the employer at any time for any reason. Any oral or written statements or promises to the contrary are hereby expressly disavowed and should not be relied upon by any prospective or current employee. The contents of this policy manual are subject to change at any time at the discretion of the Town Council.

Section 4. Definitions

Anniversary Date. The employee's original date of employment with the Town in a permanent position.

Applicant. An individual that is in competition for a vacant position by virtue of completing and submitting an employment application.

Appointing Authority. Any Town official with the legal authority to make hiring decisions.

Class. Positions or groups of positions having similar duties and responsibilities requiring similar qualifications, which can be properly designated by one title indicative of the nature of work performed, and which carry the same salary range.

Cost-of-Living Increase. An annual adjustment that may be made by the Town Board to all pay ranges effective July 1 of each year.

Demotion. The reassignment of an employee to a position or a classification having a lower salary range than the position or the classification from which the reassignment is made.

Department Head. An employee whose assigned duties include directing the activities of subordinate employees.

Exempt Employee. An employee who is salaried and meets one of the following tests for the executive, administrative, or professional exemption:

Executive:

- 1) has a primary duty of managing an enterprise or a department,
- 2) regularly directs the work of two or more employees,
- 3) has the authority to hire and fire employees or recommend such action,
- 4) regularly exercises discretionary powers,
- 5) devotes no more than 20 percent of the time to non-managerial duties,
- 6) is paid on a salary basis at least \$155 per week.

Administrative:

- 1) has a primary duty of office or non-manual work directly related to management policies or general business operations of the employer,
- 2) regularly exercises discretion and independent judgment,
- 3) regularly assists an executive or an administrator,
- 4) devotes no more than 20 percent of the time to other duties,
- 5) is paid on a salary basis at least \$155 a week.

Professional:

- 1) performs work requiring advanced knowledge in a field of science or learning customarily obtained through specialized study,
- 2) consistently exercises discretion and judgment,
- 3) does work that is predominantly intellectual and varied in character,
- 4) devotes no more than 20 percent of the time to other duties,
- 5) is paid on a salary basis at least \$170 per week.

Full-Time Employee. An employee appointed to a permanently established position who is regularly scheduled to work forty (40) hours or more per workweek.

Grievance. Any matter of concern or dissatisfaction arising from the working conditions of an employee and subject to the control of the Town.

Hiring Rate. The salary paid an employee when hired into Town Service, normally the first step of the salary range.

Immediate Family. Defined as a spouse, children, brother, sister, parents of the employee, in-laws of the employee, and anyone living as a part of the employee's household.

Maximum Salary Rate. The maximum salary authorized by the pay plan for an employee within an assigned salary grade.

Merit Increase. An increase in salary based on service that meets or exceeds the standard and/or expected performance of the assigned position.

Non-Exempt Employee. An employee that is not classified as exempt by the FLSA.

Part-Time Employee. An employee appointed to a permanently established position who is regularly scheduled to work less than forty (40) hours per workweek and is paid on an hourly basis.

Pay Plan. A schedule of pay ranges arranged by sequential rates including minimum, intermediate, and maximum steps for each class assigned to a salary range.

Permanent Employee. An employee who has completed one (1) year of satisfactory service with the Town and has been approved for permanent status by the department head.

Personnel File. Any information gathered in any form by the employer relating to the employee's application, selection or nonselection, promotions, demotions, transfers, suspension, and other disciplinary actions, evaluation forms, leave, salary, and termination of employment.

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

Position Classification Plan. A plan approved by the Town Board that assigns classes to the appropriate pay grade.

Probationary Employee. An individual appointed to a permanent position who has served less than one (1) year in the position.

Promotion. The reassignment of an employee to an existing position or classification in the Town having a higher salary range than the position or the classification from which the reassignment is made.

Reclassification. The reassignment of an existing position from one class to another based on changes in job content.

Safety-Sensitive Position. A position will be designated safety-sensitive only where the Town of Wilkesboro has a compelling need, on the basis of safety concerns, to ascertain on-the-job impairment on the part of employees who hold the position. Such a compelling need may arise where the duties of a position create, or are accompanied by, such a great risk of injury to other persons or to property of such

magnitude that even a momentary lapse of attention, judgment, or dexterity could have disastrous consequences.

Salaried Employee. An employee who regularly receives each pay period a predetermined amount not subject to reductions because of variations in the quality or quantity of work performed.

Salary Grade. All positions that are sufficiently comparable to warrant one range of pay rates.

Salary Range. The minimum and maximum salary levels for a given classification for hiring purposes.

Salary Schedule. A listing by grade and step of all the approved maximum, intermediate, and minimum salary ranges authorized by the Town Board for various position classifications.

Serious Health Condition. An illness, injury, impairment, or a physical or mental condition that involves inpatient care or continuing treatment by a health-care provider, or an incapacity to perform daily activities for more than three days in addition to requiring the continuing treatment of a health-care provider.

Suspension. An action in which an employee is temporarily relieved of all duties and responsibilities with the Town of Wilkesboro.

Temporary Employee. An individual appointed to serve in a position for a definite duration, but not to exceed twelve (12) months.

Town Manager. The Town Manager of the Town of Wilkesboro.

Town Council. The Town Council of the Town of Wilkesboro.

Trainee. An applicant or employee who is placed into a position for which they do not meet all of the established requirements of the position.

Transfer. The reassignment of an employee from one position or department to another.

Section 5. Merit Principle

All appointments and promotions shall be made solely on the basis of merit. All positions requiring the performance of the same duties and fulfillment of the same responsibilities shall be assigned to the same class and the same salary range. No applicant for city employment or employee shall be deprived of employment opportunities or otherwise adversely affected as an employee because of such

individual's race, color, religion, sex, national origin, political affiliation, non-disqualifying handicap, or age.

Section 6. Responsibility of the Town Council

- A. The Town Council shall establish personnel policies and rules, including the classification and pay plan, and shall make and confirm appointments when required by law, specifically the Town Clerk, the Town Attorney, and the Town Manager.
- B. A personnel council member will be selected from among the Town Council, whose duties it will be to confer with the Mayor and the Town Manager about personnel actions such as appointment, dismissal, or removal of employees. The personnel committee shall make appointments, dismissals, and suspensions in accordance with G.S. 160A-148 and Article VIII of this document.

Section 7. Responsibility of the Town Manager

The Town Manager shall be responsible to the Town Board for the administration of the personnel program and shall assist in the preparation and maintenance of the position classification plan and the pay plan. The Town Manager shall implement the decisions of the Town Board as to appointment, suspension and removal of Town employees, except those elected by the people or those whose appointment is otherwise provided by law G.S. 160A-148(1).

Section 8. Responsibility of Department Heads

Department heads are responsible for the daily operation of their departments, including the personnel function. Department heads shall be prepared to provide information or assistance to the Town Manager in making personnel decisions regarding their departments.

Section 9. Responsibility of Employees

Each employee will be informed in writing that a copy of the Personnel Policy is available. Each employee shall sign a statement that they have been informed of the personnel policy's availability. This signed statement of receipt will be placed in the employee's personnel file. Employees are responsible for familiarity with the contents of this manual, which provides guidance towards proper job behavior reflecting upon the employee as well as the Town of Wilkesboro.

Article II. The Position Classification Plan

Section 1. Adoption

The position classification plan, as from time to time approved by the Town Board, is hereby adopted as the position classification for the Town.

Section 2. Design, Administration, and Maintenance of the Plan

- A. The Town Manager, or the designee of, shall be responsible for the design, administration, and maintenance of the position classification plan so that it will accurately reflect the duties performed by employees in the classes to which their positions are allocated.
- B. Department heads shall be responsible for bringing to the attention of the Town Manager: (1) the need for new positions and (2) material changes in the nature of duties, responsibilities, or working conditions affecting the classification of a position.
- C. When the Town Manager finds that a substantial change has occurred in the nature or level of duties and responsibilities of an existing position, the Manager shall: (1) direct that the existing class specification be revised, (2) reallocate the position to the appropriate class within the existing classification plan, or (3) recommend that the Town Board amend the position classification plan to establish a new class to which the position may be allocated.
- D. New positions shall be established upon recommendation of the Town Manager with the approval of the Town Board. The Town Manager may: (1) allocate the new position to the appropriate class within the existing classification plan or (2) recommend that the Town Board amend the position classification plan to establish a new class to which the new position may be allocated.

Section 3. Amendment

Classes of positions shall be added to and deleted from the position classification plan by the Town Council based on the recommendation of the Town Manager.

Article III. The Pay Plan

Section 1. General Statement

The position classification plan provides the basis for an equitable and logical pay plan, meaningful standards of recruitment and selection, budget maintenance, and improved organization.

Section 2. Adoption

The salary schedule, reflecting both grade level and step, as approved by the Town Board and placed on file in the office of the Town Clerk, is hereby adopted as the pay plan for the Town of Wilkesboro.

Section 3. Administration and Maintenance

The Town Manager shall be responsible for the administration and maintenance of the pay plan. The pay plan shall be administered in a fair and systematic manner in accordance with work performed. It is intended to provide equitable compensation for all positions when considered in relation to each other, to general rates of pay for similar employment in the private and public sector in the area, to changes in the cost of living, to financial conditions of the Town, and other factors. To this end, the Town Manager shall annually make or obtain comparative studies of all factors affecting the level of salary ranges and shall recommend to the Town Council such changes in salary ranges as are warranted.

Section 4. Payment at a Listed Rate

- A. Employees covered by this pay plan shall be paid at a listed rate within the salary ranges established for their respective job classes except for employees in a trainee status or employees whose present salaries are above the established minimum rate following transition to a new pay plan.
- B. When an employee attains the maximum rate of a salary range for his or her present position, no further salary increase will be received unless: (1) the position is reclassified, (2) the employee is promoted to another position with a higher salary range, or (3) the salary for the present position is increased.

Section 5. Hiring Rate/Starting Salary

Employees will be hired at Step 1 of their assigned salary grade. Appointments above Step 1 may be made by the Town Manager when deemed necessary to the best interests of the Town, based on such factors as superior qualifications of the applicant or a shortage of qualified applicants available at the hiring rate.

Section 6. Performance-Based Pay

The Town Shall use a performance-based pay plan in which pay decisions are centered around the degree to which employees have met, exceeded, or failed to meet established standards of performance for the appraisal period.

Section 7. Progression through the Salary Schedule

Upon satisfactory completion of one (1) year of service, the employee will be elevated to Step 2 of the salary schedule. After elevation to Step 2 of the salary schedule, progression will be in the form of merit increases.

Section 8. Failure to Perform Satisfactorily

An employee who fails to perform satisfactorily, whether during the probationary period or thereafter, will be denied the scheduled salary increase.

Section 9. Delay of Performance Evaluation

An employee's absence from work due to sick leave, leave without pay, Worker's Compensation, or other authorized leave is cause for the department head to request an extension for the annual performance review, so as to allow adequate time for evaluation of performance.

Section 10. Merit Increases

- A. Merit increases are not automatic but may be awarded for the following reasons: (1) excellence in work performance, (2) exceptional work achievements, or (3) completion of a work-related certification course. Employees may be considered annually for a merit increase on their anniversary dates. Merit increases are subject to the availability of budgeted funds and must be recommended by the department heads and approved by the Town Manager. Even though all regular employees will be considered for merit increases, only those employees who meet set standards and/or expected performance will receive a merit increase.
- B. **Once the Town Board for merit increases has allocated the amount of funds, employees will be evaluated to determine how well they are meeting their performance standards. All requests for merit increases will be fully documented by the department heads and will be granted by the Town Manager only to employees who have performed above the standard for their position.**

Section 11. Pay Rates in Promotion, Demotion, Transfer, and Reclassification

When an employee is promoted, demoted, transferred, or reclassified, the rate of pay for the new position shall be established as follows:

- A. When a promotion occurs, if the employee's salary is below the new minimum, it shall be increased to the minimum rate of the salary range assigned to the new class. If an employee's salary is already above the new minimum salary rate, his or her salary may be adjusted one step upward or left unchanged at the discretion of the Town Manager, provided that the adjusted salary does not exceed the maximum of the assigned salary range.
- B. If an employee is demoted for cause, the employee's salary will be reduced to any step in the lower salary range as long as the reduced salary does not fall below the minimum salary rate of that range. The same holds if an employee requests a voluntary demotion.
- C. When a transfer occurs from a position in one class to a position in another class assigned to the same pay range, the employee shall continue to receive the same salary.
- D. When a reclassification occurs and an employee's position is reclassified to a class having a higher salary range, the employee's salary shall be increased to the minimum step of the new pay range. If the employee's current salary is already above the minimum salary rate, his or her salary may be adjusted one step upward or left unchanged at the discretion of the Town Manager, provided that the adjusted salary does not exceed the maximum of the assigned salary range. If an employee is reclassified to a lower salary range, and the employee's current salary falls above the maximum of the range for the lower class, the employee's salary will remain the same until general schedule adjustments or range revisions bring it back within the lower range.

Section 12. Pay Rates in Salary Range Revisions

If the Town Council approves a change in salary range for a class of positions, the salaries of employees whose positions are allocated to that class shall be affected as follows:

- A. When a class of positions is assigned to a higher pay range, employees in that class may receive a pay increase of one step or an increase to the minimum step of the new range, whichever is higher.
- B. When a class of positions is assigned to a lower pay range, the salaries of employees in that class will remain unchanged. If this assignment to a lower pay range results in an employee being paid at a rate above the maximum step established for the new class, the salary of the employee shall be maintained at

that level until such time as the employee's pay range is increased above the employee's current salary.

Section 13. Trainees and Part-Time/Temporary Employees

- A. **Trainee** - An applicant hired, or an employee promoted to a position in a higher class, who does not meet the minimum requirements but is deemed to be the most suitable applicant, shall be appointed with the approval of the Town Manager at a pay rate of one (1) step below the minimum salary of the position. Such an employee shall be designated a "trainee" based upon the recommendation of the department head with the approval of the Town Manager. A trainee shall continue to receive a reduced salary until the appointing department head and the Town Manager determine that the person is qualified to assume the full responsibilities of the position.
- B. **Part-Time and Temporary**- Compensation for any employee appointed for less than forty (40) hours per week shall be computed on an hourly basis.

Section 14. Compensation – Regular and Overtime

In regards to compensation, the Town abides by the provisions of the Fair Labor Standards Act (FLSA). The FLSA divides employees into two classes – *exempt or nonexempt*. Compensation for exempt and nonexempt personnel will be guided by the following:

A. Professional Scheduling – Exempt Employees

- 1. Certain employees are exempt from the provisions of the FLSA. Exempt employees designated by the Town Manager or designee. Exempt status is determined based upon an evaluation of the specific job descriptions and duties of the employees involved. A list of exempt employees is available at the Town Manager's Office.
- 2. Exempt employees are expected to work whatever numbers or hours are required in order to accomplish their duties rather than being paid for the number of hours worked in a workweek.
- 3. Professional Scheduling is defined as the responsibility of controlling one's schedule to best meet the needs of the organization while achieving a balance in professional and personal time that is healthy for the organization and the individual.
- 4. Exempt Town of Wilkesboro employees are to meet their work objectives and, as professionals, are entrusted with the flexibility of balancing their work schedules.

5. Exempt positions, unless designated at the time of hiring, are not defined or limited with a specified number of work hours per day or week. As such, an exempt employee's responsibilities typically take more than 40 hours per week and often at non-routine office hours.
6. Professional scheduling is not designed to compensate for overtime hours or days worked, since professionals do not have defined work hours.
7. Professional scheduling is a privilege that can be revoked by the Town Manager, if abused.
8. Professional scheduling is not an issue tied to performance appraisal unless abuse results in unsatisfactory or poor program performance or improper personal conduct.
9. The Town of Wilkesboro expects exempt employees will do what must be done to enable successful job outcomes while practicing professional scheduling. In order to ensure that professional scheduling is implemented equitably through the Town of Wilkesboro, the following points should serve as a guide:
 - a. Exempt employees are accountable for fulfilling their job responsibilities and commitment and for maintaining their professional calendars.
 - b. Professional scheduling should be taken at the mutual convenience of the organization and the individual. Professional scheduling is the responsibility of the employee with advanced dialogue from the immediate supervisor. If the professional scheduling designated by the employee would negatively affect the departments programs or functions, the supervisor can deny that period for professional scheduling. If an employee still wants to take time off, annual leave must be used.
 - c. Professional scheduling normally refers to periods of a few hours to half day. Requests for longer periods of professional scheduling are permissible if based on extenuating circumstances and if approved by the immediate supervisor.

B. Over time-Non Exempt Employees

1. Non-Law Enforcement Employees

- a. Full-time and part-time employees who have been classified as "non-exempt" from the overtime provisions of the Fair Labor Standards Act must be paid for overtime hours worked or given compensatory time

off in accordance with the guidelines in this policy. Overtime is paid or compensatory time off is given to non-exempt employees for hours worked in excess of 40 hours actually worked per workweek. The Town Council defines workweeks.

- b. All overtime hours worked by a non-exempt employee must be pre-approved by the employee's Department Head. Based upon the provisions of the FLSA, non-exempt employee work which has not been requested by management but is endured or permitted, is considered and treated as overtime after the Department Head has denied authorization to work over time is subject to formal disciplinary action for inappropriate conduct.
- c. Department Heads are responsible for ensuring that overtime hours are authorized, recorded, and properly documented for compensatory time off or overtime pay in accordance with the established record keeping forms and instructions. Department Heads are responsible for ensuring that all time worked above the regular workweek is necessary and time actually spent on the job.
- d. When overtime is paid or compensatory time off is given, it is at the rate of 1-1/2 times the employee's regular hourly equivalent salaried rate for those actually worked in excess of 40 in one workweek (vacation, holidays and sick time taken do not count as hours actually worked). The employee's regular hourly equivalent salaried rate is calculated by dividing the annual full time salary by 2080.

2. Law Enforcement Employees

- a. Full-time employees who have been classified as "non-exempt" from the overtime provisions of the Fair Labor Standards Act due to Law Enforcement Status must be paid for overtime hours worked in excess of 171 hours in a 28-day work period. The procedure for compensation is the same as listed above for Non-Law Enforcement Personnel.

3. Firefighters

- a. Full-time firefighter employees work a modified 24 hours on 48 hours off schedule. Full-time firefighter employees who have been classified as "FLSA 7(K) eligible" are eligible for overtime in excess of 212 hours in a 28 day period. Overtime is only paid for hours actually worked over 212 hours during that 28 day period. The employee's regular hourly equivalent salaried rate is calculated by dividing the annual full time salary by 2928 hours (24 hr. shift x 122 days).

4. The contents of this policy are established to govern operations during normal times. Upon the declaration of a State of Emergency in the Town of Wilkesboro pursuant to the Town Ordinance, Gubernatorial or Presidential Declaration, subsection D would apply for the length of the declaration period.

5. **State of Emergency**

- a. In the event of a significant natural disaster requiring or triggering the declaration of a State of Emergency in the Town of Wilkesboro, and lasting for the duration of the state of emergency, all employees assigned primary and emergency support function duties shall be compensated as otherwise authorized in this policy at their respective rates, but shall be compensated monetarily for those hours that were actually worked in excess of the standard work period. Exempt employees are included to receive monetary compensation during the declared period. In computing the time worked in the event of the state of emergency, only time actually worked over the standard work period for the employee is to be computed as overtime hours. Overtime rates would be computed as time and one half the employee's regular pay rate.

Section 15. Adjustment to Pay

If an employee works less than the full pay period and has inadequate leave to cover the period for which the employee is absent from work, the employee's bi-weekly paycheck will be adjusted accordingly. It is the responsibility of each Department Head to notify the Town Manger's Office and Payroll Processor of such payroll adjustments.

Section 16. Call-Back Pay Provisions

- A. A nonexempt employee, excluding department heads, will be compensated for at least three (3) hours when called to work outside of normal working hours. Employees are required to clock-in when they are called-back. If an employee is called-back within a 24-hour period of the initial callback, the employee is only guaranteed a minimum of at least one (1) hour of wages, plus pay for any additional time worked. Callback provisions do not apply to previously scheduled overtime work.
- B. Department heads will be compensated for at least one (1) hour when called to work outside of normal hours.

Section 17. Payroll Deductions

Federal and state income taxes, Social Security tax, and retirement contributions shall be deducted as authorized by law. The Town Board must approve other deductions.

Section 18. Payroll Procedure

Employees are paid biweekly on alternating Fridays. If a payday falls on a weekend day or a holiday, employees will receive their paychecks on the last business day preceding.

Section 19. Time Cards

- A. All employees who are eligible to receive overtime compensation shall be required to maintain an accurate record of time worked via time card or other approved department method. Department heads transfer the information contained on the time cards to timesheets that are then used to process payroll. The accuracy of the time records is the responsibility of the employee and any misuse will be subject to disciplinary action contained in Article VIII.

- B. **Employees other than department heads and the Town Manager are prohibited from reviewing another employee's time card.** No employee shall participate in the falsifying of time worked and doing so may be grounds for immediate dismissal.

Article IV. Recruitment, Selection, & Retention

Section 1. Statement of Equal Employment Opportunity

It is the policy of the Town to promote equal employment opportunities and to identify and attract the most qualified applicants for employment. The Town strives to evaluate applicants using the same criteria and to make selection decisions without regard to race, color, religion, sex, national origin, political affiliation, non-disqualifying handicap, or age.

Section 2. Recruitment – Responsibility of the Town Manager and Department Heads

The Town Manager is responsible for an active recruitment program to meet current and projected staffing needs. The Town Manager bases this program on information about needs and vacancies gained from department heads.

Section 3. Position Vacancy Announcements

- A. In announcing position vacancies, the Town strives to advertise in whatever manner will provide a pool of potential, qualified applicants. To that end, the Town will utilize the following methods of announcing positions: (1) internal postings within Town facilities, (2) the local office of the Employment Security Commission, (3) local media, and (4) other broader media, as appropriate.
- B. Position vacancy announcements shall be posted for a minimum of seven (7) days. Announcements for vacant positions shall contain at a minimum: (1) the title, the grade, and the location of the position; (2) the closing date of the announcement; (3) a summary of the duties of the position; (4) a summary of the basic qualifications; (5) the procedures for making application; and (6) a statement of equal employment opportunity.

Section 4. Application for Employment

- A. An official city application form shall be made available to all applicants for any and all position listings. Applications should be returned to the office of the Town Clerk.
- B. Unsolicited applications and applications for individuals not hired shall be maintained on file for two (2) years after date of receipt, if no charge of discrimination has been filed. If a charge has been filed, destroy in office one (1) year after resolution of the charge.

Section 5. Eligibility

- A. All employees shall be citizens of the United States or shall submit appropriate documentation of alien employment eligibility pursuant to Title VIII, U.S.C. 1324 et seq.
- B. The minimum employment age for regular employees is 18. Law enforcement officers are required to be at least 20 years of age.
- C. Employees will be required to have a minimum of a GED.
- D. All employees will allow inspection and copies to be made and inserted into their personnel file of their issued identification card (driver's license) and social security card.

Section 6. Drug Testing

All applicants will undergo a pre-employment drug test and selected current employees will be subject to random drug testing in accordance with Article V, Section 14 of this policy.

Section 7. Standards for Qualification

- A. All applicants considered for employment or promotion shall meet the minimum qualification standards established by the class specifications for the position to which the appointment is being made.
- B. Appointment of an applicant as a "trainee" shall be considered when there is an absence of qualified applicants from which to make a selection. After sufficient on-the-job training and experience, the Town Manager and the department head to be qualified to assume regular status may deem the employee.

Section 8. Selection and Appointment

- A. The Town Manager and department heads shall develop, use, and document a selection process that best suits the Town's needs in filling positions within each department. All of the selection methods developed and utilized shall be valid and fair measures of job performance.
- B. All appointments shall be made on the basis of merit. In situations involving an applicant that is a current Town employee having qualifications substantially equal to those of an applicant not currently employed by the Town, the Town employee shall receive first consideration.

- C. In advance of an offer of employment, the department head shall make any investigations necessary to accurately assess the qualifications of the applicant. Specifically, for positions which require operation of city-owned vehicles the department head shall conduct a review of the driving record of the person to be hired, which record shall become part of the individual's personnel file.

Section 9. Probationary Period of Employment

An employee appointed to a permanent position shall serve a probationary period of one (1) year. Any employee serving a probationary period following initial appointment may be dismissed at any time, and without cause, during the probationary period. A department head may extend a probationary period if more time is needed to assess an employee's abilities. Following successful completion of the probationary period, the employee may be dismissed only as provided in Article VIII.

Section 10. Promotion

Candidates for promotion shall be chosen on the basis of their qualifications. First consideration for filling positions shall be given to employees already in service with the town. If a current employee is chosen for promotion, the department head shall forward the request to the town manager with recommendations for classification and salary along with reasons for selecting the employee over other applicants. After consideration of the department head's recommendation, the town manager shall confirm or reject the appointment. If the town manager confirms the appointment, he or she shall determine the starting salary for the employee.

Section 11. Demotion

- A. An employee whose work is unsatisfactory may be demoted provided that the employee shows promise of becoming a satisfactory employee in another position. A demotion shall be made in accordance with the procedures in Article VIII. The employee shall be provided with written notice citing the recommended effective date of the demotion, the reasons for the demotion, and the appeal rights available to the employee as stated in Article IX.
- B. 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.

Section 12. Transfer

- A. If a vacancy occurs and an employee eligible for transfer from another department wishes to be considered for the appointment, a written request and application must be forwarded to the Town Manager during the recruitment period for the position. The Town Manager will grant the approval or disapproval of the transfer.
- B. It is the policy of the Town to reserve the right to transfer an employee temporarily or permanently from one department to another when doing so will serve the best interests of the Town. This policy permits the maximum utilization of manpower during emergencies, peak workloads, and the like.
- C. Any employee who has successfully completed a probationary period may be transferred to any other position without serving another probationary period.
- D. Any employee transferred without requesting such an action may appeal in accordance with the grievance procedure in Article IX.

Section 13. Termination of a Position

Upon the termination of a position, the Town will make every effort to retain the employee through reclassification or through placing him or her in a position held by a temporary employee in the same class in the department. If the Town is unable to find another position, the employee will be subject to the provisions of Article VIII, Section 3 – “Reduction in Force.”

Section 14. Employment of Relatives

No two members of an immediate family shall be employed within the same department. The provisions of this section shall not be retroactive, and no action will be taken concerning members of the same family employed in conflict with subsection A before the adoption of this policy.

Article V. Conditions of Employment

Section 1. Work Schedule

Department heads shall establish work schedules, with the approval of the Town Manager, which meet the operational needs of the department. These schedules shall be on file in the office of the Town Clerk and shall be current at all times. All full-time employees are expected to work a minimum of forty (40) hours per week unless utilizing leave or having an otherwise authorized absence.

Section 2. Attendance

- A. An employee shall avoid unnecessary absences and tardiness. The employee is required to make every effort to notify his or her supervisor when they will be absent from or late to work.
- B. If an employee is away from work for two (2) consecutive business days without notice, it shall be assumed that the employee has resigned and has forfeited claim to any terminal pay.

Section 3. Dress Code.

All Town employees, not required to wear a uniform, must dress in the most professional manner appropriate to the activities of their position. Department Heads and the Town Manager are responsible for determining and enforcing the dress code in each department.

Section 4. Residency Requirements

The Town Manager is required to reside within the town limits. The Police Chief and Fire Chief shall live within a 5 mile driving radius of the town limits. All other employees are not required to reside within the town limits as a condition of employment. However, public health and safety employees must live within a “reasonable commuting distance” that must be set through discussions among the employee, the Town Manager, and the Town Council.

Section 5. Gifts/Favors

No official or employee of the Town shall accept any gift, favor, or thing of value that may tend to influence that employee in the discharge of duties. Nor shall any official or employee grant any improper service, favor, or thing of value in the discharge of duties.

Section 6. Purchase of Surplus Town Equipment

No employee may purchase or have purchased from him/her, any item of equipment sold as surplus which was under the care, custody or control of the employee at the time was declared surplus. No employee may obtain any financial gain from the sale of such surplus equipment. However, interested employees have the right, of any other citizen, and the opportunity to place a bid on Town equipment through the auctioning process. Violations of this section are grounds for immediate dismissal.

Section 7. Restriction on Political Activity

Each employee has a right to support good government by every available means and in every appropriate manner. Any employee may join or affiliate with civic organizations of a partisan or political nature, may attend political meetings, and may advocate and support the principles or policies of civic or political organizations in accordance with the constitutions and laws of the State of North Carolina and of the United States of America. Employees may seek an elective office in the Town, but cannot serve in an elective office in the Town while still employed by the Town. While in the discharge of Town business or while in Town uniform, no employee shall:

1. Engage in any political or partisan activity;
2. Use official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for office;
3. Be required as a duty or a condition of employment, promotion, or tenure of office to contribute funds for political or partisan purposes;
4. Coerce or compel contributions for political or partisan purposes from another employee of the Town.

Section 8. Sexual Harassment

The Town of Wilkesboro opposes sexual harassment by supervisors and co-workers in any form. Sexual harassment occurs when there are unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature and: 1) submission to such conduct is made either explicitly or implicitly a term or a condition of an individual's employment; 2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or 3) such conduct has the effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment. An employee shall file any sexual harassment claims in accordance with Article IX.

Section 9. Outside Employment

The work of the Town takes priority over other employment interests of employees; therefore all outside employment for salaries, wages, or commission and all self-employment must be reported to the employee's department head before such employment commences. The department head and the Town Manager shall determine whether the outside employment will create a conflict of interest or otherwise be incompatible with Town service. The assumption of outside employment without the appropriate approval may be deemed improper conduct and subject the employee to disciplinary action.

Section 10. Work Outside of Normal Hours

The Town provides some services on a twenty-four hour, seven-day-a-week basis. Therefore, it may be necessary for certain employees of the Town to respond to a call for duty any hour of the day or night. A condition of employment with the Town is acceptance of a share of the responsibility for continuous service, in accordance with the nature of each job position. If an employee fails to respond to reasonable calls for emergency duty the employee shall be subject to disciplinary action up to and including dismissal.

Section 11. Driver License

- A. Any employee who may be required to operate a motor vehicle owned by the Town shall be required to possess a valid North Carolina Driver License. If an employee's license is revoked, it may subject the employee to disciplinary action or dismissal depending on whether a driver license is critical to the performance of that employee's duties.
- B. Any revocation or suspension of an employee's driver license must be reported immediately to the department head. The department head is responsible for advising the employee that she/he is forbidden to operate any motor vehicle owned by the Town, or any motor vehicle while in discharge of Town duties, while the employee's driver license is in a state of suspension or revocation. The department head is further responsible for immediately reporting the revocation or suspension to the Town Manager. The failure or refusal of an employee or department head to report revocation or suspension of a driver license in accordance with the above may constitute grounds for disciplinary action or dismissal.
- C. No employee shall be allowed to operate a motor vehicle owned by the Town of Wilkesboro until such time as the employee qualifies to be insured by the Town's insurance carrier.

- D. Annually, each employee who may be required to operate a motor vehicle owned by the Town of Wilkesboro must furnish driver license information that will be forwarded to the police and the Town insurance carrier.

Section 12. Travel Expenses and Reimbursement

Part 1. Purpose

- A. This policy is established to help ensure that public funds are expended for travel only when it serves a public purpose. It is the intent of this policy to establish a reference regarding the payment or reimbursement of travel expense pertaining to official travel and subsistence for the Town of Wilkesboro. Article V, Section 2(1) of the Constitution of the State of North Carolina requires that funds generated by taxation be spent for a public purpose only.
- B. An employee or council member traveling on official business is expected to exercise the same care in incurring expenses that a prudent person would exercise if traveling on personal business and expending personal funds. Employees and officials traveling on behalf of the Town should travel together, whenever possible, to minimize travel costs.

Part 2. Definitions

Travel – defined as going to and from the normal job location (duty station) to a site other than the normal job location to conduct Town business.

Daily Travel - Travel for short or day trips where the traveler is not away from his or her duty station overnight.

Overnight Travel - Continuous travel that involves overnight absence from the travelers' duty station.

Travel Advance - represents a payment of public funds to an employee or official for travel costs, which have not yet been incurred. Employees or officials who can prove a financial hardship can request a travel advance in order to conduct Town business.

Subsistence – Subsistence, for purposes of this policy, is an allowance for lodging, meal costs and related gratuities.

Duty Station – defined as the job location at which the employee spends the majority of his or her working hours.

Transportation – includes personal automobile, taxi, bus, train, airplane, car rental, tolls, and parking fees incurred while conducting official business.

Part 3. Applicability

1. All employees and officials of the Town and non-Town employees on official Town business are subject to this policy.

Part 4. Procedure

A. General Guidelines

1. An employee or council member traveling on official business is expected to exercise the same care in incurring expenses that a prudent person would exercise if traveling on personal business and expending personal funds. Excess costs, indirect routes, delays, or luxury accommodations and services unnecessary or unjustified in the performance of official business are not acceptable under this standard. To maximize benefits received from public funds expended for travel, employees and officials traveling on behalf of the Town are encouraged to travel together, whenever possible, to minimize travel costs. Employees and council members are responsible for unauthorized costs and any additional expenses incurred for personal preference or convenience. Generally, non-employees traveling with employees will not be reimbursed for travel expenses unless they are on official Town business. Willful violations of this policy may result in disciplinary or criminal action and may constitute grounds for termination.

B. Travel Requisition Form

A Travel Requisition Form will be prepared by the prospective traveler before initiating travel plans and shall obtain the appropriate approvals. The preparer will indicate the destination, purpose for which travel is being requested, length of trip, estimated cost and the account in which the funds are budgeted and available. North Carolina General Statute §159-28(a) states that the Town may not incur an obligation unless an unencumbered balance sufficient to pay the obligation remains in the budget. Approval is contingent upon both the Department Head and the Town Manager.

C. Expenditure Method

1. **Personal Credit Card(s)**- can be used to incur authorized travel expenditures.
2. **Town Purchase Card Use**- The use of a Town Purchase Card is offered to all employees for travel purchases.
 - a. **Employees issued a Purchase Card** - Employees will use their Town issued Purchase Card to incur expenses. They will maintain their receipts

and code those expenses in the Purchase Card System as they would other expenses incurred on their Purchase Card.

- b. **Employees not issued a Purchase Card** - Employees will contact the Finance Director at least **one week** before they are starting their travel detailing their costs associated with their upcoming travel. Next, they will obtain a Travel Purchase Card from the Finance officer at an arranged time. The Travel Card will be used for expenses associated with travel while retaining all receipts associated with purchases. Should the employee be accompanied by other Town Employees, the name of all employees will be written on the back of the receipts associated with the expenses incurred. Upon return, employee will return Travel Card and all associated receipts to the Finance Director for coding.
3. **Travel Advances**- if the employee does not have a personal credit card, a travel advance can be requested in the space provided on the Travel Requisition Form. Requests for travel advances should be submitted at least fourteen (14) working days in advance of the planned date of departure to allow staff adequate time to process the request through the Town's normal payment procedures.
4. **Travel advance checks will not** be written for less than \$50.00 and will not exceed the estimated total travel expenditure, less any direct payments made by the Town for lodging, transportation, etc. Petty cash may be utilized, as needed, for advances up to \$50.00. The traveler is required to sign an authorization to withhold from his/her paycheck an amount up to/equal to the amount of the advance, if the actual expenses for the trip are not submitted within 14 calendar days of the stated return date. If the trip is not properly authorized, the traveler agrees that the Officer of Finance can withhold from his/her paycheck an amount up to or equal to the actual trip expenses incurred by the Town.

Part 5. Transportation

- A. **Actual costs for transportation** which are incurred while conducting Town business, and for which a travel request was approved, will be reimbursed provided receipts and other documentation support them. The approving authority taking into consideration the costs of transportation, the time factor, and subsistence expenses should determine the most economical mode of transportation.
- B. **Town Vehicle** - A Town of Wilkesboro vehicle should be used for out of town travel when driving is appropriate, unless the traveler requires a specially equipped vehicle. The traveler must obey all laws of the jurisdiction in which the Town vehicle is being operated. Town vehicles will be used in conducting Town business only. A minimal amount of personal use, such as driving the vehicle to and from dinner, will be allowed. Only Town employees/officials should operate Town vehicles.

- C. **Personal Vehicle** - If a Town (or “pool”) vehicle is not available, the employee may use a personal vehicle. Mileage reimbursement for out of town travel will be at the current published Federal (IRS) rate on the date of travel. Computation of mileage should be from the shortest distance (the employee’s duty-station or home) to the destination and back. Incidental mileage such as travel to restaurants while out of town is expected and can be included in the computation. “Sightseeing” or personal trips should not be included in the mileage reimbursement. If the traveler uses his/her personal vehicle, his/her insurance policy covers vehicle damage and any expenses incurred in an accident. Reimbursement for expenditures related to the operation, maintenance, and ownership of a vehicle shall not be allowed when privately owned vehicles are used on Town business.
- D. **Parking Fees, Tolls and Storage Fees** - Parking fees, tolls, and storage fees are reimbursable. Airport parking reimbursements are limited to “Daily”, “Remote” or “Satellite” rates only. Travel expense requests, which include “Hourly” airport parking rates, will be reimbursed up to “Daily” rates only.
- E. **Commuting** - No reimbursement shall be made for the use of a personal vehicle in commuting from an employee's home to his/her duty station.
- F. **Tickets, Fines or Towing Charges** - The town will not reimburse travelers for parking tickets, fines for moving violations or vehicle towing charges.
- G. **Common Carrier** - If driving is not appropriate, the employee should make airline reservations by the least expensive method, factoring “non-refundable” ticket options into their plans. Under no circumstance should an employee secure reservations at more than the published coach fare rate. If a non-refundable ticket was purchased by the traveler and not used, reimbursement of the cost to the traveler must be approved by the Town Manager.
- H. **Discounts/Super Saver Rates** - A traveler may, with the approval of the department director, book airline tickets at a reduced rate in conjunction with a conference/convention or directly with the airline, including via the Internet. The traveler must document the ticket cost savings and attach this documentation to the airline ticket receipt submitted to Finance for final approval of the reimbursement. Department directors and travelers should be cautious regarding the cost/benefit of work time spent searching for low price airline tickets. It should be noted that all costs associated with restrictions on airline tickets, such as fees for ticket changes, are the responsibility of the traveler and will only be reimbursed by the Town if the change is at the request of the Town. Extended stays or early departures for the purpose of reduced airfares must result in an overall cost savings to the Town and requires appropriate approval.

- I. **Ground Transportation** - Reimbursement for ground transportation (such as airport shuttles, buses, and taxis) is authorized when incurred while on out-of-town/overnight official Town business, unless complimentary ground transportation is offered. The most economical method should be used. Receipts should always be requested, and must be submitted for all such travel when the fare exceeds \$25.00.
- J. **Rental Vehicle** - A receipt is necessary for reimbursement. Rental vehicles are to be used as a last resort or when the use of a rental vehicle produces a cost savings (over other ground transportation) for the Town.
- K. **Travel to/from Airport** - Reimbursement is allowed for travel between the employee's or council member's duty station and the nearest airline terminal as follows:
 - 1. Airport shuttle - one round trip fare,
 - 2. Taxi - limited to reimbursement for actual costs,
 - 3. Private vehicle - the IRS rate per mile for a maximum of two round trips.

Part 6. Subsistence

A. Lodging

The traveler should substantiate that the overnight lodging is necessary and must be approved in advance. Travelers should request the lesser of a group rate or governmental/state rate, when available. At a minimum, travelers are required to stay in hotels that represent the average cost for that location. For travelers whose spouse/children accompany them, reimbursement is limited to the lowest prevailing single room rate. Entertainment expenses, such as the cost of in-room movies, will not be reimbursed.

B. Meals

- 1. Meal expenses, including gratuities, will be reimbursed (or paid) within a reasonable amount.
- 2. Meals will be reimbursed (or paid) based upon actual expense. Receipts must be turned in with the expense report. If meals, including gratuities, exceed a reasonable amount, a supervisor must authorize the expenditure payment/reimbursement. Reimbursement of gratuities on meals should not exceed the customary 15%. If a meal is included in a convention or conference registration fee, no additional reimbursement is allowed.

C. Overnight Travel

Travelers will be reimbursed for meals associated with partial days of travel as follows:

Breakfast – departure from duty station is prior to 6:30 a.m. If the departure time is at/before 6:30 a.m. due to stopping for breakfast, no breakfast will be reimbursed.

Lunch – departure from duty station is prior to 11 a.m., or return to duty station time is after 2 p.m. If stopping for lunch would cause the return time to be at/after 2 p.m., lunch will not be reimbursed.

Dinner – departure from duty station is prior to 6 p.m., or return to duty station is after 7:30 p.m. If stopping for dinner would cause the return time to be at/after 7:30 p.m., dinner will not be reimbursed.

D. Daily Travel

1. Where no overnight stay is required, travelers will be reimbursed for meals as follows:

Breakfast – departure from duty station is prior to 6:30 a.m. If the departure time is at/before 6:30 a.m. due to stopping for breakfast, no breakfast will be reimbursed.

Lunch – departure from duty station is prior to 11 a.m., or return to duty station time is after 2 p.m. If stopping for lunch would cause the return time to be at/after 2 p.m., lunch will not be reimbursed.

Dinner – Return to duty station is after 7:30 p.m. If stopping for dinner would cause the return time to be at/after 7:30 p.m., dinner will not be reimbursed.

2. **Meals and Day-to-Day Activities** - Town officials/employees will not be reimbursed for meals eaten in conjunction with a meeting, or by whatever name called, to discuss issues relating to the official's/employee's normal day-to-day business activities.
3. **Reimbursement for Meals - Required Attendance** - Town officials/employees may be reimbursed for meals, including lunches, when the job requires his/her attendance at the meeting of a board, commission, committee, or council in his/her official capacity and the meal is preplanned as part of the meeting for the entire board, commission, committee, or council.

Part 7. Other Costs

A. Telephone Calls

The cost of telephone calls for ordinary and necessary Town business, as well as one safe arrival telephone call to the employee's home/family, may be claimed for reimbursement or direct payment. The traveler should use prudent judgment regarding cost when making telephone calls or connecting via modem to the Town's computer system. Receipts (such as a \$0.00 balance hotel bill or telephone bill) must be submitted for these expenses. The purpose of the telephone call must be noted on the bill. Travelers with Town supplied cellular phones should use that phone to make all calls when away from the office.

B. Conventions, Conferences and Seminars

Travelers attending conventions, conferences or seminars will be allowed, with appropriate approval, to stay in the participating hotel. Entertainment expenses will not be reimbursed. Program schedules and information should be submitted with travel reporting forms.

C. Tips and gratuities

Tips and gratuities (refer to "Subsistence" Part for tips on meals), such as baggage handling, are allowed but should be kept at a minimum. Tips requested for reimbursement should be identified on the Travel Expense Report as "Other" costs.

D. Penalties and Charges Resulting from Cancellations

Penalties and charges resulting from the cancellations shall be the department's obligation if the employee's travel has been approved in advance and the cancellation or change is made at the direction of and for the convenience of the department. If the cancellation or change is made for the personal benefit of the prospective traveler, it shall be the prospective traveler's obligation to pay the penalties and charges. However, in the event of accidents, serious illness, or death within the employee's immediate family, or other critical circumstances beyond the control of the employee, the department shall pay the penalties and charges (determined on a case by case basis).

Part 8. Approval and Reimbursement

A. Approval

The department head or appropriate supervisor in agreement with the Town Manager will authorize employee travel for official Town business. An employee given the authority to approve the travel requests of other employees does not have the authority to approve his/her own travel request. Pursuant to General Statute §159-28,

a pre-audit certification of the Travel Requisition by the finance officer is required confirming the availability of funds.

B. Reimbursement Procedure

Travel Expense Report - Each traveler is responsible for his/her own reporting form. All expenses for a business trip will be documented on a Travel Expense Report, regardless of an amount due. All receipts, including program information, will be attached to the signed Travel Expense Report and submitted for appropriate approval. The completed Travel Expense Report, with receipts and photocopy of the original travel requisition form, will be submitted to the Department of Finance no later than five (5) working days after returning from travel.

C. Reimbursement/Payment

The Travel Expense Report allows the traveler to indicate if a Travel Advance was used for travel expenses. Amounts advanced will be deducted from reimbursable costs. If the employee used personal funds, the expense may be reimbursed from petty cash (if the amount due is less than \$20) or by Town check on the next available check writing date. If an employee did not seek a travel advance for the trip, reimbursement will be provided only through the normal weekly check writing. A manual check will not be issued for reimbursement without the Town Manager's approval. Any funds due the Town will be submitted along with the Travel Expense Report. If the actual expenses for the trip are not submitted within 14 calendar days of the stated return date, the traveler's authorization to withhold an amount up to/equal to the amount of the advance from his/her paycheck will be implemented.

D. Accurate information

A requesting party knowingly submitting a falsified reimbursement form may be subject to disciplinary action and criminal prosecution. An authorizing party who approves a falsified reimbursement form that they know to be false will be subject to disciplinary action or criminal prosecution. North Carolina G.S. 159-181(a) states that any officer or employee of a local government or public authority who submits a written claim or approves a claim for funds that he/she knows to be false is guilty of a misdemeanor.

Section 13. Vehicle Use Policy

Part 1. Purpose

This policy establishes procedures regarding the assignment of Town vehicles, use of Town vehicles, and business use of private vehicles. This applies to all Town employees unless otherwise noted within the policy. This policy is also prepared according to the Federal Tax Act of 1985 and North Carolina G.S. 14-247, which establish procedures regarding reporting of income and withholding of taxes.

Part 2. Definitions

Assigned Vehicle - A Town-owned automobile or truck designated for the use of an individual employee in the normal performance of his/her duties but not authorized for take-home use.

Mileage Reimbursement - A per mile rate to compensate employees for the incidental, non-routine, or extraordinary use of a privately owned vehicle for official business, based on actual logged miles.

Take-Home Vehicle - A Town-owned automobile or truck designated for the use of an individual employee in the normal performance of his/her duties including the commute from home to work.

Vehicle Expense Allowance - A monthly cash payment to compensate selected employees, as determined by the Town Manager, who are required to regularly use a personal privately-owned vehicle in the regular performance of their job duties and in conducting Town business.

Part 3. Vehicle Uses

- A. Only Town of Wilkesboro employees or drivers on bonafide Town business and authorized by the department head may drive or operate Town vehicles or equipment.
- B. Town-owned vehicles are to be used for official business only with reasonable consideration for use for meals, while in the course of performing business on behalf of the Town. For individuals assigned vehicles for overnight use, stopping between work and home to perform some minor personal business may be acceptable but any such use should be the exception rather than the rule, and only if the stop is directly in route from work to the employee's residence.
- C. Town-owned vehicles are not assigned for nor shall they be used for the convenience of the employee with regard to transportation needs or other non-business activities.
- D. Alcoholic beverages or any illegal drugs are not permitted in city vehicles at any time. Law enforcement personnel or lab personnel as approved by proper police authority may transport lawfully confiscated alcoholic beverages or drugs.

Part 4. Procedures

A. Take-Home Vehicles

1. For an employee to be authorized for the take-home use of a Town-owned vehicle, the employee must possess a valid North Carolina's driver's license, maintain a safe driving history, and meet one of the following tests:

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| <p>Test 1: The employee is:</p> <ol style="list-style-type: none">(1) Subject to frequent after-hours emergency callback or other unscheduled work, and(2) Such unscheduled work involves the first response to a real or present threat to life or property requiring an immediate response, and(3) A specialized vehicle, tools, or equipment are required for the performance of emergency duties. |
| <p>Test 2: The employee is:</p> <ol style="list-style-type: none">(1) Subject to frequent after-hours callback, and(2) Such callback arrangements are to locations other than the employee's normal duty station, and(3) A special vehicle, tools or equipment are required to perform after-hours assignments, and(4) An unacceptable delay in the response would result from the employee's return to the normal duty station to retrieve the needed equipment. <p><i>This category is normally reserved for emergency maintenance response situations where a group of employees share formal on-call responsibilities on a rotational basis, such as public utility maintenance. In such cases, the use of the take-home vehicle is for the period of on-call assignment only.</i></p> |
| <p>Test 3: The employee is:</p> <ol style="list-style-type: none">(1) Employed in a public safety position, and(2) Is required to use an individually assigned vehicle during their normal tour of duty. <p><i>Public safety personnel permitted to use an individually assigned vehicle during their normal tour of duty may use the vehicle for commuting purposes in accordance with the department's standard operating procedures as approved by the Town Manager. While not on duty during such commutes, officers are expected to take action on incidences they may encounter. Any time spent responding to such incidents or callback return to work is work time and shall be reported as soon as practical.</i></p> |

2. Assignments are not permanent. When priorities or circumstances have changed, vehicles should be reassigned. All take home vehicle

assignments must be reviewed and evaluated by the Department Heads and Town Manager annually beginning July 1st. The following conditions should be considered:

- Requirements of the job.
- Productivity.
- Availability of Town vehicles.
- Cost to the Town.

3. Department Heads shall determine reasonable schedules and vehicle assignments for rotational, on-call coverage. For other purposes, the Town Manager, at the written request of the Department Director, may authorize full-time take-home vehicles based on the criteria described above.
4. No personal use of take-home vehicles is permitted. For the purposes of this policy, the daily commute to and from the employee's work location and normal meal periods within on-duty hours are considered official use.
5. **No passengers may be transported in take-home vehicles except as required for official duties.**
6. Except as approved by the Town Manager, take-home vehicles may not be used for commuting travel outside the city limits.
7. Employees permitted to take a vehicle home (commute) from their workstation may do so for job-related reasons and not as a compensatory measure.
8. Vehicles so assigned are not intended to be perceived as personal property or interpreted as a salary supplement or fringe benefit. The commuting costs of the use of a city vehicle may be a taxable fringe benefit cost to an employee. Any vehicle not specifically designated as exempt under the 1985 Tax Act (Attachment I), shall result in a taxable fringe benefit to the employee.
9. The Finance Officer is responsible to compute the commuting cost of any non-exempt vehicle taken home by an employee and reporting this taxable benefit on the employees form W-2 at the end of each calendar year. The Town of Wilkesboro will only deduct FICA taxes on the cost of this benefit. No Federal or State Income taxes will be deducted by the Town, the payment of these taxes will be the responsibility of the employee, when his or her personal income tax return is filed. The gross cost of this benefit is not subject to state retirement deductions.

10. Under no circumstances will overnight assignment be granted to any employee that lives outside of a 15-mile radius from the geographic center of the Town.

B. Mileage Reimbursement

The Department Head and/or Town Manager may authorize mileage reimbursement for an employee who must utilize his/her personal vehicle to conduct Town business and who receives no other form of allowance, except as otherwise provided within this policy.

1. Commuting mileage to respond to an after-hours callback or unscheduled return to work is considered as official Town business.
2. Claims for mileage reimbursement shall be made in accordance with current Travel Expense Reimbursement procedures.
3. The standard rate of mileage reimbursement shall be in accordance with the current IRS mileage reimbursement rate.

C. Vehicle Expense Allowance

For an employee to be authorized to receive a Vehicle Expense Allowance, one of the following tests must be met:

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| <p>Test 1: The employee is:</p> <ol style="list-style-type: none">(1) Is on 24-hour call;(2) Is frequently required to work outside of normal business hours or respond after hours emergencies, and(3) Does not require a specialized vehicle, tools or equipment, and(4) Is not assigned a take-home vehicle. |
| <p>Test 2: The employee is:</p> <ol style="list-style-type: none">(1) Requires regular, frequent and extensive vehicle usage to perform regular job duties during normal business hours, and(2) Is not regularly assigned use of a Town-owned vehicle. |

1. The dollar amount of the Vehicle Expense Allowance shall be established and reviewed annually through the budget process. Allowance amounts are to be determined based on the nature and extent of vehicle utilization required for official business.
2. The Town Manager, upon written request from the Department Head, shall

review and approve the Vehicle Expense Allowance. Department Heads are responsible for acting upon any change in duty assignment that would alter an employee's eligibility to receive or to discontinue receiving the Vehicle Expense Allowance.

3. All costs of personal vehicle ownership, operation, and maintenance will be the responsibility of the employee.
4. Employees authorized to receive the Vehicle Expense Allowances must possess a valid North Carolina driver's license, a current state inspection, a current vehicle registration, must have insurance of a type and level required by State law, and must maintain a safe driving history.
5. The vehicle shall be appropriate for Town business, consistent with the duties and responsibilities of the employee.
6. Except for infrequent incidences necessitated for personal vehicle maintenance or non-typical use of personal vehicle for business purposes, employees receiving the Vehicle Expense Allowance shall not normally be permitted use of Town-owned vehicles for business travel within the town limits and contiguous counties.
7. For travel outside of the County, the employee may (at his/her option) either (1) request per mile reimbursement for the entire trip at the Town's established mileage reimbursement rate or (2) request use of a town-owned vehicle, if available.

Part 5. Driver Responsibilities/ Requirements

- A. Each driver of any Town owned vehicle must have a valid North Carolina drivers/operator's license. Should an employee who drives a Town owned vehicle be involved in an incident, on or off the job, where their license is suspended or revoked, the employee is obligated to inform their immediate supervisor and the Town Manager within 24 hours of the incident. Failure to inform the Town of a suspended or revoked license may result in immediate dismissal.
- B. Town employees, who drive vehicles weighing more than 26,000 pounds or a vehicle carrying sixteen (16) or more passengers, must have a valid Commercial Class B license with a passenger endorsement. Town employees who drive vehicles with a trailer must have a valid Commercial Class A license if required by law.
- C. Employees authorized to drive or assigned a Town owned vehicle are subject to an annual review of their motor vehicle driving record with the State of North Carolina. Those employees found to be of a high risk or who

have failed to report violations and/or accidents to the Town, will have their vehicle privileges revoked, thus; resulting in dismissal for employees in positions where vehicular transportation is deemed an essential job function.

- D. Employees are responsible for any vehicle or equipment assigned to them such as reporting unsafe operations or working conditions via a “Vehicle Repair Request” form available in each department or from Town Hall.
- E. Employees shall allow sufficient time to reach destinations without violating speed limits or traffic laws. Employees must know and abide by all driving laws in all areas where they operate Town vehicles and shall drive defensively at all times.
- F. It is mandatory that all occupants of a city vehicle, use seat belts at all times, without exception. The driver of the vehicle is responsible for enforcing belt usage by all occupants and shall report any failure to comply with employee’s supervisor.
- G. The Town of Wilkesboro will not pay traffic tickets or parking fines of employees driving Town owned vehicles, nor will the Town pay if the employee is authorized to use their personal vehicle on Town business. Employees found guilty of moving violations may be subject to corrective action.
- H. An employee receiving a moving violation while driving a Town vehicle has an obligation to immediately inform their Department Head.

Part 6. Maintenance of Vehicles

- A. Employees with assigned town-owned vehicles are responsible for monthly inspections of their vehicles. Scheduling of routine maintenance and repairs is the responsibility of the employee to whom the vehicle is assigned.
- B. Individual departments are responsible for monthly inspections of unassigned vehicles and scheduling routine maintenance and repairs.
- C. An authorized dealer must perform warranted repairs.
- D. Alterations to town-owned vehicles without prior written approval by the Department Head or Town Manager will not be tolerated.
- E. No bumper stickers, other than Town approved stickers, may be placed on the vehicles.
- F. Each department is responsible for maintaining accurate and complete maintenance history of files for each assigned vehicle. It is the

responsibility of the employee with assigned vehicles and the department for unassigned vehicles to provide the Finance Department with receipts for maintenance.

- G. Smoking is not permitted inside town owned vehicles.

Part 7. Accident Procedures

- A. Regardless of the situation, the following procedure **MUST** be followed in the event of an accident while in a Town owned vehicle:
 - 1. Immediate notification of the proper law enforcement agency for accident investigation and report.
 - 2. Immediate notification of the employee's supervisor or department director.
 - 3. Notification of the Town Manager within 24 hours of the accident.
 - 4. Prepare a Town Vehicle Accident report. This report along with one copy of the law enforcement report should be submitted to the Town Manager.
 - 5. If necessary, an injury report must be completed and submitted to the Department Head and the Town Manager as soon as possible in order to file a workers' compensation claim within 24 hours of the accident.
 - 6. Securing accident repair estimates and approval of actual repair work is the responsibility of the employee's department with assistance from the Town Manager and/or Finance Officer.
 - 7. Post-Accident Substance Abuse Testing
- B. In accordance with the Town's Substance Abuse Policy, an employee who is involved in an accident or incident, in which there is, or reasonably could have been personal injury or property damage will be considered for testing. Not every incident or injury may result in a test. Reasonable determination that action or inaction of the employee contributed to the incident or accident shall be made prior to a request for testing.

Section 14. Drug-Free Workplace Policy

All employees shall read, attest to, and abide by the *Town of Wilkesboro Drug and Alcohol Abuse and Testing Policy*, which is listed below and on file in the office of the Town Clerk.

Part 1. Purpose and Scope

- A. The purpose of this Policy is to maintain a drug- and alcohol-free workplace and to provide procedures for conducting screenings of job applicants and employees for the use of illegal drugs and the improper use of prescription drugs.
- B. Employees with substance-abuse problems are encouraged to voluntarily seek substance-abuse counseling, which may be covered under an employee's insurance benefits. However, employees who fail drug or alcohol tests may be disciplined, up to and including dismissal.
- C. All testing will be conducted in a manner that will protect the rights of employees and applicants subject to testing. Therefore, the Town of Wilkesboro will take all necessary steps to safeguard the dignity and self-esteem of those being tested, and will ensure adherence to all procedures pertaining to the implementation of this Policy. The Town of Wilkesboro will adhere strictly to all standards of confidentiality and assure all employees that testing records and results will be released only to those authorized to receive such information.
- D. Participation in a counseling, treatment, or rehabilitation program for drug and/or alcohol use or abuse will not be grounds for discharge provided the employee voluntarily enters such a program prior to being identified as a drug or alcohol abuser by means such as tests, and before the employee becomes suspected under circumstances satisfactory to the Town of Wilkesboro of being a drug/alcohol abuser.

Part 2. Drug and Alcohol Tests Required by the United States Department of Transportation

This section covers all employees who must hold a commercial driver's license as a job requirement and all employees who perform other safety-sensitive functions as defined by the U.S. Department of Transportation (DOT) regulations or designated as such by the Town of Wilkesboro. (Police officers and employees holding a CDL endorsement)

- A. **Pre-placement.** Before a covered employee initially performs safety-sensitive functions for the Town of Wilkesboro, he or she must undergo testing for drugs. Covered applicants for employment or current covered employees transferring into a position that requires testing must pass a pre-placement drug test.

- B. **Post-accident.** Post-accident testing must be conducted on any driver or any other safety-sensitive employee not in the vehicle (e.g., maintenance personnel) whose performance could have contributed to the accident. A determination whether to test covered employees who were not in the vehicle but who may have contributed to the accident will be made based on the best information available at the time of the decision. The Federal Highway Administration mandates that tests must be conducted in the event of a fatality or if the driver receives a citation under state or local law for a moving traffic violation arising from the accident. Federal Transit Administration mandates testing in the event of a fatality or in the event that a driver receives a citation and an individual suffers a bodily injury and immediately receives medical treatment away from the accident scene or if one of the vehicles in the accident is disabled to the extent that it must be towed.
- C. **Reasonable Suspicion.** A test will be conducted when there is reason to believe that the employee has used a prohibited drug or has misused alcohol as defined in this Policy. Testing for reasonable suspicion is authorized only if the required observations are made by a trained supervisor or official of the locality where the covered employee is on duty.
- D. **Random Testing.** Employees designated as safety-sensitive, as defined by the DOT guidelines will be tested on an unannounced basis throughout the year. Names chosen at random will determine who will be tested.
- E. **Return to Duty.** An employee who has a positive breath alcohol test of 0.04 or greater will not be allowed to return to duty in the performance of a safety-sensitive function until he or she has been evaluated by a substance-abuse professional and until he or she tests negative – less than 0.02 – on a return-to-duty alcohol test.
- F. **Follow-up.** Once allowed to return to duty, an employee who has been determined by the evaluating substance-abuse professional to be in need of assistance in resolving problems associated with misuse of drugs and/or alcohol must submit to a minimum of six (6) follow-up tests within the first twelve (12) months following rehabilitation. Follow-up testing may be extended for up to sixty (60) months following return to duty as prescribed by the evaluating substance-abuse professional.

Part 3. Drug and Alcohol Abuse and Testing Policy for all Employees

- A. The Town prohibits the manufacture, distribution, dispensing, possession, or use of an illegal drug or a controlled substance in the workplace. A statement of the Town's drug-free workplace standards shall be posted on bulletin boards within each Town facility in order to ensure employees' awareness of the policy. The following penalties shall apply, but not be

limited to, employees who are convicted of violating the Town's drug-free workplace standards:

1. **First Offense** – An employee found to be using or in possession of any illegal drug or a controlled substance in the workplace shall be automatically suspended without pay for one (1) week and may be subject to termination. An employee who is not terminated will be required to submit to counseling, which may be covered under the employee's insurance benefit plan. An employee found to be distributing any illegal drug or controlled substance in the workplace shall be terminated from employment.
 2. **Second Offense** – An employee found to be using or in possession of any illegal drug or controlled substance in the workplace shall be terminated from employment.
- B. The Town prohibits the manufacture, distribution, dispensing, possession, or use of alcohol in the workplace. The following penalties shall apply, but not be limited to, employees who are convicted of violating this provision:
1. **First Offense** – An employee found to be using or in possession of alcohol in the workplace shall be automatically suspended without pay for one (1) week and may be subject to termination. An employee who is not terminated will be required to submit to counseling, which may be covered under the employee's insurance benefit plan.
 2. **Second Offense** – An employee found to be using or in possession of alcohol in the workplace shall be terminated from employment.
- C. No safety-sensitive employee shall use alcohol within four (4) hours before going on duty or operating, or having physical control of, any Town vehicle.
- D. No employee shall report for duty or remain on duty in a safety-sensitive function while having an alcohol concentration of 0.04 or greater. An employee who is tested (exclusive of the return-to-duty test) and found to have an alcohol concentration of 0.02 or greater, but less than 0.04, shall not perform or continue to perform his or her job function until the start of the employee's next regularly scheduled duty period, but not less than twenty-four (24) hours following administration of the test. The employee shall be removed from duty without pay for this twenty-four hour period and shall receive a notation in his or her performance appraisal about the requirement of reporting to work without the presence of alcohol in his or her system.
- E. When there is reasonable suspicion that an employee on duty has alcohol or drugs in his or her system, the employee will be tested. If the employee tests positive and management concludes that alcohol or drug consumption occurred on duty, the employee will be subject to the disciplinary provisions of this Policy.

- F. A reasonable-suspicion or post-accident alcohol test shall be administered no later than eight (8) hours following the determination of reasonable suspicion or following the accident. If the test is not administered within two (2) hours, the supervisor must document the reason(s) the alcohol test was not promptly administered. If the alcohol test is not administered within eight (8) hours following the determination of reasonable suspicion or following the accident, the supervisor shall cease attempts to administer the test and must document the reason(s) for not administering the test. In the event an alcohol test is not conducted within the eight-hour time frame, the following should occur:
1. No employee shall be allowed to remain on duty until an alcohol test is administered and the employee's alcohol concentration measures less than 0.02, or
 2. Twenty-four (24) hours have elapsed following the determination of reasonable suspicion. No employee may refuse to submit to an alcohol test as required by the regulations.
- G. No safety-sensitive employee involved in an accident that requires an alcohol test shall consume any alcohol for eight (8) hours following the accident or until a post-accident alcohol test is performed, whichever comes first.
- H. A written record will be made of the observations leading to a reasonable-suspicion drug or alcohol test and signed by the supervisor or departmental designee who made the observations within twenty- four (24) hours of the observed behavior or before the results of the controlled-substances test are released, whichever is earlier.
- I. A post-accident drug test shall be administered within thirty-two (32) hours following the accident. If the drug test is not administered within thirty-two (32) hours, the supervisor shall cease attempts to administer a drug test and must document the reason(s) for not administering the test. No employee may refuse to submit to a drug test required by the regulations.
- J. Employees assigned to positions that are determined to be safety-sensitive will be randomly tested for alcohol and drugs. Selected employees will be transported to the designated testing location. Random testing for drugs and alcohol shall be conducted at the rate mandated by DOT or Town policy.
- K. A drug and alcohol test will be included as part of the promotion/demotion/transfer/selection process for employees determined to be final candidates for positions requiring a commercial driver's license, for positions requiring a physical examination, and for positions that are safety-sensitive.

- L. An employee who tests positive for alcohol must submit to a return-to-duty breath alcohol test before resuming the performance of safety-sensitive functions following a disciplinary suspension. The return-to-duty alcohol test must indicate an alcohol concentration of less than 0.02. A return-to-duty breath alcohol test result of 0.02 to 0.039 will result in a five-day suspension without pay. A return-to-duty breath alcohol test result of 0.04 or greater will be considered as the second positive alcohol test within a 1-year period and will result in termination.
- M. An employee who refuses to submit to, or fails to follow through with, a drug or alcohol test when testing is required by this Policy will be terminated. However, before proceeding with disciplinary action, the employee's department head must assure that the facts of the case are reviewed by the Town Manager.
- N. If an employee alleges that, because of medical reasons, he or she is unable to provide a sufficient amount of breath to permit a valid breath test, the employee will be directed to obtain, as soon as practicable after the attempted provision of breath, an evaluation from a licensed physician acceptable to the Town addressing the medical reason(s) for the inability of the employee to provide the adequate amount of breath. If there is not a medical reason acceptable to management for the employee's inability to provide the breath, the employee will be considered to have refused to submit to the alcohol test and will be disciplined according to the guidelines established by this Policy.
- O. An employee who does not pass the drug or alcohol test and is terminated will not be considered for re-employment for a two-year period following the date of the test and then will be considered only when: 1) he or she provides documentary proof of successful completion of a drug and/or alcohol abuse treatment or rehabilitation program and 2) he or she passes a pre-placement drug and/or alcohol test.
- P. An employee shall inform his or her supervisor if, prior to beginning work or while on duty, the employee has used or intends to use any prescription drug or any other substance that might impair his or her ability to satisfactorily and safely perform duties. Employees are responsible for understanding the potential side effects of medications or other chemical substances taken. Failure to notify the supervisor under these circumstances may result in disciplinary action, depending on the severity of the resulting incident. The Town Manager will be consulted prior to any such discipline being imposed.
- Q. The medical review official will review the findings of a drug test with the employee before a final determination is made that the employee did not

pass the drug test. The purpose of this review is to ensure that the findings of a positive test are not based on factors other than the use of the drug for which the positive result is found.

- R. Employees returning to the workforce following completion of a drug and/or alcohol rehabilitation program will be tested on an unannounced and periodic basis for drugs and/or alcohol during the twenty-four (24) months following their return to work. Those employees covered by DOT guidelines must submit to a minimum of six (6) follow-up tests within the first twelve (12) months following rehabilitation. A follow-up breath alcohol result of 0.04 or greater will result in termination. A follow-up breath alcohol test result of 0.02 to 0.039 will result in a five-day suspension without pay. A second such occurrence of a follow-up breath alcohol test result of 0.02 to 0.039 within the prescribed twenty-four month period will result in termination.
- S. If an employee is convicted of a violation of a criminal drug statute and such violation occurred while the employee was on duty, the employee must notify his or her department head of the conviction within five days after such conviction, as required by the Drug-Free Workplace Act. Failure to comply with this requirement will result in termination.

Part 4. Applicant Testing

- A. Applicants determined to be final candidates for positions with the Town of Wilkesboro will be required to submit to a drug screening. The drug screen shall be performed within forty-eight (48) hours from the time the conditional job offer is made.
- B. Applicants determined to be final candidates for positions requiring a commercial driver license or positions designated, as safety-sensitive by DOT guidelines will also be required to submit to an alcohol screening. The applicant must have a breath alcohol test result of less than 0.04 to be considered for employment.
- C. Applicants for temporary positions requiring a commercial driver license, or positions designated as safety-sensitive by DOT guidelines, will be required to submit to a drug and alcohol screening.
- D. Candidates for other temporary positions should be required to submit to a drug screen if the department determines that the nature of the job and the length of the assignment justify a test.
- E. An applicant will have four (4) hours to provide an acceptable urine specimen. An applicant who refuses to submit to, or fails to follow through with, the drug test as required, will not be considered for employment for a two-year period.

- F. An applicant who does not pass the drug test as required will not be considered for employment for a two-year period following the date of the test and then will be considered only when: 1) such applicant provides documentary proof that he or she has successfully completed a drug and/or alcohol abuse or rehabilitation program; and 2) such applicant passes a pre-placement drug and/or alcohol test.
- G. Any applicant covered by the provisions of the DOT alcohol- and drug-testing guidelines whose breath alcohol test result indicates an alcohol concentration of 0.02 to 0.039 will not be considered for employment for a two-year period following administration of the test.
- H. Applicants having completed a drug or alcohol rehabilitation program within two years prior to their employment with the Town of Wilkesboro will be required to certify that they have successfully completed the program before they can be hired. If hired, these employees will be tested on an unannounced and periodic basis for drugs and/or alcohol during the twenty-four months following their hire.

Part 5. Compliance with Law

- A. Information regarding the testing and referral of employees and applicants under this Policy will be treated as confidential in accordance with the requirements of North Carolina law governing the privacy of employee personnel records.
- B. Searches and seizures are to be conducted in a legal manner. The Town of Wilkesboro reserves the right to conduct searches or inspections of property assigned to an employee whenever a department head or his or her designee determines that the search is reasonable under all the circumstances.

Part 6. Supervisory Responsibilities

Every supervisor shall:

- A. Consistently apply this Policy to all employees under his or her supervision.
- B. Ensure that employees under his or her supervision are aware of the requirements and consequences of this Policy.
- C. Initiate the process for having an employee drug or alcohol tested if there is reasonable suspicion that an employee under his or her supervision, when such employee is on duty, has an illegal drug or alcohol in his or her system or is using any legal drug in a manner other than it was intended.
- D. Follow the procedure established by the department head for assuring that an employee who is to be tested for alcohol or other drugs is transported to the

designated test site, and that those employees for whom there is reasonable suspicion of substance abuse or who have had breath alcohol test result of 0.02 or greater are transported home – either by personal family/friends or by arranged transportation.

- E. In the event the test results are positive the following information is due to the Department of Motor Vehicles:
 - a. Name of the driver;
 - b. Address of the driver;
 - c. Driver's license number;
 - d. Social Security number; and
 - e. Results of the drug or alcohol test.

Part 7. Employee Responsibilities

Every employee shall:

- A. Abide by this Policy as a condition of employment.
- B. Comply with all applicable laws regulating the manufacture, distribution, dispensation, and use of possession of illegal drugs, alcohol, or prescription drugs.
- C. Assure that his or her ability to perform his or her job duties is not negatively affected due to use of a drug or alcohol when scheduled to report to work or when on "on call" status. Should any employee be requested to report to work for a safety-sensitive job earlier than his or her normal or previously assigned time, it is the employee's responsibility to advise his or her supervisor of an inability to perform his or her job duties or that he or she has consumed alcohol within the last four (4) hours prior to reporting for duty. If the employee had received prior notice that he or she might be called back into work, the employee shall be considered absent-without-leave if he or she is unable to report for duty.
- D. Submit immediately to a drug or alcohol test when requested by his or her supervisor, under appropriate circumstances.
- E. Notify his or her department head within five (5) days after any conviction for violation of a criminal drug statute that occurred while on duty, as required by the Drug-Free Workplace Act.
- F. If tested positive from a required drug or alcohol test comply with the restrictions and necessary assessment and treatment if permitted to remain employed.

Part 8. Department of Motor Vehicle's Responsibilities

- A. Once the employer forwards the results of a notice; DMV is required to place a notation of disqualification on the driving record of the individual. The disqualification remains in effect until DMV receives proof of that individual's successful completion of assessment and treatment by a substance abuse professional in accordance with 49 C.F.R. § 382.503.
- B. DMV shall notify the driver of the pending disqualification of the driver to operate a commercial vehicle and the driver's right to a hearing if requested within 20 days of the date of the notice. If no appeal is requested on the driver's behalf, the disqualification is effective at the end of the 20-day period. If the driver requests a hearing, the disqualification shall be stayed pending the outcome of the hearing.

Part 9. Definitions

Accident means an occurrence involving a commercial motor vehicle operating on a public road that results in a fatality: bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or 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.

Alcohol Test means a test for the presence of alcohol in the body as determined through the use of a breath alcohol test, evidential breathalyzer test, or blood screening.

Conviction means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of federal or state criminal drug statutes.

Criminal Drug Statute means a criminal statute relating to the manufacture, distribution, dispensation, use or possession of any drug.

Drug means a controlled substance as listed in Schedules I through V of Section 202 of the Controlled Substances Act (21USC 812 or Chapter 90, Section 87 (5) of the North Carolina General Statutes or a metabolite thereof.

Drug Test and Drug Screening means a test, including providing the necessary sample of body fluid by the employee to be tested, for the presence of any of the following drugs or drug metabolites in the urine or blood of an employee:

- a. amphetamines
- b. barbiturates
- c. benzodiazepines
- d. cannabinoids

- e. cocaine
- f. methaqualone
- g. opiates
- h. phencyclidine
- i. propoxyphene
- j. other drugs that may be determined to reduce work efficiency

Medical Review Official is a North Carolina-licensed physician with specific training in the area of substance abuse. The medical review officer not only has knowledge of substance-abuse disorders, but also has been trained to interpret and evaluate laboratory test results in conjunction with an employee's medical history. The medical review officer verifies a positive drug test result by reviewing a laboratory report and an employee's unique medical history to determine whether the result was caused by the use of prohibited drugs or by an employee's medical condition.

On-call means being subject to a call to report immediately to work for the Town of Wilkesboro.

On-duty means when an employee is at the workplace, performing job duties, on-call, or during any other period of time for which he or she is entitled to receive pay from the Town of Wilkesboro.

Other Substance means any substance that has the potential to impair appreciably the mental or physical function of a person who does not have an unusual or extraordinary reaction to such substance.

Positive, with respect to the results of a drug test, means 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). 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).

Positive, with respect to the results of an alcohol test, means the presence of alcohol in an employee's system at the 0.04 level or greater.

Negative, with respect to the results of a drug test, means a test result that does not show presence of drugs at a level specified to be a positive test.

Negative, with respect to the results of an alcohol test, means a test that indicates a breath alcohol concentration of less than 0.02.

Qualified Negative, with respect to the results of a drug test, means a test in which the lab result is consistent with legal drug use.

Canceled, with respect to the results of a drug test, means a test result in which the medical review official finds insufficient information or inconsistent procedures with which to make a determination.

Random Testing is testing conducted on an employee assigned to a safety-sensitive position and is chosen by a method that provides an equal probability that any employee from a group of employees will be selected.

Reasonable Suspicion exists when a supervisor, who has received the required training in detecting the signs and symptoms of probable drug and /or alcohol use, can substantiate specific contemporaneous, articulable observations concerning appearance, behavior, speech, or body odor or other physical indicators of probable drug of alcohol use. By way of example and not limitation, any one or a combination of the following may constitute reasonable suspicion:

- a. slurred speech
- b. the odor of marijuana or alcohol about the person
- c. inability to walk a straight line
- d. an accident resulting in damage to property
- e. physical altercation
- f. verbal altercation
- g. behavior that is so unusual that it warrants summoning a supervisor or anyone else in authority (i.e., confusion, disorientation, marked personality changes, irrational behavior)
- h. possession of drugs
- i. verifiable information obtained from other employees based on their observations
- j. arrests, citations, and deferred prosecutions associated with drugs or alcohol

Unannounced Follow-Up Testing is testing conducted on an employee on a periodic unannounced basis, following his or her return to work from an approved drug or alcohol rehabilitation program.

Pre-Placement Testing is testing conducted on a current city employee prior to his or her being promoted, transferred, or demoted into a safety-sensitive position.

Safety-Sensitive position means: A position will be designated safety sensitive only where the Town of Wilkesboro has a compelling need, on the basis of safety concerns, to ascertain on-the-job impairment on the part of employees who hold the position. Such a compelling need may arise where the duties of a position create, or are accompanied by, such a great risk of injury to other persons or to property of such magnitude that even a momentary lapse of attention, judgment, or dexterity could have disastrous consequences.

Examples of these positions include:

- a. Positions (full or part time) requiring the use of weapons (or potential use of weapons) or the operation of vehicles, machinery, or equipment as a primary task (does not include routine office equipment).
- b. Positions requiring the handling of hazardous materials, the mishandling of which may place the employee, fellow employees, or the general public at risk of serious injury, or the nature of which would create a security risk in the workplace.
- c. Other positions as determined on a case-by-case basis.

The following includes activities defined as safety-sensitive by the Federal Highway Administration or Federal Transit Administration portions of the DOT guidelines:

- a. Driving,
- b. Inspecting, servicing, or conditioning any commercial motor vehicle,
- c. Waiting to be dispatched at a carrier or shipper plant, terminal, facility, or other public property,
- d. Performing all other functions in or upon any commercial motor vehicle except resting in a sleeper berth,
- e. Loading or unloading a vehicle, supervising or assisting in the loading or unloading of a vehicle, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or giving or receiving receipts for shipments,
- f. Performing driver requirements relating to accidents,
- g. Repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle,
- h. Operating a revenue service vehicle, including when not in revenue service,
- i. Operating a nonrevenue service vehicle when required to be operated by a holder of a commercial driver's license,
- j. Controlling dispatch or movement of a revenue service vehicle,
- k. Maintaining a revenue service vehicle or equipment used in revenue service,
- l. Carrying a firearm for security reasons.

Determination as to which positions is safety sensitive will be based on DOT guidelines or the recommendation of the department head and approval by the personnel department.

Supervisor, in general, means any employee who has the authority to direct the job activities of one or more other employees. With respect to a particular employee, the term means such employee's immediate supervisor and all persons having indirect supervisory authority over such employee.

Pass a drug test means that the result of a drug test is negative. The test either:

- a. showed no evidence or insufficient evidence of a prohibited drug or drug metabolite, or,

- b. showed evidence of a prohibited drug or drug metabolite but there was a legitimate medical explanation for the result as determined by a certified medical review official.

Pass an alcohol test is a negative alcohol test. The test showed no evidence or insufficient evidence of a prohibited level of alcohol.

Workplace means the location or facility where an employee may be expected to perform any task related to the requirements of his or her job. This includes break rooms and restrooms, outdoor worksites, Town of Wilkesboro or personal vehicles (while personal vehicle is being used for Town business), computer work stations, conference rooms, hallways, private offices, open/partitioned work areas, public contact/customer service/medical services areas, and parking lots.

Substance Abuse Professional means a licensed physician (medical doctor or doctor of osteopathy), or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of and clinical experience in the diagnosis and treatment of both drug-and alcohol-related disorders.

Commercial Motor Vehicle means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:

- a. has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds; or
- b. has a gross vehicle weight rating of 26,001 or more pounds; or
- c. is designed to transport 16 or more passengers, including the driver; or
- d. is of any size and issued in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and that requires the motor vehicle to placarded under the Hazardous Materials Regulations.

Confirmation Test for alcohol means a second test, following a screening test with a result of 0.02 or greater that provides quantitative data of alcohol concentration. Confirmation test for controlled substances means a second analytical procedure to identify the presence of a specific drug or metabolite that is independent of the screen test and that uses a different technique and chemical principal from that of the screen test in order to ensure reliability and accuracy. Gas chromatography/mass spectrometry (GC/MS) is the only authorized confirmation method for the five SAMHSA drugs.

Refuse to Submit means that an employee:

1. fails to provide adequate breath for testing without a valid medical explanation after he or she has received notice of the requirement for breath testing.
2. fails to provide adequate urine for controlled substances testing without a valid medical explanation after he or she has received notice of the requirement for urine testing,
3. refuses to sign the breath alcohol confirmation test certification, or
4. engages in conduct that clearly obstructs the testing process. An employee subject to the post-accident testing requirements of the DOT who unnecessarily leaves the scene of an accident before a required test is administered or fails to remain readily available for testing may be deemed to have refused to submit to testing.

The following attachment is an agreement signed by all Town of Wilkesboro Employees:

**Drug Free Workplace Policy
Employee Agreement**

BY VIRTUE OF THIS POLICY, ALL EMPLOYEES ACKNOWLEDGE THE NATURE OF DRUG AND ALCOHOL USE AND ABUSE AND UNDERSTAND THAT THE TOWN HAS THE RIGHT TO TEST ANY INDIVIDUAL ON THE BASIS OF A MINIMAL AMOUNT OF SUSPICION.

I, _____, acknowledge that I have read and received a copy of the Town of Wilkesboro’s Drug Free Workplace Policy. I fully understand the terms of this policy and agree to abide by them. I realize that the Town has the ability to test for drugs or alcohol upon a reasonable suspicion or accident on site. I acknowledge that any results of said drug or alcohol tests may be recorded and stored in my personnel file for management use and further be submitted to the North Carolina Department of Motor Vehicles (DMV). I know that any violation of this policy could lead to disciplinary action, dismissal, or even criminal prosecution.

Employees Department or Title: _____

Employee’s Signature: _____

Date: _____

Supervisor’s Signature: _____

Date: _____

Part 15. Medical Examinations

Upon recommendation to appoint an employee to a position that is deemed physically demanding, a pre-employment medical examination is required at the expense of the Town. The examination is done to assure that no physical condition exists that may prevent the employee from performing assigned duties.

Part 16. Safety

All employees shall read, attest to, and abide by the *Town of Wilkesboro Loss Prevention and Loss Control Procedures*, which are on file in the office of the Town Clerk. Employees who violate safety requirements may be subject to disciplinary action in accordance with Article VIII, Section 5.

Section 17. Internet Use

Part 1. Purpose and Scope

- A. The purpose of this policy is to ensure protection of the Town's computers, computer systems, and computer networks as well as the data they store and process, and to maintain appropriate operations in a secure, responsible manner. It is critical that these systems and machines be protected from misuse and unauthorized access.
- B. This policy applies to all Town-owned or leased computer systems and refers to all hardware, data, software and communications networks. Specifically, this includes all computers ranging from multi-user systems to single-user personal computers, computer networks, terminals, printers, modems, wiring/cabling, all software used and any network accessed by these systems including the Internet.
- C. In addition to this policy, users are subject to applicable state and federal laws. Improper use or misuse of Town computer systems on a person's work time is a violation of Town personnel policies and may lead to disciplinary action including suspension, demotion or dismissal.
- D. This policy is not intended to supersede any existing laws or policies regarding records that are confidential. Also, this policy does not address public access issues. It is intended for internal use only.

Part 2. Security

Security refers to the protection of all computer equipment resources from any kind of damage and the protection of data from unauthorized access, distribution, modification or destruction. The following procedures will, if used properly, prevent any of the above-mentioned occurrences from happening:

1. Users must have authorized access to the Town's computer systems by the Information Technologies Department (IT) and/or Network Administrators (where applicable) after the appropriate department head has requested it in writing. The written request must include the accounts to be accessed by the user. Only the authorized accounts for those systems may be used and only for authorized purposes.
2. Users are responsible for safeguarding their own computer access, which includes passwords and logging off when not in use.
3. Users SHALL NOT let another person use their access unless IT or Network Administrator (where applicable) approves the use and purpose. Users are directly accountable for all activity connected to their user ID.
4. Passwords will be changed every six (6) months and SHALL NOT be divulged to any other person. Passwords should be memorized and not written down unless kept in a secure place.
5. Users should log off the system if they must leave the immediate area of their workstation for an extended period of time. (i.e. lunch hours).
6. If a user is terminated (for any reason), IT or the Network Administrator (where applicable) is to be notified immediately by the department head so the terminated user can be removed from the system.
7. Users SHALL NOT attempt to bypass security mechanisms.
8. Users SHALL NOT engage in abuse or misuse of the Town's computing systems as previously defined.
9. Users SHALL NOT violate any rules in other portions of the Town Personnel Policy, local, state, or federal laws via Town computing systems or communications.
10. Users shall disclose to their department head, which shall then notify IT of any suspected or confirmed unauthorized use or misuse of computing systems and also any potential security loopholes.

Part 3. Acceptable Use

- A. At all times when an employee is using the Town of Wilkesboro's technology resources, he or she is representing the Town. Use the same good judgment in all resource use that you would use in written correspondence or in determining appropriate conduct.
- B. While in the performance of work-related functions, while on the job, or while using publicly owned or publicly provided technology resources, Town of

Wilkesboro employees are expected to use them responsibly and professionally. They shall make no intentional use of these resources in an illegal, malicious, inappropriate or obscene manner.

- C. The Town understands that a minimal amount of personal use of Town computers and data communications may occur. Personal discretion in the use of those resources must insure that the Town incurs no cost for the use (Town-time or additional charges).
- D. The Town reserves unto its department heads the right to absolutely curtail such personal use or discretion, as the department head may deem reasonably necessary, on a case-by-case basis.
- E. Users are required:
 - 1. To respect the privacy of other users; for example, users shall not intentionally seek information on, obtain copies of, or modify files, data, or passwords belonging to other users, unless explicit permission to do so has been obtained. It shall be understood that this rule does not apply to supervisory personnel, who shall have rights to access any files created by users in their departments. All files are Town property.
 - 2. To respect the legal protection provided to programs and data by copyright and license. The Town owns licenses to a number of proprietary programs, which allow the Town to use the software, but severely restricts anything other than the use of the software on a single computer or network. Any redistribution of software from the computing systems breaches agreements with our software suppliers, as well as applicable federal copyright, patent and trade secret laws. U.S. Copyright Law provides for civil damages of \$50,000 or more and criminal penalties including fines and imprisonment in cases involving the illegal reproduction of software. Therefore, no copying, downloading, or distributing of any copyrighted materials, including but not limited to messages, e-mail, text files, program files, image files, database files, sound files and music files is allowed without prior authorization by IT.
 - 3. To protect data from unauthorized use or disclosure as required by state and federal laws and agency regulations. (i.e. confidential information)
 - 4. To respect the integrity of computing systems: for example, users shall not use or develop programs that harass other users or infiltrate a computer or computing system and/or damage or alter the software components of a computer or computing system, or otherwise interfere with data, hardware, or system operation.

Part 4. Unacceptable Use

Uses that do not conform to the purpose, goals, and mission of the Town and to each user's authorized job duties and responsibilities. Examples of unacceptable activities include but are not limited to:

1. Private or personal, for-profit activities (e.g., consulting for pay, sale of goods such as Avon and Amway products, etc.)
2. Use for any illegal purpose, including communications that violate any laws or regulations;
3. Transmitting or soliciting threatening, obscene, harassing, or politically natured messages or images;
4. Viewing pornographic or sexually oriented material, except as deemed necessary to conduct criminal investigations or child-welfare investigations (as approved by supervisor);
5. Intentionally seeking information about, obtaining copies of, or modifying of files, other data, or passwords belonging to other users, unless explicit permission to do so has been obtained;
6. Interfering with or disrupting users, services, or equipment. Such disruptions would include, but are not limited to: 1) distribution of unsolicited advertising or messages, 2) propagation of computer worms or viruses, and 3) attempting to gain unauthorized entry to another computer or computer system whether owned by the Town of Wilkesboro or outside of the Town;
7. Removing any computer equipment (hardware, software, data, etc.) without supervisor's authorization and IT notification;
8. Allowing non-town employees, including an employee's family or friends, to use the Town's technology resources.

Part 5. Electronic Mail

- A. Electronic mail is intended for Town business only. All e-mail messages are the property of the Town and subject to public inspection. The Town Manager and supervisory personnel have the right to review the contents of employees' e-mail communications.
- B. When sending or forwarding e-mail, all employees shall identify themselves clearly and accurately including full name, organization, department and full e-mail address. Unacceptable uses of e-mail include, but are not limited to:

1. Sending chain letters.
2. Sending copies of documents in violation of copyright laws.
3. Compromising the integrity of the Town and its business in any way.
4. Sending messages containing offensive, abusive, threatening, obscene, harassing, or other language inappropriate for the organization.
5. Sending messages that violate the Town's sexual harassment policy.
6. Willful propagation of computer viruses.

Part 6. Virus Protection

- A. Every computer user is to remain alert to the possible transmittal and infection of a computer virus. Most e-mail viruses are transmitted through attachments. Never open attachments that contain the following extensions: .exe, .vbs, .com, .bmt, .hta, .shs, .vbe, .cmd. Upon detecting any virus, or suspected virus, users are to cease activity immediately and report it to IT or Network Administrator (where applicable).
- B. Appropriate anti-viral software will be made available by IT and loaded on every PC or workstation. Users will be expected to update their anti-viral software periodically and instructions will be provided on how to accomplish updates.

Part 7. Internet Use

- A. A Town Internet account is a resource granted to employees upon department head approval to increase productivity and provide opportunities for professional growth.
- B. All Internet users are expected to comply with Part III (Acceptable Uses) of this Computer & Data Communications Policy. Improper use could result in the cancellation of a user's computer Internet account and will result in disciplinary action.
- C. The Internet provides easy access to software distributed by companies on a trial basis. The free access does not necessarily indicate that the software is free or that it may be distributed freely. Users are expected to comply with the copyright policy as previously stated in Part III (Acceptable Uses).

Part 8. Compliance

The IT Manager and department head will review reported and perceived violations of this policy and may impose restrictions, suspend or terminate computer access, or remove computer equipment during or as a result of an investigation. Other appropriate action in response to abuse or misuse of computer resources may include, but not be limited to:

1. Reimbursement to the Town for resources consumed;
2. Other legal action, including action to recover damages;
3. Disciplinary action, including suspension, demotion, or dismissal pursuant to the Town of Wilkesboro Personnel Policy.
4. Department heads will be responsible for the enforcement of the Town's Computer and Data Communications Policy.

Part 9. Social Media

- A. Employees must not engage in visiting or contributing to social media sites during work hours, unless their position is designated to do so by their Department Head, and approved by the Town Manager.
- B. Engagement on any social media platform on work time should be performed in adherence with the employee's direct scope of work and responsibilities, with the best interest of the Town paramount in their postings.
- C. Personal use of a Town email address for non-business functions such as Facebook, Twitter, Craigslist, etc. is prohibited.
- D. Town employees are expected to use the Internet and information processing resources responsibly and professionally at all times. Town employees may make reasonable personal use of Town owned or provided Internet resources as long as
 1. the direct measurable cost to the Town or its citizens is none or is negligible
 2. there is no negative impact on employee performance of duties
 3. personal use is conducted on an employee's own time
 4. use does not interfere with other employees performing their jobs or undermine the use of Town resources for official purposes
 5. employees reimburse the Town if costs are incurred
 6. use does not violate applicable laws or regulations
 7. use does not violate Town policies.
- E. Departments that use social media are responsible for complying with applicable federal, state and Town laws, regulations and policies. This includes adherence to established laws and policies regarding copyright,

records retention, Freedom of Information Act (FOIA) and other protected information such as Personal Identifiable Information (PII). Confidential information such as HIPAA protected content must remain confidential.

- F. These guidelines may continually evolve as new technologies and social networking tools emerge. The Town Manger will review social media site usage and provide policy recommendations to the Town Council on a continuing basis.

Part 10. Miscellaneous

- A. Each department shall develop a backup schedule for each PC/network with at least one full backup kept in a safe, secure site.
- B. Each department shall maintain an up-to-date inventory of hardware, software, documentation and training materials and submit a copy to IT. This inventory shall be verified at least annually.
- C. It is recommended that the Town of Wilkesboro Technology Committee on a yearly basis review this policy.

Section 18. Wastewater Treatment Plant Regulations

All personnel of the Town of Wilkesboro wastewater treatment plant shall change from street clothes into clean Town uniforms at the beginning of their work shift. At the conclusion of their work shift, wastewater treatment plant personnel shall scrub and shower at the facilities provided by the Town and change back into their street clothes before leaving work. Uniforms worn on each work shift shall be deposited in a container at the plant in order to be laundered by the Town before being worn again.

The following attachment is an agreement signed by all Town employees and users of technology provided by the Town of Wilkesboro:

**Electronic Communications Policy
Employee Agreement**

BY VIRTUE OF THIS POLICY, ALL SYSTEM USERS ACKNOWLEDGE THE PUBLIC NATURE OF ELECTRONIC COMMUNICATIONS AND UNDERSTAND THAT THE TOWN HAS THE RIGHT TO INSPECT AND REVIEW SUCH COMMUNICATIONS.

I, _____ acknowledge that I have read and received a copy of the Town of Wilkesboro's Electronic Communications Policy. I fully understand the terms of this policy and agree to abide by them. I realize that the Town's security software may record for management use the Internet address of any site that I visit and keep a record of any network activity in which I transmit or receive any kind of file. I acknowledge that any message I send or receive may be recorded and stored in an archive file for management use. I know that any violation of this policy could lead to disciplinary action, dismissal, or even criminal prosecution.

Employees Department or Title: _____

Employee's Signature: _____

Date: _____

Supervisor's Signature: _____

Date: _____

Article VI. Holidays and Leave

Section 1. Paid Holidays Observed

- A. The following holidays, and such others as the Town Board may designate, shall be observed by Town offices and shall be counted as hours worked:

New Year's Day
Martin Luther King, Jr.'s Birthday
Easter Monday
Memorial Day
Independence Day
Labor Day
Thanksgiving (2 days)
Christmas (2 days)

- B. All salaried and hourly employees appointed to a permanently established position shall receive these holidays with pay.

Section 2. Holidays and Effects on Other Types of Leave

Regular holidays that occur during an annual, sick, or other paid leave period of any officer or employee of the Town shall not be charged as annual, sick, or other paid leave.

Section 3. Holidays – When Work is required

Employees required to perform work on regularly scheduled holidays may be granted compensatory time off at the rate of one and one-half (1 ½) hours off for each hour worked on the holiday. Compensatory time for holiday work shall be taken within three (3) months of the time it is earned or forfeited after such time.

Section 4. Annual Leave

- A. For the purpose of earning and accruing annual leave, the period of twelve (12) calendar months between January 1 and December 31 is established as the leave year.
- B. Employees serving a probationary period following initial appointment shall not be permitted to take annual leave during the first six (6) months of the probationary period unless the denial of such leave will create an undue hardship.
- C. Each regular salaried employee (except for Fire Fighters) occupying a permanently established budgeted position shall earn annual leave on a monthly basis in accordance with the following schedule of total service:

| <u>Years of Service</u> | <u>Days Earned/Hours Earned Per Month</u> | <u>Days Earned/Hours Earned Per Year</u> |
|-------------------------|---|--|
| 0 to 1 year | .417 day/3.33 hours | 5 days/40 hours |
| 1 to 5 years | .835 day/6.66 hours | 10 days/80 hours |
| 5 to 10 years | 1.25 days/10 hours | 15 days/120 hours |
| 10 to 15 years | 1.50 days/12 hours | 18 days/144 hours |
| 15 to 20 years | 1.75 days/14 hours | 21 days/168 hours |
| 20 to 25 years | 2.00 days/16 hours | 24 days/192 hours |
| 25 years or more | 2.08 days/16.7 hours | 25 days/200 hours |

An employee must be on pay status a minimum of one-half (½) of the working days or hours out of the month in order to earn annual leave for that month.

- D. Each regular salaried Fire Fighter occupying a permanently established budgeted position shall earn annual leave on a monthly basis in accordance with the following schedule of total service:

| <u>Years of Service</u> | <u>Vacation Multiplier per hr.</u> | <u>Vacation Hours earned per Year (Based on 122 shifts per year or 2,928 hours)</u> |
|-------------------------|------------------------------------|---|
| 0 to 1 year | 0.0192 | 56.22 |
| 1 to 5 years | 0.0385 | 112.73 |
| 5 to 10 years | 0.0577 | 168.95 |
| 10 to 15 years | 0.0692 | 202.62 |
| 15 to 20 years | 0.0808 | 236.58 |
| 20 to 25 years | 0.0923 | 270.25 |
| 25 years or more | 0.0962 | 281.67 |

- E. On December 31st, any employee with more than five (5) days, or 40 hours, of accumulated leave shall have the excess accumulation rolled over to sick time.
- F. Annual leave shall be taken with the prior approval of the employee's department head that is responsible for ensuring that the granting of such leave will not interfere with the normal operations of the department. Annual leave shall be taken in increments of two (2) hours.
- G. Any employee who separates in good standing and is reinstated within three (3) years may receive credit for previous service for the purpose of accruing annual leave. The total months of previous service will be recognized at the end of the probationary period of one (1) year.
- H. An employee who is separated shall be paid for any remaining annual leave accumulated to the date of separation, which is not to exceed a maximum of thirty (30) days or 240 hours. Any annual leave taken in excess of that

earned will require that the employee reimburse the Town for the appropriate amount.

- I. The estate of an employee who dies while employed by the Town shall be entitled to payment for all of the employee's remaining accumulated annual leave up to a maximum of thirty (30) days or 240 hours.

Section 5. Sick Leave

- A. Sick leave is a privilege granted by the Town and employees may be granted sick leave for absence due to the following: 1) sickness or bodily injury that prevents the employee from performing regular duties; 2) medical or dental appointments; 3) exposure to a contagious disease when continuing poses a health risk to other employees; 4) when the employee must attend to a sick family member, specifically a spouse, parent, or child; 5) a death in the employee's immediate family, not to exceed three (3) days for any one occurrence.
- B. Each regular salaried employee occupying a permanently established position shall earn sick leave on a monthly basis at the rate of one (1) day, or 8 hours, per calendar month. An employee must be on pay status a minimum of one-half (½) of the working days or hours out of the month in order to earn sick leave for that month.
- C. Employees must notify the department head of their request for sick leave before the leave is taken, or not later than two (2) hours after the beginning of a scheduled working day. Sick leave may be taken only with the approval of the department head.
- D. The employee's department head or the Town Manager may require a statement from a physician, or other acceptable proof that the employee was unable to report for work, as a condition of approving sick leave. At the expiration of an authorized sick leave period, the employee's department head or the Town Manager may require a physical and/or mental examination at the Town's expense, and by a physician of its choice, to determine if the employee is able to resume normal duties.
- E. Sick leave earned monthly is allowed as creditable service at the time of retirement to employees who are members of the North Carolina Local Government Employees' Retirement System. One (1) month of credit is allowed for each twenty (20) days of unused sick leave when an employee retires, and one (1) additional month is credited for any part of twenty (20) days' unused sick leave remaining.

- F. Unused sick leave from another North Carolina government agency and/or entity will be accepted and transferred to the Town as follows:
 - 1. The maximum amount of sick leave added or accepted will be fifty (50) days or 400 hours.
 - 2. An amount totaling fifty percent (50%) of the sick leave balance transferred may be credited to the employee after completion of the probationary period of one (1) year. The remaining fifty percent (50%) will be credited to the employee after completion of three (3) years' service.
 - 3. Verification of accumulated sick leave must be received in writing from the previous employer.
 - 4. The transfer must be completed within three (3) years of the employee's separation date from the previous employer.

- G. Employees who retire or resign and are not reinstated with the Town within a period of three (3) years shall lose all sick leave credits. No employee shall be paid for any accrued sick leave if the employee is terminated.

Section 6. Family and Medical Leave

- A. The Town abides by the provisions of the Family and Medical Leave Act of 1993 (FMLA), which mandates the granting of up to twelve (12) weeks of unpaid leave per year for any one of three reasons: 1) an employee's serious health condition; 2) the birth of a child to or the adoption of a child by an employee-parent; or 3) an employee's need to care for a child, a spouse, or a parent who has a serious health condition.

- B. In order for an employee to qualify for coverage under the FMLA, the employee must have worked for the Town for at least twelve (12) months and also have worked 1,250 hours during the twelve (12) month periods preceding the claim of coverage. The leave year for FMLA purposes is from January 1st to December 31st.

- C. If an employee and a spouse work for the Town, they are limited to a total of twelve (12) weeks of leave in a twelve (12) month period for childbirth, placement, or caring for a sick parent.

- D. When medically necessary, leave may be taken intermittently or on a reduced-time schedule. In such a case, the Town may transfer the employee temporarily to another position for which the employee is qualified and that will better accommodate the recurring periods of leave. The alternative

position is required to have equivalent pay and benefits, but not equivalent duties.

- E. In cases when the need for leave is foreseeable, such as an expected birth or a planned medical treatment, the employee is required to provide the Town with at least thirty (30) days' notice before the date on which the leave is to begin. When circumstances prevent the employee from giving thirty days' notice, the employee is to provide notice as soon as practicable.
- F. The entitlement to leave for birth or child placement expires one year after the date of childbirth or placement. Childbirth or placement leave is to be taken in one block of time up to twelve (12) weeks.
- G. Requests for leave under the FMLA are granted based on medical certification by a health-care provider and such certification must be furnished to the Town in a timely manner. All certificates must contain three statements: 1) the date on which the serious health condition began; 2) the probable duration of the condition; and 3) the appropriate medical facts known by the health-care provider regarding the condition.
 - 1. If the leave request is for an employee with a serious medical condition, the certificate must include a statement that the employee is unable to perform the functions of his or her position.
 - 2. If the leave request is to care for a family member, the certificate must contain a statement that the employee is needed to provide such care.
 - 3. If the employee is making request for intermittent or reduced-time leave, the certificate must state an estimate of how long the leave will be needed.
- H. The Town is required to determine and designate in advance of leave starting whether any paid leave to be taken counts toward an employee's FMLA entitlement, and so notify an employee immediately upon learning that it qualifies as FMLA leave. Only when leave has already begun and the Town had insufficient information to determine whether it qualified under FMLA can it be retroactively designated as FMLA leave.
- I. Employees are entitled to reinstatement at an equivalent position that is virtually identical to the employee's former position in terms of pay, benefits, and working conditions, including perquisites and status. Employees also retain coverage under any group health plan for the duration of FMLA leave.

Section 7. Other Leave Without Pay

- A. Leave without pay, separate or beyond that required by the FMLA, is available only if it is firmly established that the employee intends to return to the position from which leave was taken. Employees may be granted leave without pay for three (3) month intervals up to a year, inclusive of FMLA required leave. Any continuation of leave after each three (3) month period is subject to the approval of the Town Manager. Failure to report for duty at the expiration of a leave-without-pay period, unless an extension has been granted, shall be considered a resignation.
- B. An employee shall retain all unused annual and sick leave while on leave-without-pay status. Annual and sick leave credits will not be accrued during leave without pay. The employee will remain eligible for benefits under the Town's group insurance plan, subject to regulations adopted by the Town Council or the group insurance carrier.

Section 8. Military Leave

- A. An employee who is a member of the National Guard or Armed Forces Reserve will be allowed ten (10) working days of military training leave annually. If the compensation received while on military training is less than the salary that would have been earned during this same period as an active employee, the employee shall receive partial compensation equal to the difference between the base salary earned as a reservist and the salary that would have been earned during this same period as a Town employee. If such military duty is required beyond this period of ten (10) working days, the employee shall be eligible to take accumulated annual leave or be placed on leave-without-pay status.
- B. While on military leave with partial pay or without pay, the employee's leave credits and other benefits shall continue to accrue as if the employee remained with the Town during this period. Employees who are reservists have all applicable job rights specified in the Veterans Readjustment Assistance Act.

Section 9. Court Leave

A town employee called for jury duty or as a court witnesses for the federal or state government or a subdivision thereof is entitled to leave with pay. The employee may retain the fees received for such duty if a normal shift was worked on that day, otherwise any fees received will be turned over to the Town.

Section 10. Petty Leave

A town employee, at the discretion of the employee's department head, may be given such time off as necessary to handle personal matters that are normally only rendered during working hours. To the extent possible, such appointments should be made outside of normal working hours.

Section 11. Adverse Weather Conditions

Town offices and departments shall remain open for the full scheduled working day unless authorization for late openings, early closing or other deviation is received from the Town Manager's office. All departments and offices will be given sufficient advance notice of any authorized early closings. Employees who leave work before an official early closing time, as well as employees who report for work late or not at all, will be required to use earned annual leave for days or hours taken.

Article VII. Employee Benefits

Section 1. Insurance Benefits

- A. The Town may provide medical and dental insurance to each full-time permanent employee upon completion of a waiting period of thirty (30) days after initial hire. Employees may elect to include coverage for family members. Employees shall be enrolled in the programs in accordance with the provision of the insurance contracts negotiated by the Town.
- B. All retired personnel who have thirty (30) years of full-time service with the Town of Wilkesboro shall receive continuing insurance to be paid for by the Town. To calculate the thirty (30) year requirement an employee can count unused sick time towards the requirements as provided by the NC Local Government Retirement System. A retiree's spouse and eligible dependents may also be covered. A retired employee's spouse and eligible dependents may continue to receive coverage upon death of the employee. However, if a retiree's spouse remarries after the death of the retiree, the spouse will no longer be eligible for insurance coverage.

Section 2. Unemployment Compensation

Employees who are laid off or dismissed from Town service may apply for unemployment compensation through the local office of the Employment Security Commission. The Employment Security Commission will determine eligibility for unemployment compensation.

Section 3. Social Security

The Town shall extend Social Security benefits to eligible employees in accordance with the provisions of the Social Security Act.

Section 4. Local Government Employees' Retirement System

Each employee in a budgeted position, working a minimum of 1,000 hours per year, will be enrolled in the Local Government Employees' Retirement System. Employees shall be enrolled in the LGERS upon completion of a waiting period of one (1) month after initial hire. The LGERS provides employees with retirement and death benefits in accordance with established criteria.

Section 5. Other Benefits

The Town of Wilkesboro, as the employer, provides the following additional benefits to employees:

A. Workers' Compensation

1. Workers compensation is provided by state and statute to all Town employees. The North Carolina Industrial Commission regulates this. Workers compensation provides for payment of medical expenses and two thirds of weekly loss earnings up to a maximum established yearly by the North Carolina Industrial Commission. The burden of proof is on the employee to establish as fact that he/she suffered an injury by accident that arose out of and in the course of Town employment. Some occupational diseases are recognized as long as the disease is due to causes and conditions characteristic and peculiar to the employment, and the particular employment conditions must place the worker at greater risk than the general public of contracting the disease.
2. It is the responsibility of the employee to immediately report to his/her supervisor, or Department Head, any injury or illness as described above. The Department Head is required to report this information immediately to the Town Manager's Office. The workers compensation insurance administrator must approve all medical treatment. In case of an emergency, the employee should be transported immediately to the nearest emergency facility with instructions on submitting the medical records and charges directly to the Town of Wilkesboro.
3. It is the policy of the Town of Wilkesboro to demand a drug test be performed immediately on any employee involved in an accident while on the job working for the Town of Wilkesboro. Failure of the employee to consent to such test will result in disciplinary action, up to and including dismissal.
4. It is the responsibility of the Department Head to immediately notify the Finance Officer of an employee unable to return to work after an accident covered under worker's compensation, as a Personnel Action Form must be submitted placing the employee on leave without pay and reinstating the employee as appropriate.
5. It is the responsibility of the Department Head to immediately notify the Town Manager's Office so that a claim report may be filed with the insurance carrier.
6. The Worker's Compensation Act provides that no compensation will be due to the injured employee for the first seven (7) days away from work,

unless this time exceeds twenty-one (21) days. The approved treating physician will pay no compensation for time away from work without authorization.

7. Reimbursement for prescriptions will be issued only after the employee submits properly completed forms. No reimbursement will be made for travel to and from the doctor or hospital unless travel is beyond a ten (10) mile radius and the employee submits the request for reimbursement on the proper form. Applicable forms must be completed in full and returned to the Town Manager's Office.
8. Failure to cooperate with the approved treating physician can result in termination of benefits. When the treating physician releases an employee to work, no further workers compensation will be due.

B. **Section 401(K) Plan**, Supplemental Retirement Income Plan of North Carolina

C. **Deferred compensation plans**, authorized by Section 457 of the Internal Revenue Code

D. **Sworn Law Enforcement Officers Special Separation Allowance**

- a. On and after January 1, 1987, every sworn law enforcement officer as defined by G.S. 128-21(11d) or G.S. 143-166.50(a)(3) employed by a local government employer who qualifies under this section shall receive, beginning in the month in which the officer retires on a basic service retirement under the provisions of G.S. 128-27(a), an annual separation allowance equal to eighty-five hundredths percent (0.85%) of the annual equivalent of the base rate of compensation most recently applicable to the officer for each year of creditable service. The allowance shall be paid in equal installments on the payroll frequency used by the employer. To qualify for the allowance, the officer shall:
 1. Have (1) completed 30 or more years of creditable service or (2) have attained 55 years of age and completed five or more years of creditable service; and
 2. Not have attained 62 years of age; and
 3. Have completed at least five years of continuous service as a law enforcement officer as herein defined immediately preceding a service retirement. Any break in the continuous service required by this subsection because of disability retirement or disability salary continuation benefits shall not adversely affect an officer's qualification to receive the allowance, provided the officer returns

to service within 45 days after the disability benefits cease and is otherwise qualified to receive the allowance.

- b. As used in this section, "creditable service" means the service for which credit is allowed under the retirement system of which the officer is a member, provided that at least fifty percent (50%) of the service is as a law enforcement officer as herein defined.
- c. Payment to a retired officer under the provisions of this section shall cease at the first of:
 - 1. The death of the officer;
 - 2. The last day of the month in which the officer attains 62 years of age;
 - 3. The first day of reemployment of the former officer in any capacity by the State of North Carolina or any of its political subdivisions, including any county, city or town in North Carolina.
- d. Payments will be made through the Town's payroll system and subject to all standard deductions. Payee will be issued a W-2 following the end of each year a payment is received.

Article VIII. Separation, Disciplinary Action, & Reinstatement

Section 1. Types of Separation

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

If any provision of this policy or any rule, regulations or order there under of the applicant of such provision to any person or circumstances is held invalid, the remainder of this policy and the applicant of such remaining provisions of this policy of such rules, regulations or orders to persons or circumstances other than those held invalid will not be affected thereby.

Section 2. Resignation

- A. An administrative, professional, technical, or supervisory employee should give written notice of the intention to resign two (2) weeks in advance of the effective date. A craftsman, skilled or semi-skilled laborer should give verbal notice of the intention to resign one (1) week in advance of the effective date. The Town reserves the right to require more advance notice for certain personnel if two (2) weeks is not sufficient time to avoid an undue hardship.
- B. An employee who fails to give advance notice of the intention to resign may forfeit pay for accrued leave and such failure may be grounds for denial of reinstatement with the Town.

Section 3. Reduction in Force

In the event that a reduction in force becomes necessary, consideration shall be given to the quality of each employee's performance as documented by current performance appraisals, organizational needs, and seniority, in determining the employees to be retained. Employees who are laid off because of a reduction in force shall be given at least two (2) weeks' notice. No permanent employee shall be separated while there are temporary employees serving in the same class in the department unless the permanent employee is not willing to transfer to the position held by the temporary employee.

Section 4. Disability

An employee may be separated for disability when the employee cannot perform the required duties because of a physical or mental impairment. The employee or the Town may initiate action for disability separation, but in all cases,

consideration for disability separation shall be supported by medical evidence as certified by a physician. The Town may require a physical and/or mental examination at its expense and by a physician of its choice. Every reasonable effort will be made to locate appropriate alternative positions before an employee is separated for disability.

Section 5. Discipline and Dismissal

- A. An employee may be reprimanded, suspended, or demoted by the employee's department head for just cause. When dismissal is deemed to be appropriate, the department head will recommend such action to the Town Manager for a final decision.
- B. An employee who is reprimanded, suspended, demoted, or dismissed for unsatisfactory performance of duties shall receive at least three (3) warnings before disciplinary action is taken.
 - 1. The employee's supervisor must issue one (1) or more verbal warnings.
 - 2. If verbal warning does not result in improved performance, the supervisor, specifying the employee's performance deficiencies and the steps required to achieve satisfactory performance, must issue a written warning.
 - 3. If performance still does not improve, the department head must issue a final written warning. A final written warning serves notice to the employee that corrective action must be taken immediately to avoid disciplinary action. The supervisor and the department head will record the dates of their discussions with the employee, the deficiencies discussed, and corrective actions recommended and file this information in the employee's personnel file.
- C. An employee may be reprimanded, suspended, demoted, or dismissed for reasons of misconduct without prior warning or disciplinary action.
- D. An employee may be suspended without notice by the department head for causes related to personal conduct in order to avoid undue disruption of work, to protect the safety of persons or property, or for other serious reasons. When a department head suspends an employee without notice, the employee shall be required to leave Town property at once and remain away until further notice. The department head shall notify the Town Manager immediately. A written summary giving the circumstances and the facts leading to the immediate suspension shall be prepared with one (1) copy shall be delivered to the employee by certified mail and one (1) copy shall be filed in the employee's personnel file.

- E. In advance of any disciplinary action, whether for misconduct or unacceptable performance, the department head shall provide the employee with a written notice of proposed disciplinary action, which will include the nature of the proposed action, its recommended effective date, the reason(s) for the action, and a date and time for a pre-disciplinary conference. At the pre-disciplinary conference, the employee may present a response to the proposed disciplinary action to the department head. The department head will consider the employee's response, if any, to the proposed disciplinary action and shall, after a period of at least 24 hours, but within two (2) working days after the conference, notify the employee in writing of the final decision to take disciplinary action. The notice of final disciplinary action shall contain a statement of the reason(s) for the action and the employee's appeal rights. Any documentation shall be kept in the employee's personnel file.

Section 6. Suspension

- A. Suspension without pay may be used to provide time to investigate, establish facts, and reach a decision concerning an employee's status. The Town may also elect to use suspension to avoid undue disruption of work or to protect the safety of persons or property.
- B. A suspension without pay shall not exceed thirty (30) calendar days. If no action has been taken by management at the end of thirty (30) days, one of the following must occur: 1) reinstatement of the employee with full back pay; 2) appropriate disciplinary action based on the results of any investigation; or 3) reinstatement of the employee with up to three (3) days' pay deducted from back pay. The decision to deduct pay is to be based upon management's determination of the degree to which the employee was responsible for or contributed to the reasons for suspension.

Section 7. Employee Appeal

An employee wishing to appeal a reprimand, demotion, suspension, or dismissal may present the matter using the grievance procedure prescribed in Article IX of this policy.

Section 8. Reinstatement

- A. An employee who resigns while in good standing, or who is separated because of a reduction in force, may be reinstated within three (3) years of the date of separation, with the approval of the department head and the Town Manager.

- B. An employee who enters extended active duty with a reserve component of the Armed Forces of the United States will be granted reinstatement rights provided under federal law.

Section 9. Return of Town Property Upon Separation

Employees who separate must return Town property, including uniforms, to the Town. Failure to return such property will result in the holding of any pay due the employee until such time as all Town property is returned in satisfactory condition.

Section 10. Damage to Town Property

When a department head has determined that an employee has willfully and negligently damaged or destroyed town property, the department head shall inform the town employee of such finding. The department head shall request that the employee pay for the damage within a reasonable time. The failure of the employee to pay for the damage or destruction of said property shall be grounds for terminating the employee/employer relationship between the employee and the Town.

The department head shall notify the employee in writing of his decision and furnish a copy to the Town Manager.

In the event the employee disagrees with the decision of the department head, the decision can be appealed to the Town Manager within five (5) working days. The Town Manager shall notify the employee and the department head of his/her determination in writing.

Section 11. Exit Policy for Termination/ Transfer of Employment

- A. When an employee resigns, retires or leaves the employment of the Town of Wilkesboro, the department head shall write a letter to the employee acknowledging the resignation or retirement, scheduling an exit interview and notifying the employee of the designated town employee in which to return town property.
- B. When an employee resigns, retires or leaves the employment of the Town of Wilkesboro or transfers to another department, the immediate supervisor will review and research what the Town of Wilkesboro property is in the employee's possession.
- C. The supervisor will discuss with the terminating/transferring employee, prior to leaving, arrangements for the return of the Town of Wilkesboro property.

- D. A formal exit interview will be arranged between the employee and the supervisor.
- E. The supervisor and the employee will ensure that property is returned and secured.
- F. The supervisor will ensure that all areas of the department are informed of the termination/transfer of the staff member.
- G. The supervisor will arrange for the staff member to remove all personal property from office space, desk, or department.
- H. The supervisor will arrange for removal/changing of computer codes, telephone equipment/voice mail, and telephone lists.
- I. The supervisor will discuss with the employee the final payroll arrangements, pension implications and changes to benefits.

Article IX. Grievance Procedure

Section 1. Purpose

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

Section 2. Coverage

This grievance procedure applies to all departments and all employees of the Town.

Section 3. Procedure

Every employee shall have the right to present a grievance in accordance with these procedures, with or without a representative and free from interference, coercion, restraint, discrimination, penalty, or reprisal.

- A. **Step One.** An employee must file a grievance, either orally or in writing, with the immediate supervisor within thirty (30) days of the date of the incident-giving rise to the grievance. The department head shall meet with the employee within five (5) days of receipt of the grievance and attempt to resolve it informally. If informal resolution efforts fail, the employee may proceed to Step Two. If an employee alleges sexual harassment by a supervisor, the employee may file the complaint directly with the Town Manager, who will investigate and take appropriate action, if any. If the grievance concerns a dismissal, it shall be filed directly with the Town Manager as in Step Three.
- B. **Step Two.** If an employee is dissatisfied with the response at Step One, the employee may file the grievance in writing with the department head within five (5) days after meeting and discussing the matter with the immediate supervisor. The written grievance should state concisely the basis for the complaint. The department head shall meet with the employee within five (5) days of receipt of the written grievance and shall make an independent determination on the merits of the grievance. The department head shall then issue a written decision no later than ten (10) days after meeting with the employee.
- C. **Step Three.** If an employee is dissatisfied with the response at Step Two, the employee may forward the written grievance to the Town Manager within five (5) days of receipt of the decision from Step Two. The Town Manager will provide said written grievance to the Mayor and Personnel Councilman upon receipt. The employee may request a decision from the Town Manager or may request a hearing before the Personnel Advisory Committee. If the employee requests a decision directly, the Town Manager

will render a written decision within fifteen (15) days of receipt of the grievance. If the employee or the Town Manager requests the services of the Personnel Advisory Committee, the procedures set forth in Section 4 will apply.

Section 4. Personnel Advisory Committee

The Personnel Advisory Committee shall be comprised of three people – the Town Manager, the Personnel Councilman, and the Mayor (who will act as chairperson). An employee or the Town Manager may request a hearing and, at the same time, either party may submit a written request that the hearing be recorded. The hearing shall be conducted within fifteen (15) working days of the date on which the hearing was requested and during regular working hours. The Personnel Advisory Committee, the grievant, and any person whose alleged conduct is the cause of complaint shall have the right to call and cross-examine witnesses and offer other evidence. The Personnel Advisory Committee shall submit its recommended decision to the Town Manager or the other appointing authority within five (5) working days of the hearing.

Section 5. Final Decision

Upon receiving the recommended decision of the Personnel Advisory Committee, the Town Manager shall inform the employee and the department head, in writing, of the final decision. The final decision will be furnished within five (5) working days of receipt of the recommended decision of the Personnel Advisory Committee.

Section 6. Maintenance of Records

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

Section 7. Other Remedies Preserved

The existence of the grievance procedure does not preclude any individual from pursuing any other remedies available under law.

Article X. Personnel Records

Section 1. Personnel Records Maintenance

The Town Clerk as are necessary for the proper administration of the personnel system will maintain such personnel records. The Town shall maintain in personnel records only information that is necessary and relevant to accomplishing legitimate personnel administration needs.

Section 2. Information Open to the Public

The following information on each Town employee is public information:

1. Name.
2. Age.
3. Date of original employment or appointment.
4. The terms of any contract by which the employee is employed whether written or oral, past and current, to the extent that the city has the written contract or record of the oral contract in its possession.
5. Current position.
6. Title
7. Current salary (includes pay, benefits, incentives, bonuses, and deferred and all other forms of compensation paid by the employing entity).
8. Date and amount of each increase or decrease in salary with that municipality.
9. Date and type of each promotion, demotion, transfer, suspension, or other change in position classification with that municipality.
10. Date and general description of the reasons for each promotion with that municipality.
11. Date and type of each dismissal, suspension, or demotion for disciplinary reasons taken by the municipality. If the disciplinary action was a dismissal, a copy of the written notice of the final decision of the municipality setting forth the specific acts or omissions that are the basis of the dismissal.
12. Office to which employee is currently assigned.

Section 3. Access to Personnel Records

As required by G.S. 160A-168, any person may have access to the information listed in Section 2 of this Article for the purpose of inspection, examination, and copying during regular business hours. Any person denied access to any record should have a right to compel compliance with these provisions by application to a court for writ of mandamus or other appropriate relief.

Section 4. Confidential Information

All information contained in an employee's personnel file, other than the information listed in Section 2 of this Article, will be maintained as confidential information in accordance with the requirements of G.S. 160A-168 and shall be open to public inspection only in the following instances:

- A. The employee, or a designee, may examine all portions of the employee's personnel file, except letters of reference solicited before employment, and information concerning a medical disability that a prudent physician would not divulge to a 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. Any person may examine all material in the employee's personnel file by order of a court of competent jurisdiction.
- E. An official of any agency of the state or federal government, or any political subdivision of the state, may inspect any portion of a personnel file when such information is deemed by the custodian of the files to be necessary and essential to the pursuance of a proper function of the inspecting agency. However, 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.

Section 5. Records of Former Employees

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

Section 6. Remedies of Employees Objecting to Material in File

An employee who objects to material in his or her file may place in the file a statement relating to the material the employee considers to be inaccurate or misleading. The employee may seek the removal of such material in accordance with the grievance procedure. Per North Carolina Administrative police employee records can never be removed from permanent files.

Section 7. Remedies of Police Objecting to Material in File

Per North Carolina Administrative Code police employee records can never be removed from permanent files.

Section 8. Penalty for Permitting Access to Confidential File by Unauthorized Person

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 authorized in Section 4, may be judged guilty of a misdemeanor and upon conviction be fined in an amount consistent with the General Statutes.

Section 9. Destruction of Records

No public official may destroy, sell, loan, or otherwise dispose of any public record, except in accordance with G.S. 121-5(b), 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 an amount consistent with the General Statutes.