



TOWN OF SOUTHERN SHORES
TOWN COUNCIL REGULAR MEETING

5375 N. Virginia Dare Trail, Southern Shores, NC 27949

Phone 252-261-2394 / Fax 252-255-0876

www.southernshores-nc.gov

PITTS CENTER

Tuesday, November 09, 2021 at 5:30 PM

AGENDA

Call Meeting to Order

Pledge of Allegiance

Moment of Silence

Amendments to / Approval of Agenda

Consent Agenda

1. Minutes-October 5, 2021 and October 19, 2021
2. Resolution 2021-11-01 Deputy Finance Officer
3. Update to Fee Schedule- use of a credit card processing / convenience fee.

Presentations

4. Sgt. George Farrow-Retirement

Staff Reports

Deputy Town Manager/Planning Director

Police Chief

Fire Chief

Town Manager

- Veterans Day
- Cell Towers
- BRIC Grant

Town Attorney

General Public Comment (Limit: 3 minutes per speaker.)

Old Business

5. Discussion of Citizen's Advisory Committee-Exploratory Committee for Potential Branch Library.

New Business

6. Personnel Policy Updates
7. Budget Amendment #14 Legal fees to obtain easements for beach nourishment
8. Public Hearing-ZTA-21-08 Regulations Governing Signs
9. Appointments to the Reconstruction Task Force

General Public Comment (Limit: 3 minutes per speaker.)

Council Business

Adjourn



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Phone 252-261-2394 / Fax 252-255-0876
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PITTS CENTER
Tuesday, October 05, 2021 at 5:30 PM

Includes corrected
version 2021.11.10

Item 1.

MINUTES

1 **Call Meeting to Order**

- 2 Pledge of Allegiance
3 Moment of Silence

4 **PRESENT**

- 5 Mayor Tom Bennett
6 Mayor pro tem Elizabeth Morey
7 Council Member Jim Conners
8 Council Member Leo Holland
9 Council Member Matt Neal

10

11 **Amendments to / Approval of Agenda**

- 12 **Motion** made by Council Member Holland to approve the agenda as presented, Seconded by Council
13 Member Conners. The motion passed unanimously (5-0).

- 14 Voting Yea: Mayor Bennett, Mayor pro tem Morey, Council Member Conners, Council Member
15 Holland, Council Member Neal

16

17 **Consent Agenda**

- 18 The consent agenda consisted of the following:

- 19 1. Joint Beach Nourishment Easements with Town of Duck
20 2. Updates to Town's Emergency Management Plan
21 3. Minutes- Regular Mtg. 9/7, Workshop Mtg. 8/17, 5/18, and Closed Session 7/6 (not in packet)

- 22 **Motion** made by Council Member Conners to approve the consent agenda as presented, Seconded by
23 Council Member Holland. The motion passed unanimously (5-0).

- 24 Voting Yea: Mayor Bennett, Mayor pro tem Morey, Council Member Conners, Council Member
25 Holland, Council Member Neal

26

27 **Presentations**

28 4. Introduction of Department Interns

- 29 Town Manager Ogburn stated the administration department intern for the current year is First
30 Flight High School junior and Southern Shores resident Hunter Braithwaite.

- 31 Fire Chief Limbacher introduced his department's intern, First Flight High School Senior and
32 Southern Shores resident Nick Gardill.

33 Police Chief David Kole introduced his department's intern, Joseph Krieg, a First Flight High School
34 senior and Southern Shores resident.

35

36 5. FY2020-21 Annual Audit Presentation-Teresa Osborne, Dowdy & Osborne

37 Teresa Osborne presented the annual audit report and financial highlights:

- 38 • The town has received an unqualified/unmodified opinion on its financial statements,
39 which is the best opinion that you can receive.
- 40 • The assets and deferred outflows of resources of the Town of Southern Shores exceeded
41 its liabilities and deferred inflows of resources at the close of the fiscal year by \$
42 17,123,282 (net position).
- 43 • The government’s total net position increased by \$ 895,496, due to a combination of
44 factors including revenues over expenses in the governmental funds of \$ 1,119,775
45 adjusted by several factors to convert to the full accrual basis of accounting. These
46 adjustments include capitalization of assets (net of depreciation and disposals) in the
47 current year amount of \$ 24,222 full accrual revenue adjustments of (\$ 30,609) and long-
48 term debt adjustments of (\$ 217,892).
- 49 • As of the close of the current fiscal year, the Town of Southern Shores’ governmental
50 funds reported combined ending fund balances of \$ 8,330,476, an increase of \$1,119,775
51 over the prior year. Approximately 22% of this total amount or \$ 3,141,360 is non-
52 spendable, restricted, committed or assigned.
- 53 • At the end of the current fiscal year, unassigned fund balance for the General Fund was
54 \$5,189,116 or 82% of total general fund expenditures for the fiscal year.
- 55 • Total property valuation increased \$ 254,095,003 (18%) from \$ 1,384,046,468 in fiscal
56 year 2020 to \$ 1,638,141,471 in fiscal year 2021.
- 57 • The general fund budget for the year was adopted with a revenue neutral tax rate of
58 19.58 cents per \$ 100 of assessed valuation. Estimated appeals from revaluation came in
59 less than 5% budgeted so the current year net tax levy excluding motor vehicle taxes came
60 in \$ 149,720 more than the prior year.

61 Teresa Ogburn stated a copy of the full audit will be available on the Town’s website once LGC
62 approval is received.

63

64 6. Exploratory Committee for A Potential Branch Library -Update

65 Michael Fletcher and Liliias Morrison presented an update of the progress of the Potential Branch
66 Library Committee. The committee has presented their findings to Dare County Commissioners
67 and have been trying to make progress with the Dare County Library board. Both Mr. Fletcher and
68 Ms. Morrison stated that they are extremely frustrated by the lack of communication and
69 transparency with the Dare County Library Board, as well as Dare County Commissioner and
70 Southern Shores representative Steve House. Two members of the Southern Shores Potential
71 Branch Library Committee have even submitted applications to fill the County Library Board
72 vacancies. They have received no response or communication. The Exploratory Committee for A
73 Potential Branch Library if to continue, would like more Council support and backing with the
74 Library Board and Dare County.

75
76 Mayor Bennett stated from individual talks with some of the County Commissioners there seems
77 to be little support and no desire to move forward.

78

79 Town Manager Ogburn stated that sometimes no answer is an answer and the feeling he has
 80 gotten from the county is that they have libraries where they need them and the will to move
 81 forward is just not there.

82

83 Council Members Connors stated Mike Fletcher and the committee members deserve an answer
 84 from the county, regardless of the answer.

85

86 Michael Fletcher stated he is still determined to have a library.

87

88 Council Member Neal asked Mr. Fletcher and Ms. Morrison if they felt it was worth it? Michael
 89 Fletcher stated yes, and there may be other options to pursue.

90

91 **Staff Reports**

92 7. Deputy Town Manager/Planning Director Wes Haskett presented the Planning Department's
 93 monthly report for September. The Planning Board's next scheduled meeting is October 18th at
 94 5:00 pm. consisting of further discussions on ZTA-21-08, produce stands, and maximum allowable
 95 lot coverage Section 36-202 (d6).

96 Police Chief Kole presented his department's monthly report for September.

97 Fire Chief Limbacher presented a monthly report for September.

98 Town Manager Ogburn reported on the following operational highlights:

- 99 • Beach nourishment update on the savings from the beach nourishment project. Bids
 100 came in under budget with an overall project savings of 3,777,498. The Town's portion
 101 of payment for the project has always been the equivalent of 7.82 cents on our levy.
 102 The county was paying 38.11 % of the project. Because the county was holding
 103 Southern Shores at the 7.82, they were contributing a large amount of that debt
 104 service to the project to make up the difference of the expected cost. When the bids
 105 came in underestimate, the county's debt service dropped from 2.4 million to 75,000.
 106 This eliminated the county's debt service plus generated a saving to the Town in the
 107 amount of \$100,019.00.
- 108 • BRIC grant- The letter of interest was submitted last week, and staff should here back
 109 by October 15th if it was approved to move on to the next stage of funding.
- 110 • The Tourism Grant for more traffic analysis was submitted. The time frame to hear
 111 back is uncertain.
- 112 • Some property owners in Town may receive a safety protocol letter from the US Army
 113 Corps of Engineers regarding the former practice aircraft training area in Southern
 114 Shores which existed in the 1940s. The US Army Corps of Engineers is notifying
 115 property owners of safety protocols. USACE will provide landowners on a FUDS MRS a
 116 notification letter and a site-specific safety guide at least once every five years. The
 117 concern level is low as an inspection is not to be done until the earliest, 2041.

118

119 **General Public Comment**

120 None

121

122

123 **Old Business**124 8. Update on SEPI Pavement Conditions Study & Capital Improvement Plan

125 Town Manager Ogburn addressed a third option for the CIP plan discussed by Council at its' August
 126 17, 2021 workshop meeting. The agenda summary read as; the Town has received the final
 127 Pavement Conditions Study & Capital Improvement Plan. The report contains two options for
 128 implementing the CIP:

129 Option 1 (\$675K) includes work on 38 miles of road and improves the system from
 130 approximately 27% Good/Excellent to 53% Good/Excellent. This improvement mostly comes
 131 from the conversion of fair roads to good. Some fair fall into Poor (20%) with this option at the
 132 end of the plan due to a funding shortfall.

133 Option 2 includes work on 57 miles of road and improves the system to 99% Good/Excellent.
 134 A similar approach as Option 1 is utilized but the increased budget allows for more extensive
 135 rehabilitation and a resulting higher performance.

136 Previously, the Town Council discussed a third option which would fall between the two options
 137 presented in the SEPI Report and would include roughly \$800,000 in road improvements. If the
 138 Town committed \$1million in yearly funding, approximately \$200,000 would be available for
 139 construction or could be carried forward in a Capital Reserve Fund. Staff has received a quote of
 140 \$4,000 to perform the analysis to produce this option.

141 Staff recommends the Town Council consider funding the third option and provide staff with
 142 direction on how to proceed. If the Council chooses to fund the third option, SEPI has stated that
 143 they could have the report completed by October 15, 2021.

144 Town Manager Ogburn stated the \$4000 to do the extra analysis can come from the current
 145 budget for the Hillcrest Drive project. Council can discuss at the October 19th workshop meeting
 146 how to move forward with this plan.

147 Council Member Connors asked if it was necessary to keep the Capital Improvement Committee?
 148 Town Manager Ogburn stated citizen input is always good to have but for now the SEPI Plan
 149 should be followed. The committee's charge would need to be drastically changed.

150 Mayor pro tem Morey stated the Town has so many roads that need attention. We are already
 151 behind with improvements and feels it is important for the Council to refocus and accept that we
 152 need to do things a little differently from the way we have done in the past. Having SEPI as the
 153 framework to work from and modify it if necessary. Council needs to give it a try and she fully
 154 supports it.

155 Council Member Connors agreed and supports the plan as well. The Capital improvement
 156 Committee needs to be brought up to speed.

157 Council Member Neal asked if the first-year renewed analysis would increase from \$675,000 to
 158 this year's appropriated expenditures? Town Manager Ogburn stated he would ask SEPI to do that.

159

160 Council Member Neal **moved** to authorize the Town Manager to enter a contract with SEPI
 161 Engineering in an amount not to exceed \$4,000 to provide additional analyses, Seconded by
 162 Council Member Connors. The motion passed unanimously (5-0).

163 Voting Yea: Mayor Bennett, Mayor pro tem Morey, Council Member Connors, Council Member
 164 Holland, Council Member Neal

165

166 **New Business**167 9. Beach Nourishment

168 A Resolution Providing for the Issuance of Special Obligation Bond, Series, 2021A & Consideration
169 of Beach Nourishment Interlocal Agreement

170 Town Manager Ogburn explained the resolution follows the bond order adopted at the September
171 Regular Town Council meeting. It establishes the terms and conditions of the bond issuance.

172 The Towns and the County are entering into this Interlocal Agreement to cooperate in the
173 construction of the respective beach nourishment projects by having the County enter the
174 contracts for each project to achieve overall savings on the construction costs. This Interlocal
175 Agreement sets forth the terms under which the County will enter the contracts for the projects
176 and each Towns understanding as to the administration of the construction process, the financing
177 of the projects and the liabilities associated with the construction of the Projects.

178 Council Member Neal asked if the bond would be sold to a secondary buyer when it goes into
179 effect? Town Manager Ogburn stated he was not sure of that answer but could certainly find out.

180

181 **Motion** made by Mayor Bennett to approve the Resolution of the Town Council of the Town of
182 Southern Shores Providing for the Issuance of a Special Obligation Bond, Series 2021A, Seconded
183 by Council Member Holland. The motion passed unanimously (5-0).

184 Voting Yea: Mayor Bennett, Mayor pro tem Morey, Council Member Conners, Council Member
185 Holland, Council Member Neal

186

187 **Motion** made by Council Member Conners to approve the Interlocal Agreement as presented,
188 Seconded by Mayor pro tem Morey. The motion passed unanimously (5-0).

189 Voting Yea: Mayor Bennett, Mayor pro tem Morey, Council Member Conners, Council Member
190 Holland, Council Member Neal

191

192 10. Consideration of TCA 21-07-Combustible Materials

193 Deputy Town Manager/Planning Director Wes Haskett presented the agenda summary reading as
194 follows: In August Southern Shores Volunteer Fire Department Chief Limbacher contacted Town
195 Staff to see if the Kitty Hawk Elementary School could be allowed to have a bonfire as part of the
196 school's Fall Carnival on November 5, 2021. Town Code Section 14-65 defines a bonfire as an
197 outdoor fire having a total fuel area of more than three feet in diameter and two feet or more in
198 height used for ceremonial purposes. Town Code Section 14-68 (8) states that it shall be unlawful
199 for any person to start or set a bonfire. In an effort to allow the school to have a bonfire at the Fall
200 Carnival, Town Staff is proposing to amend Section 14-68 (8) so that bonfires held by Kitty Hawk
201 Elementary School under the supervision of the Southern Shores Volunteer Fire Department or
202 other fire protection official(s) are allowed. Town Staff recommends approval of the proposed
203 TCA. A Planning Board recommendation is not required.

204

205 Council Member Neal stated he just wanted to be transparent by stating his wife is on the school
206 PTA board who is behind this request.

207 **Motion** made by Council Member Conners to approve TCA-21-07, Seconded by Mayor pro tem
208 Morey. The motion passed unanimously (5-0).

209 Voting Yea: Mayor Bennett, Mayor pro tem Morey, Council Member Conners, Council Member
210 Holland, Council Member Neal

211

212 11. Adjustments to Police Officer Salary Schedule

213 Town Manager Ogburn stated the most recent opening in the Police Department went unfilled for
214 nearly one year. This opening was partly due to a limited candidate pool, which is the norm across
215 the country, as well as starting salary. After making comparisons to other departments in the Dare
216 County, the Town has fallen behind by nearly \$3,000 as compared to the top two departments in
217 starting salaries. What was also more evident was how far behind our Sergeants had become
218 comparatively.

219 Staff recommends that the Town remove the sworn law enforcement positions from the Police
220 Department, not including the Deputy Chief and Chief, from the existing pay plan and administer a
221 separate plan. This is a strategy taking place across the state. Having Police Officers in a stand-
222 alone plan gives us the opportunity to quickly address market changes and adjust grade ranges as
223 necessary without disrupting or effecting the pay plan for the rest of the town staff. The Town’s
224 Attorneys have considered and agree with this recommendation. Nothing prohibits us from
225 having a separate plan for different categories or classifications of employees. Having a separate
226 classification for law-enforcement employees is sensible, since there may be a more competitive
227 market for them, particularly in light of the shortage of law-enforcement officers across the state.

228 This recommendation not only recognizes the need to increase starting salaries for Police Officers
229 but also the importance of retaining our current officers with a competitive salary for the Corporal
230 and Sergeant positions. It’s important to note that these revisions place us at the top of starting
231 salaries, not actual salaries paid. The additions do increase actual salaries while maintaining our
232 middle position compared to other departments in our area. Retention of good officers saves money
233 and the invaluable benefit of experience in our Town.

234 Rather than make this recommendation based on the existing pay plan and placing Police Officers
235 in pre-determined grades, staff recommends establish the salary ranges based on the need to be
236 competitive within our area. The impact on the current fiscal year from this increase if
237 incorporated November 1, 2021 is \$36,943. A full year of implementation is an increase of
238 \$55,514

239 Police Chief Kole addressed the Council. He stated the salaries do not need to be the highest, but
240 they need to be competitive. Very few officers’ actual start at the starting salary figure. This
241 challenge is not unique, the issue is everywhere. The starting salary of a sergeant in the Town of
242 Duck or Kitty Hawk range from \$58,000 to \$64,000.

243 Mayor pro tem Morey asked if a temporary housing allowance has been considered as an
244 incentive. Police Chief Kole stated he would like to entertain the idea and see if it is feasible, while
245 keeping the current officers in mind as well.

246 Finance Officer Bonnie Swain stated she just returned from a conference and the issue of recruiting
247 police officers, and the retention of good officers, was discussed thoroughly. Many municipalities
248 are having the same issue, and many have moved to a separate pay scale which can be adjusted to
249 the times. The cost to adjust the salaries as proposed would be approximately \$36-37 thousand,
250 which includes FICA and retirement.

251

252 **Motion** made by Council Member Neal to approve a separate pay scale for law enforcement
253 officers and approve a budget amendment in the amount of \$36,943 for police salaries
254 adjustment, Seconded by Mayor pro tem Morey. The motion passed unanimously (5-0).

255 Voting Yea: Mayor Bennett, Mayor pro tem Morey, Council Member Conners, Council Member
256 Holland, Council Member Neal

257

258

259 **General Public Comment**

260 None

261

262 **Council Business**

263 Council Member Holland provided a Tourism Board report for the month of July; occupancy was up 5%
264 for July, 54% year to date and meals were up 49% for July, 75% year to date. The Red Cross will be
265 hosting a blood drive at Holy Redeemer Catholic Church in Kitty Hawk October 12th and 13th. He also
266 thanked Finance Officer Bonnie Swain for her work in ensuring a good audit.

267 Mayor pro tem Morey thanked all first responders for all their hard work, fire, police, and EMT.

268

269 Council Member Conners stated On October 23, 2021 the Town of Southern Shores will be planting
270 3,000 milkweed plants in order to establish the Town as a Monarch Waystation. We will become
271 participants in efforts throughout the United States to create, enhance or preserve critical habitat for
272 the annual Monarch Butterfly migration. Volunteers to help plant would be greatly appreciated. We
273 will meet at the Hillcrest Beach parking lot at 9:00 AM on Saturday, October 23. Please email himself or
274 Emily Gould to sign up and learn further details about this critical national effort to sustain and
275 increase the Monarch Butterfly populations. More info will be in the Town’s newsletter.

276 Council Member Neal stated he feels the library committee is due more support and they left before
277 he could process his thoughts. The Town should try to apply pressure to the County so that the
278 committee has an answer, either way. Council needs to try harder to give more support.

279

280 **Adjourn**

281 Hearing no other business, Mayor Bennett called for a motion to adjourn.

282 **Motion** made by Council Member Holland to adjourn the meeting at 7:28 p.m., Seconded by Mayor
283 pro tem Morey. The motion passed unanimously (5-0).



TOWN OF SOUTHERN SHORES
TOWN COUNCIL WORKSHOP MEETING

5375 N. Virginia Dare Trail, Southern Shores, NC 27949
Phone 252-261-2394 / Fax 252-255-0876
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PITTS CENTER
Tuesday, October 19, 2021 at 9:00 AM

Includes correction
version 2021.11.1. Item 1.

MINUTES

1 **Call to Order**

2 Pledge of Allegiance

3 Moment of Silence

4 **PRESENT**

5 Mayor pro tem Elizabeth Morey

6 Council Member Jim Conners

7 Council Member Leo Holland

8 Council Member Matt Neal

9 Mayor Tom Bennett

10

11 **Amendments to / Approval of Agenda**

12 Motion made by Council Member Holland to approve the agenda as presented, Seconded by Council
13 Member Conners. The motion passed unanimously (5-0).

14 Voting Yea: Mayor pro tem Morey, Council Member Conners, Council Member Holland, Council
15 Member Neal, Mayor Bennett

16

17 **General Public Comment (Limit: 3 minutes per speaker.)**

18 Bobby Outten-Dare County Manager & Attorney addressed the request of the Southern Shores
19 committee to establish a county branch library in Southern Shores. There may be some confusion of
20 where the County stood on the process, and they should have been more forceful with their response.
21 The County is not prepared to move forward with the project. It is not from a lack of preparation or
22 thought but due to several reasons; the librarian does not feel it is a good idea as those funds could go
23 towards more useful things within the current library system, the library board has not made any
24 recommendation, location and distance of travel is not significant enough, and an aggressive capital
25 campaign is underway which currently consists of a new animal shelter, college, new public works
26 complex, and redoing nine EMS stations. There is a lot that needs to be taken care of before the
27 County starts adding new projects. A branch library (satellite library) is not in the priority system list or
28 in the capital plan, or something the County is interested in doing right now.

29 Council Member Conners stated the County's decision is what it is but does not agree with the lack of
30 distance as a reason. The distance from the northern beaches to the current locations is quite a far
31 distance for families to travel.

32 **Business Items**

33 1. Continued Discussion & Analysis- SEPI Pavement Condition Study & CIP

34 The Town Council authorized a Pavement Condition Survey and Capital Improvement Plan which has
35 been finalized and presented to the Council at its October 5 meeting. This plan outlined two

36 options. The Council requested a third option and Town staff has prepared a potential 4th
37 option. These options are described below.

38 Option 1 – approximately \$675,000 spent yearly on pavement maintenance improving the system
39 from approximately 27% good/excellent condition to 53% good/excellent.

40 Option 2 – approximately \$1,000,000 spent yearly improving the system to 99% good/excellent.

41 Option 3 – approximately \$800,000 spent yearly improving the system. This option would include
42 an additional \$200,000 for construction contingency.

43 Option 4 – approximately \$1,000,000 spent yearly, including \$675,000 on pavement maintenance
44 and \$400,000 on defined construction projects.

45 The Town recognizes that its streets are one of its greatest assets and infrastructure
46 responsibilities. Present practice is to fully rebuild streets when construction takes place. A schedule
47 of street construction has been prioritized by the Capital Infrastructure Improvement Committee and
48 recommended to the Town Council. The most recent Plan was adopted by the Town Council on July 9,
49 2019. This plan fully rebuilds short sections of a road at a time. One reason for seeking a qualified firm
50 to perform a Pavement Condition Survey and Capital Improvement Plan for Maintenance and Repair
51 Treatment Recommendations was to ensure that the Town is effectively and efficiently making budget
52 decisions. One main goal of this study is to be able to have valuable information to make decisions
53 based on a comprehensive system wide approach in order to improve more street miles in a shorter
54 time period.

55 It is staff’s expectation that, barring any unforeseen issues, that Option 3 will be the preferred
56 option. This plan, as envisioned, recognizes the need to spread the maintenance and repair dollars
57 along a greater portion of the Town’s streets while still reserving funding to address construction
58 needs or build in a Capital Reserve Street Fund. The funding for construction needs could be based on
59 known needs or funded as we become aware of issues discovered through the maintenance work. We
60 might allocate funding to widen a portion of a street as it is receiving maintenance, or we might use
61 these funds as a contingency if we discover the need for additional fill material while out in the field.

62 Option 1 does not budget enough money annually to address and improve the present condition
63 of the street system and results in more miles of streets falling into poor and failed conditions.

64 Option 2 will result in a significant improvement of the street system in a short period of time, but
65 it does not leave funding for street conditions that need a more aggressive construction approach.

66 Option 3 is based on an annual budget of \$800k/yr. This option falls in between Options 1 and 2
67 previously presented with some changes to the types of treatments and timing of rehabilitation
68 work.

- 69 • This plan still uses patching heavily in the first 4 years.
- 70 • All category A roads were brought up to at least a level of good serviceability by the
71 conclusion of the plan. This was a priority in the logic and was not accomplished by
72 patching only.
- 73 • There is a slight departure from previous plans in year 2022 with heavier rehab on the
74 category A roads to get them squared away early and in good shape.
- 75 • This plan touches 37 miles of road and improves the system to 73% good/excellent, 27%
76 Fair.
- 77 • This plan eliminates the poor roads late in the plan as compared to the previous Option 1.

78

79 Option 4 is a hybrid approach that addresses both street maintenance and construction needs but
80 continues the present practice of full depth rebuilds, therefore limiting the amount of street miles
81 addressed yearly. Staff was able to make adjustments to Option 1 by strategically moving
82 maintenance items to coincide with construction projects in the same year. Those projects were
83 identified on the CIIP Priority list adopted by Town Council in July of 2019.

84
85 Town Manager Ogburn stated Council needs to consider whether to continue with full depth rebuilds
86 as it has in the past or move to more of a maintenance plan. Is consideration of the subsurface
87 important? Option 3 consist of \$800,000 for 21 sections of patching and the work may not look as good
88 as what we want but it is a process. The extra \$200,000 could be construction contingency. He stated
89 there are two local asphalt contractors and he is quite certain to at least receive a bid from one.

90 Council Member Holland was concerned that no bids would be received due to the amount of project
91 commitments both contractors already have scheduled. He questioned if they would just bid on
92 patching sections.

93 Council Member Conners would like the CIP Committee to weigh in.

94 Town Manager Ogburn stated Council should adopt a plan, and then the CIP committee could weigh in
95 and make sure the plan makes sense, but not to reprioritize it. Moving forward, Council should take
96 applications for the committee and appoint members like it does the Planning Board. The committee's
97 scope of work would need to be updated.

98 Council Member Neal stated the committee should probably meet semi-annually, rather than
99 quarterly. As far as receiving bids, if we make it more enticing and provide for a longer length of time
100 to complete the project, such as 24 months, we are more likely to receive bids.

101 Mayor Bennett stated he understands the scope of work in the plan and what needs to be done. His
102 concern was with the condition of the roads as they do not have a good base, not necessarily the
103 width. The residents will most likely not like the look of the patching during the process.

104 Town Engineer Joe Anlauf stated the subbase is a concern. The current roads have lasted 30 years but
105 the asphalt mix is entirely different now then it was when the roads were originally constructed. A full
106 depth rebuild removes the asphalt and the base and starts over, utilizing ABC for the base. Also, the
107 SEPI report uses the term "patching", but it is resurfacing from edge to edge of sections (full depth
108 repair), not like pothole filling which one may think of when the word patching is utilized.

109 Council Member Holland asked Town Engineer Anlauf if he felt the costs listed in the report seemed
110 accurate. Mr. Anlauf felt they were a good measure of costs, but the current lack of supplies and labor
111 is driving costs in this market right now makes it difficult to keep pace.

112 Mayor pro tem Morey asked if the report had been fact checked for accuracy? Example, have the
113 streets been placed in the proper categories based on their PCI rank? Town Manager Ogburn stated
114 the A, B, and C are staff assigned. He would like to see an additional column for PCI.

115 Mayor pro tem Morey questioned why the report says Hickory Trail to the dead end is considered a
116 major residential collector and through street (class A category)? Town Engineer Joe Anlauf stated
117 since it connects the east side of Ocean Blvd. with NC 12 then yes, it is a through street. Mayor pro tem
118 Morey thanked him for the clarification.

119 Mayor pro tem Morey asked if we have approached other asphalt contractors? Town Engineer Joe
120 Anlauf stated we have inquired with other contractors from Elizabeth City to Virginia for decades.
121 Asphalt is delivered hot so to get it here they must purchase from one of the two local suppliers. They
122 will not be able to outbid the local vendors if that is what needs to be done.

123

124 Council Member Neal felt the \$800,000 plan was a positive. It allows for an extra \$200,000 for
125 contingency and touches more streets faster. The contingency left over could be where the CIP
126 Committee comes into play. The charge of the committee would need to be narrowed after adoption
127 of a plan.

128 Mayor pro tem Morey stated the plan would need to be updated as it moves along.

129 Council Member Neil stated we would have a “lessons learned” update in year two or three.

130 Mayor pro tem Morey felt the plan was worth trying and supported it. She stated what we are doing
131 currently is too slow and is not working. There are 37 miles of streets that need to be touched.

132 Mayor pro tem Morey inquired about South Dogwood Trail, as it is a major thorough through and
133 many people say it needs work. The plan says portions are patching (full depth repair) and another
134 area overlay.

135 Town Manager Ogburn stated Council could always pull South Dogwood out of the plan and make it a
136 stand-alone project.

137 Mayor Bennett stated South Dogwood could be done in 1-3 segments. Edge failure, public safety, and
138 width are the big issues. He stated Council’s primary role as individuals and, as well as staff is public
139 safety. It is not being addressed in an aggressive way as it could be on South Dogwood.

140 Council Member Conners agreed that edge failure is an issue and public safety needs to be put first. He
141 stated South Dogwood Trail will be an expensive ordeal.

142 Town Engineer Joe Anlauf stated the Town has road design standards and no roads are narrower than
143 20 feet. It has always been his recommendation of 24 feet for South Dogwood but that would involve
144 major reworking to the west side of the roads right of way.

145 Mayor pro tem Morey and Council Member Neal both stated 20-22 feet wide maybe but disagreed
146 with a 24-foot width on South Dogwood. Cars can just drive slower rather than widening it to that
147 extent.

148 Mayor pro tem Morey suggested reflective striping or markers to distinguish lanes along South
149 Dogwood. She felt speed and distracted drivers were the issue along South Dogwood Trail and that
150 widening it to 24 feet would not be the answer.

151 Council Member Neal stated for South Dogwood Trail the \$200,000 contingency could go towards edge
152 failure and if it doesn’t work then pull the street out of the project and re-access it. The first year of the
153 plan will be bumpy, discouraging, and will have setbacks but needs to be given a chance.

154 Town Manager Ogburn stated if Council adopts a plan, then he would return with a draft bid packet for
155 Council consideration.

156

157 **Motion** made by Council Member Neal to direct the Town Manager to pursue the \$800,000 (option #3)
158 CIP as proposed by SEPI, Seconded by Council Member Holland. The motion passed unanimously (5-0).
159 Voting Yea: Mayor pro tem Morey, Council Member Conners, Council Member Holland, Council
160 Member Neal, Mayor Bennett

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164

165 **Council Comments**

166 Council Member Conners stated on October 23rd over 30 volunteers will be planting 3,000 milkweed
167 plants in order to establish the Town as a Monarch Waystation. Southern Shores will become
168 participants in efforts throughout the United States to create, enhance or preserve critical habitat for
169 the annual Monarch Butterfly migration.

170

171 **Adjourn**

172 Hearing no further business, Mayor Bennett called for a motion to adjourn.

173 **Motion** made by Council Member Holland to adjourn the meeting at 10:34 a.m., Seconded by Mayor
174 pro tem Morey. The motion passed unanimously (5-0).

175 Voting Yea: Mayor pro tem Morey, Council Member Conners, Council Member Holland, Council
176 Member Neal, Mayor Bennett

177



Town of Southern Shores

5375 N. Virginia Dare Trail, Southern Shores, NC 27949

Phone 252-261-2394 / Fax 252-255-0876

www.southernshores-nc.gov

Item 2.

Resolution 2021-11-01

RESOLUTION APPOINTING A DEPUTY FINANCE OFFICER

WHEREAS, the Town Council of the Town of Southern Shores has, pursuant to North Carolina General Statute (NCGS) §159-24 of *The Local Government Budget and Fiscal Control Act*, appointed a Finance Officer who currently serves the Town with the powers and duties enumerated in NCGS §159-25; and

WHEREAS, NCGS §159-25 (b) states: “*Except as otherwise provided by law, all checks or drafts on an official depository shall be signed by the finance officer or a properly designated deputy finance officer and countersigned by another official of the local government or public authority designated for this purpose by the governing board.*”; and

WHEREAS, it has been recommended that the Council properly designate and duly appoint a Deputy Finance Officer to serve the Town with the power and duty enumerated in NCGS §159-25 (b) when necessary and in the absence of the Finance Officer.

NOW, THEREFORE BE IT RESOLVED that Deputy Town Manager / Planning Director Wes Haskett is hereby designated and appointed Deputy Finance Officer to serve the Town with the power and duty enumerated in NCGS §159-25 (b) when necessary and in the absence of the Finance Officer and Town Manager.

This the 9th day of November 2021.

Thomas G. Bennett, Mayor

Attest:

Sheila Kane, Town Clerk

TOWN OF SOUTHERN SHORES FEE SCHEDULE

AMENDMENT TO ORDINANCE 2007-01-03

* All fees shall include, whenever applicable, the reasonable cost of any expert advice obtained by the Town or other direct expenses incurred by the Town during the review of the application. All fees must be paid in full prior to any further reviews by the Town or prior to issuance of any permits sought, whichever comes first. Submitted fees shall not be refunded.

Item	Fee
Miscellaneous:	
Returned Checks/ <u>charge back</u> (NSF)	Current Bank Fee
Credit Card Convenience Fee	
<u>Credit card present</u>	2.65%
<u>Credit card not present</u>	3.5%
Cemetery Lot Purchase:	
TOSS Property Owners	\$500.00
Non-property Owners	\$2,000.00
Cost of Copies	\$0.25 B/W \$0.30 Color
Annual Lease Fee –Town Canal-Street Right of Way	\$5.00
Beach Parking Tag <u>or Sticker</u> -Replacement	\$75.00
Planning	
Development Review:	
Zoning Map Amendment	\$300.00
Zoning Text Amendment	\$200.00
Zoning Compliance Letter	
a. Residential	\$35.00
b. Commercial	\$75.00
Application to Board of Adjustment	\$350.00
(includes cost of certified mailings and public notices)	
Conditional Use Permit	\$300.00
(includes cost of certified mailings and public notices)	
Filing fee for site plan for dwelling or lodging unit, other than single-family detached homes, per unit.	\$50.00
Filing fee for commercial structures and improvements	\$0.10/SF
Wireless Applications:	
a. Application for new tower	\$200.00
b. Tower annual renewal	\$100.00
c. New collocation	\$100.00
d. Collocation annual renewal	\$50.00
Subdivision Plat Review:	
a. Exempt	\$50.00/lot
b. Subdivision	\$100.00/lot
Building Inspections	
Plan Review:	
Lot Disturbance and Stormwater Management Permit	\$100.00
Zoning Permit	\$50.00
Single family new construction	\$150.00
Single family addition or renovation minimum	\$100.00
New Building Permits for Structures/Additions/Reconstruction:	
Heated/living areas - Single Family	\$0.60/SF
All Others	\$0.75/SF
Non heating areas; i.e., deck, porch, garages, etc. - Single Family	\$0.30/SF
All Others	\$0.35/SF
Remodeling and alterations to existing structures (no additional square footage, \$10.00 Per \$1,000 of Construction Cost)	\$10.00
Swimming Pools and Tennis Courts (flat fee)	\$125.00
Demolition	\$100.00
Sign	\$100.00
Bulkhead	\$100.00
Re-inspection charge	\$100.00
Work Proceeding Without Necessary Inspections	1/2 Permit Fee
Work Proceeding Without Necessary Permit	Double Permit Fee
House Moving:	
Out of Southern Shores	\$100.00
Within Southern Shores	\$250.00
Into Southern Shores from elsewhere	\$350.00

Miscellaneous:

Contractors Licensing Board Fee (Homeowner's Recovery Fund)	\$10	Item 3.
CAMA Permit: minor development permit if the project is within the Ocean Hazard or Estuarine AECs and does not qualify for an Exemption	\$100.00	
Construction & Demolition Debris Disposal Permit	\$50.00	
NOTWITHSTANDING THE ABOVE, THE MINIMUM FEE SHALL BE:	\$100.00	



AGENDA ITEM SUMMARY

MEETING DATE: November 9, 2021

ITEM TITLE: Personnel Policy Updates

ITEM SUMMARY:

The Town Council authorized staff to work with a consultant to review and make appropriate updates and revisions to the Town Personnel Policy. The last review was done in 2013. The consultant's review was based on the following principles:

- The primary users of personnel policies are department heads, managers, and supervisors.
- Personnel policies should be clearly written in the simplest language possible, and to the greatest extent, answer questions rather than create new questions.
- Not every situation requires a policy. Policies exist to provide guidance and direction in those situations that occur on a regular or frequent basis.
- Logical organization of policies is the best way to help people who are looking for specific answers in policy.
- The best place for personnel policies is on the town's website, where changes can be easily and inexpensively accomplished.

The Town Manager and Human Resources Director completed the first round of reviews and worked with the consultant to make needed changes. Departments Heads were then asked to review and submit any recommendations or comments to the Town Manager. Once all appropriate corrections were made, a review was performed by all town staff. All employees were involved in providing feedback. The final review was done by the Town Attorney at which time the appropriate changes and clarifications were made.

Significant Changes to Town of Southern Shores Policy include:

1. Moved more to narrative format with elimination of Sections. Changed Article numeration to Arabic numerals from Roman numerals.
2. Reorganization – Moved to an organizational structure that more closely resembles the employee life cycle – recruitment/selection, classification, pay plan, etc. Moved Conditions of Employment closer to beginning of policy.

3. Added separate EEO article and updated protected status to include sexual orientation and gender identity per recent US Supreme Court decision. Added in prohibition against discrimination, harassment, and retaliation.
4. Reorganized - Moved definitions from the front of the whole policy to each relevant article, allowing users to find necessary definitions easier and quicker.
5. Reorganized/revised Conditions of Employment Article – moved Substance Abuse policy out to its own article, eliminated Safety policy [recommended this go in a new Administration policy manual], added in policy on electronic devices, use of Town-supplied information technology and emergency service duty. Clarified that it is the Town's right to provide either overtime pay or paid time off when a non-exempt employee works overtime.
6. Holidays/Leave/Adverse Weather - Revised language for holidays. Clarified that non-exempt employees with compensatory time accumulations must use that leave before using vacation. Added a provision on bereavement leave.
7. Revised the policy on adverse weather per the most recent Town policy – included a definition of administrative leave as used in adverse weather policy.
8. Eliminated material in Benefits article on Law Enforcement Separation Allowance, as these provisions are adequately set out in NC General Statutes. Clarified Town's responsibilities under the Family/Medical Leave Act. Added information about the Town's existing employee assistance program.
9. Rewrote the Town's disciplinary policy to provide more guidance and information. Eliminated "grocery list" of reasons to take discipline and inserted definitions for unsatisfactory job performance and unacceptable personal conduct.
10. Added an additional level of vacation accrual for employees with 20 plus years of service.

The Town Attorney's recommendations were based on allowing the maximum amount of permissible discretion and flexibility be provided in such policies. A flexible approach was recommended for town staff in administering personnel decisions. His substantive changes are recommended as follows and included in the final draft:

1. Removed the mandatory detection and reporting provision that was set forth in the Employee Assistance Policy.
2. Reworked Article 10, governing disciplinary action and dismissal to make less restrictive.
3. Simplified Article 13, governing personnel records, by taking out some of the detailed processes and definitions. These are all contained in and governed by the General Statutes, and setting them forth in a policy creates a risk of inconsistency with the statutes particularly when those change from time to time.

Due to the large number of edits and changes that were made to the policy, a red-line version is not provided as it could put the focus on wordsmithing and became difficult for the reader to focus on the conceptual changes. A clean copy of the original policy as well as the draft policy are provided for your review.

During the process, the Code of Ethics and other papers given to employees as part of the onboarding process were updated with revisions to be consistent with North Carolina law. The Town Council does not need to approve these changes.

Finally, Town Council is asked to remove from the Town Code Sec. 18-9. - Disciplinary measures. All the provisions of Sec. 18-9 can and should be set forth in the Personnel Policy. Putting this in an ordinance is problematic for various reasons and is not necessary. Sec. 18-19 reads:

After consultation with the town manager, the chief of police may suspend, with or without pay, or reprimand, orally or in writing, any officer violating the provisions of this article, the laws of the state or the United States, and rules and regulations governing the conduct and training standards for law enforcement officers. The chief of police may also recommend to the town manager the dismissal or reduction in rank of any officer for serious or repeated violations of his trust, duties, responsibilities, or obligations. Any disciplinary actions against the chief of police shall be the responsibility of and imposed by the town manager.

STAFF RECOMMENDATION: Staff recommends adoption as presented.

REQUESTED ACTION: A motion to adopt revisions to the Town Personnel Policy and to remove Section 18-9 from the Town Code.

ATTACHMENTS: Draft of amendments to the Town Personnel Policy
Current Personnel Policy

TOWN OF SOUTHERN SHORES

HUMAN RESOURCES POLICY



TABLE OF CONTENTS

- Article 1 - General Provisions
- Article 2 - EEO Statement
- Article 3 - Conditions Of Employment
- Article 4 - Recruitment And Employment
- Article 5 - Classification Plan
- Article 6 - Pay Plan/Salary Administration
- Article 7 - Employee Benefits
- Article 8 - Holidays, Leave And Adverse Weather
- Article 9 - Substance Abuse/Drug Testing
- Article 10 - Disciplinary Action/Dismissal
- Article 11 - Grievances And Procedures For Responding To
Complaints Of Discrimination, Harassment And
Retaliation
- Article 12 - Separation/Reinstatement
- Article 13 - Personnel Records
- Article 14 - Implementation Of Personnel Policies

ARTICLE 1. GENERAL PROVISIONS

Purpose

It is the purpose of this policy and the rules and regulations set forth to establish a fair and uniform system of personnel administration for all employees of the Town under the supervision of the Town Manager.

At Will Employment

All employees of the Town of Southern Shores are at will employees. Nothing in this policy creates an employment contract between the Town and its employees or creates a property interest for any person working for the Town. No person has the authority to grant any employee any contractual rights of employment.

Merit Principle

All personnel decisions shall be made solely on the basis of merit. All positions requiring the performance of the same duties and fulfillment of the same responsibilities shall be assigned to the same class and the same salary range. No applicant for employment or employee shall be deprived of employment opportunities or otherwise adversely affected as an employee because of race, color, religion, gender, age, national origin, disability, genetic information, sexual orientation, gender identity or other protected status.

Responsibilities of the Town Council

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

Responsibilities of the Town Manager

The Town Manager shall be responsible to the Town Council for the administration and technical direction of the personnel program. The Town Manager shall appoint, suspend, discipline, and remove all Town officers and employees except those elected by the people or whose appointment is otherwise provided for by law. The Town Manager shall make appointments, dismissals, and suspensions in accordance with the Town Charter and as guided by the policies and procedures described in this Policy.

The Town Manager shall:

1. recommend rules and revisions to the personnel system to the Town Council for consideration;
2. investigate periodically the operation and effect of the personnel provisions of this policy; and
3. perform such other duties as may be assigned by the Town Council not inconsistent with this Policy.

Responsibilities of the Human Resources Director

The Human Resources Director shall:

1. recommend to the Town Manager which employees are exempt or non-exempt from the overtime provisions of FLSA;
2. recommend to the Town Manager necessary revisions to the pay plan;
3. recommend rules and revisions to the personnel system to the Town Manager for consideration;
4. recommend to the Town Manager changes as necessary to maintain an up to date and accurate position classification plan;
5. establish and maintain a roster of all persons and authorized positions in the municipal service, setting forth each position and employee, class title of position, salary, any changes in class title and status, and such data as may be desirable or useful;
6. develop and administer such recruiting programs as may be necessary to obtain an adequate supply of competent applicants to meet the needs of the Town;
7. develop and coordinate training and educational programs for Town employees;
8. advise the Town Manager about the application and interpretation of the Town's personnel policies and the proper administration of the personnel system;
9. perform such other duties as may be assigned by the Town Manager not inconsistent with this Policy.

Application of Policies, Plan, Rules, and Regulations

This Personnel Policy and all rules and regulations adopted pursuant thereto shall be binding on all Town employees. The Town Manager, Town Attorney, members of the Town Council and advisory boards and commissions will be exempted except in where specifically included. An employee violating any of the provisions of this policy shall be subject to appropriate disciplinary action.

Departmental Rules and Regulations

Subject to the written approval of the Town Manager, each department may establish supplemental written rules and regulations applicable only to the personnel of that department. All such rules and regulations shall not in any way conflict with the provisions of this Policy.

ARTICLE 2. EEO STATEMENT

Equal Employment Opportunity (EEO) Statement

The Town of Southern Shores is committed to providing equal employment opportunity for all employees and applicants on the basis of merit and without regard to race, color, religion, gender, age, national origin, disability, genetic information, sexual orientation, gender identity or other protected status. The Town will not condone, permit or tolerate any form of unlawful discrimination, harassment or retaliation by or against our employees.

Purpose

The Town of Southern Shores recognizes the importance of a diverse workforce in providing services and in applying equal employment opportunity (EEO) principles in all employment practices.

Policy

It is the policy of the Town of Southern Shores to strictly adhere to the principle of equal employment opportunity in all its personnel actions and decisions and provide equal employment opportunities to all employees and applicants for employment.

Coverage

This policy covers all Town employees.

ARTICLE 3. CONDITIONS OF EMPLOYMENT

Definitions Used in This Article

Immediate Family

Includes wife, husband, mother, father, brother, sister, son, daughter, grandmother, grandfather, grandson, granddaughter, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepmother, stepfather, stepson, stepdaughter, stepbrother, or stepsister.

Outside Employment/Secondary Employment

Self-employment or any other employment for salaries, wages, tips or commission other than the full-time position held with the Town of Southern Shores.

Conflict of Interest

Situation created when the interests or concerns (actual or potential) of an individual, may be seen as competing with the interests or concerns of the Town. In addition, the individual's judgment or conduct might be affected, or might reasonably appear to be affected.

Contractor

Any person or company who directly or indirectly provides construction, personal services, goods, or equipment to any department of the Town.

Gifts and Favors

Any offering or gratuity including, but not limited to, candy, flowers, free trips, meals and athletic tickets.

Electronic and Telephonic Communications Systems

Includes e-mail, voice mail, text messages, etc.

Email

Electronic mail. Mail composed, addressed, and sent/received electronically.

Information Processing Resources

Electronic computing and communications hardware, software, networks, and information.

Work Schedule

Policy

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

The workweek for the Town of Southern Shores runs from midnight Sunday through 11:59 pm Saturday.

Employment of Relatives (Nepotism)

Policy

Two members of an immediate family shall not be employed by the Town if such employment will result in an employee supervising a member of his/her immediate family, or if one member occupies a position which has influence over the other's employment, promotion, salary administration, or other management or personnel considerations.

This policy is applicable to all new hires, promotions, demotions, transfers, and reinstatements.

This policy shall only apply prospectively from the date of the adoption of this Policy.

Outside/Secondary Employment

Policy

The work of the Town shall take precedence over all other occupational interests, paid or unpaid.

Purpose

This policy establishes a process for the request, and authorization to engage in outside employment.

Any employee involved in outside employment must report that outside employment to his/her Department Head in writing for approval or rejection. The Department Head, with the agreement of the Human Resources Director, shall submit a recommendation of any outside employment to the Town Manager or his/her designee for approval or disapproval.

A copy of the Town Manager's decision will be returned to the Human Resources Director for inclusion in the employee's personnel file. The Department Head shall notify the employee of the Town Manager's or designee's decision.

Outside employment which restricts an employee's mental or physical ability to perform the duties or functions of his or her regular job shall be considered in conflict with the restrictions set forth in this policy. Outside employment which compromises or violates the confidentiality of an employee's regular job, or which compromises the objectivity of Town services rendered to the public shall be considered a conflict of interest in violation of this policy.

Outside employment that creates a conflict of interest or unreported outside employment may be grounds for disciplinary action up to and including dismissal.

Restriction on Political Activity

Policy:

Every employee of the Town of Southern Shores has a civic responsibility 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 established by the Constitution and laws of the State of North Carolina and by the Constitution and laws of the United States of America.

While on duty, no employee of the Town of Southern Shores shall:

- a. Engage in any political activity.
- b. Be required as a duty of his office or employment, or as a condition for employment or promotion or tenure of office, to contribute funds for or to political or partisan purposes.
- c. Solicit or act as custodian of funds for political or partisan purposes.
- d. Coerce or compel contributions for political or partisan purposes from any other employee of the Town of Southern Shores.
- e. Use any Town supplies or equipment for political or partisan purposes.

Any violation of this policy shall be deemed unacceptable personal conduct and shall subject the employee to disciplinary action up to and including dismissal.

Gifts/Favors

Policy

No official or employee of the Town shall accept any gift, whether in the form of a service, loan, something of value or promise from any person, firm or corporation, who in the employee's knowledge, is interested directly or indirectly in any manner whatsoever in business dealings with the Town.

No official or employee shall accept any gift, favor or thing of value that may tend to influence that employee in the discharge of duties.

No official or employee shall grant in the discharge of duties any improper favor, service or thing of value.

All Town employees shall refuse gratuities in the form of money.

This policy shall not prohibit the following:

- a. Receipt of honorariums for the officer's or employee's participation in meetings.
- b. Advertising items or souvenirs of nominal value.
- c. Meals furnished at banquets or Town-sponsored events.
- d. Receipt or exchange of gifts or favors between employees/officers and their friends and/or relatives where it is clear that the motivating factor is a personal relationship rather than a business relationship.

Town Decision On Compensation For Overtime

The Town of Southern Shores retains at all times the determination of whether to compensate overtime work by awarding compensatory time off or by payment of time and a half overtime pay. Persons who accept a position with the Town of Southern Shores eligible for overtime compensation under the Fair Labor Standards Act agree to this as a condition of employment.

Electronic Devices/Internet Access/No Expectation of Privacy

The Town's information technology is considered a resource made available to Town employees to conduct and facilitate their work. It is to be used at all times in a lawful and ethical manner. Inappropriate and prohibited uses of Town-provided electronic devices and internet access include but are not limited to the following:

- Unauthorized and time-consuming recreational activities, such as shopping, or game playing or social media, including use of your personal device;
- Downloading games, music, videos or movies;
- Use unauthorized codes, passwords, or any other means to gain access to confidential Town files or the e-mail of other employees;
- Using the system for personal profit or illegal purposes;
- Use email or voice mail to harass or to make defamatory remarks about other employees or to send inappropriate or offensive messages such as racial, sexual, or religious slurs.
- Viewing websites with pornographic content.

The Town of Southern Shores reserves the right to examine, for good business reason, files, programs, passwords, accounting information, printouts, or other computing material without notice at any time. Employees have no expectation of privacy in their use of Town-owned devices or Town-provided Internet service.

Information Technology

All electronic and telephonic communications systems and all information transmitted by, received from, or stored in Town owned or provided systems are the property of the Town of Southern Shores. These systems and their various components are subject to random monitoring of system use and review of messages to determine whether any violations of Town policies have occurred.

Employees are expected to use these resources in the performance of work-related functions on the job, or while using Town owned or provided information processing resources, including the Internet, responsibly and professionally and shall make no intentional use of these services in an inappropriate, illegal, malicious, or obscene manner. Employees may make reasonable personal use of Town owned or provided resources, including Internet access, as long as there is no negative impact on employee job performance and there is little to no cost to the Town. Emails or texts sent from or received by electronic devices may constitute public records and could be disclosed as public records request.

A violation of this policy shall be considered unacceptable personal conduct and shall subject the employee to disciplinary action, up to and including dismissal.

Direct Deposit of Employee Paychecks

As a condition of employment with the Town of Southern Shores, every full-time and part-time employee shall have his/her paycheck directly deposited into the bank account of his/her choice. No paychecks shall be issued except as direct deposit.

Smoke/Tobacco-Free Workplace Statement

The Town of Southern Shores maintains a “smoke-free” workplace in all its facilities, offices and equipment. This policy applies to all employees, clients, visitors, and guests. Violation of this policy shall constitute unacceptable personal conduct and will result in disciplinary action.

Safety

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

Performance Evaluation

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

Emergency Service Duty

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

ARTICLE 4. RECRUITMENT AND EMPLOYMENT

Equal Employment Opportunity Policy

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

Implementation of Equal Employment Opportunity Policy

All personnel responsible for recruitment and employment will continue to regularly review the implementation of this personnel policy and relevant practices to assure that equal employment opportunity based on reasonable, job-related requirements is being actively observed. Notices with regard to equal employment matters shall be posted in conspicuous places on Town premises in places where notices are customarily posted.

Definitions Used in This Article

Probationary Period A period of twelve months during which a supervisor monitors the performance and other behaviors of the new employee. A probationary employee may be separated at any time if it is determined that his/her performance or behavior is not satisfactory.

Promotion This is the movement of an employee from one position to a vacant position in a class assigned to a higher salary range.

Demotion This is the movement of an employee from one position to a position in a class assigned to a lower salary range. Demotion may be voluntary or involuntary.

Transfer This is the movement of an employee from one position to a position in a class in the same salary range.

Recruitment, Selection and Appointment

Prior to beginning the recruitment process, the Department Head should review the current job description for the vacancy and determine if it accurately describes the work to be done. If not, the department director should contact Human Resources and discuss revising the job description.

The Human Resources Department is responsible for managing the recruitment process for Town employees and for providing technical advice and assistance to hiring officials as needed.

Recruitment Sources. When a position vacancy occurs, the Human Resources Department, together with the Department Head, shall publicize these opportunities for employment. Information on job openings and hiring practices will be provided to recruitment sources, including organizations and news media available to minority applicants. Notice of vacancies shall be posted at designated conspicuous sites within departments. Department Heads are encouraged to use their special knowledge of their fields of work to aid in recruiting well-qualified applicants.

Job Advertisements. Recruiting announcements shall include information pertinent to the position/work involved, including at a minimum, the title of the position, the minimum salary for the grade, key duties of the position, knowledge and skill requirements, physical requirements with or without accommodations, and the minimum education and experience standards necessary to qualify for the job. The announcement should also include any special certification or licensing requirements, and an application closing date. The Town of Southern Shores will ordinarily advertise internally before posting a vacancy for external applicants.

Application for Employment. Applications will be taken from all persons expressing interest in employment with the Town only for those positions that are advertised. The Town of Southern Shores employment application is the only application accepted for employment with the Town. The applicant must apply each time there is an opening.

Applicants shall be considered on the basis of qualifications for the job in question without regard to age, sex, race, color, creed, religion, marital status, disability, gender identity, sexual orientation or national origin.

Selection. Department Heads shall review the qualifications of each applicant and use interviews and other selection tools as necessary to assess accurately the knowledge, skills, and experience qualifications of each applicant in order to determine the applicant best suited for the vacant position. As necessary based on the position, the Town will review criminal history (excluding arrests). All selection tools administered by the Town shall be valid measures of job performance.

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

Probationary Period

An employee appointed to a permanent position shall serve a probationary period. During the probationary period, supervisors shall monitor an employee's performance and

communicate with the employee concerning performance progress. Employees serving a probation shall have a probationary review at the end of six months as well as before the end of twelve months.

Before the end of the probationary period, the supervisor shall review the employee's performance and behavior during the probationary period. The supervisor should discuss this review with the employee and prepare a summary for the employee's personnel file.

The supervisor shall recommend in writing whether the probationary period should be completed, extended or the employee separated. Separation of the employee may occur at any time during the probationary period of a new hire without following the disciplinary procedures outlined in this Policy.

Promotion

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

The Town will balance three goals in the employment process:

- 1) the benefits to employees and the organization of promotion from within;
- 2) providing equal employment opportunity and a diversified workforce to the community; and
- 3) obtaining the best possible employee who will provide the most productivity in that position.

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

Demotion

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

Transfer

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

Retention of Selection Process Documentation

The Human Resources Department shall be the repository for all documents generated by the selection process, including a list of all applicants, a list of persons interviewed with their applications, all interview tool(s) used in the selection process, responses for each interviewed candidate for questions/situations in the interview, references for the recommended hire, and the department director's written justification for hiring/promotion.

ARTICLE 5. POSITION CLASSIFICATION PLAN

Purpose

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

Composition of the Position Classification Plan

The classification plan shall consist of a grouping of positions in classes which are approximately equal in difficulty and responsibility which call for the same general qualifications, and which can be equitably compensated within the same range of pay under similar working conditions. The plan shall also include class titles descriptive of the work of the class, as well as written specifications for each class of positions. Finally the plan shall contain an allocation list showing the class title of each position in the classified service.

Use of the Position Classification Plan

The classification plan is to be used as a guide in recruiting and examining applicants for employment; in determining lines of promotion and in developing employee training programs; in determining salary to be paid for various types of work; in determining personnel service items in departmental budgets; and in providing uniform job terminology.

Administration of the Position Classification Plan

The Town Manager, upon the recommendation of the Human Resources Director, shall allocate each position covered by the classification plan to its appropriate class. The Human Resources Director shall be responsible for the administration of the position classification plan. The Human Resources Director, at the request of the Town Manager, shall periodically review portions of the classification plan and recommend appropriate changes. The Town Manager, at his/her discretion, shall recommend any necessary changes to the Town Council.

Adoption of the Position Classification Plan

The position classification plan shall be adopted by the Town Council and shall be on file with the Town Clerk. Copies will be available to all Town employees for review upon request. New positions shall be established upon recommendation of the Human Resources Director to the Town Manager. Once the Town Council approves a new position the Human Resources Director shall either allocate the new position into the appropriate existing class or amend the position classification plan to establish a new class for the new position.

ARTICLE 6. THE PAY PLAN/SALARY ADMINISTRATION

Definitions Used in This Article

Compensatory Time Off/Comp Time. This is paid time off earned by a non-exempt employee who works over 40 hours in a single work week. A non-exempt employee earns compensatory time off for working overtime at the rate of one and one-half of compensatory time off for every hour of overtime worked.

Demotion. Demotion is the movement of an employee from one position to a position in a class assigned to a lower salary range. Demotion may be voluntary or involuntary (disciplinary.)

Exempt Employee. An employee who is exempt from earning overtime under the Fair Labor Standards Act.

Full-time Employee. A Regular Employee who is in a position for which an average work week is 40 hours for at least 12 months.

Non-exempt Employee. An employee who is not exempt from overtime under the Fair Labor Standards Act.

Overtime Pay. This is compensation for all overtime worked at the rate of one and one-half times the employee's regular hourly rate. Unless approved by the Town Manager and the Town Council, regular police officers are eligible for overtime pay only if they are non-exempt.

Part-time Employee. A Regular Employee who is in a position for which an average work week is at least 20 hours but less than 40 hours

Probationary Period. A period of twelve months. During this time the supervisor monitors the performance and other behaviors of the new employee. A probationary employee may be separated at any time if it is determined that his/her performance or behavior is not satisfactory.

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

Promotion. Promotion is the movement of an employee from one position to a vacant position in a class assigned to a higher salary range.

Regular Employee. An employee appointed to a full or part-time Regular Position who has successfully completed the probationary period.

Regular Position. A position authorized for the budget year for a full twelve months and budgeted for twenty or more hours per week. All town positions are subject to budget

review and approval each year by the Town Council and all employees' work and conduct must meet town standards.

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

Composition of the Pay Plan and Salary Schedule

The pay plan includes the basic salary schedule and the assignment of classes to grades and ranges adopted by the Town Council. The salary schedule consists of hiring rate, and the minimum, midpoint, and maximum rates of pay for all classes, and a designation of the standard hours in the work week for each position.

Administration and Maintenance

The Human Resources Director shall be responsible for the administration and maintenance of the pay plan. All employees covered by the pay plan shall be paid at a rate listed within the salary range established for the respective position classification. Those employees whose salaries are above the established maximum rate following transition to a new pay plan are the only exception to this rule.

The pay plan is intended to provide equitable compensation for all positions. The pay plan is intended to reflect differences in the duties and responsibilities of the classes in the plan. It is also intended to reflect the comparable rates of pay for positions in private and public employment in the area, as well as changes in the cost of living, the financial conditions of the Town, and other factors.

Each budget year the Human Resources Director shall make comparative studies of all factors affecting the level of salary ranges including the consumer price index, anticipated changes in surrounding employer plans, and other relevant factors. He/ She will recommend to the Town Manager such changes in salary ranges as appear to be necessary. The Town Manager, at his/her discretion, shall recommend any necessary changes to the Town Council. Such changes shall be made in the salary ranges so that the hiring rate, all intervening rates and the maximum rate will change according to the market.

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

Starting Salaries

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

Probationary Pay Increases

Employees shall receive a salary increase within of 5% upon successful completion of the probationary period.

Merit Pay

Upward movement within the established salary range for an employee is not automatic, but rather based upon specific performance-related criteria. Procedures for determining performance levels and performance pay increases or other performance-related movement within the range shall be established in procedures approved by the Town Manager.

Merit Pay Bonus

Employees who are at the top rate of the salary range for their position classification are eligible to be considered for a merit bonus at their regular performance evaluation time. Merit bonuses shall be awarded in lump sum payments and do not become part of base pay.

Salary Effect of Promotions, Demotions, Transfers, and Reclassifications

Promotions.

When an employee is promoted, the employee's salary shall be increased to the minimum level of the new position, or by 5%, whichever is greater. Increases above this amount requires approval by Town Council. The new salary may not exceed the maximum rate of the new salary range. The purpose of the promotion pay increase is to recognize and compensate the employee for taking on increased responsibility.

Demotions.

When an employee is demoted for whatever reason, his/her salary shall be reduced at least 5%, and may be reduced more to avoid salary inequities.

Transfers.

The salary of an employee reassigned to a position in the same class or to a position in a different class within the same salary range shall remain the same.

Reclassifications.

An employee whose position is reclassified to a class having a higher salary range shall receive a pay increase of 5% or an increase to the minimum of the new pay range, whichever is higher.

If the position is reclassified to a lower pay range, the employee's salary shall not change at the time of reclassification. If the employee's salary is above the maximum

established for the new range, the salary of that employee shall be maintained at the current level until the range is increased above the employee's salary. While the employee's salary is above the maximum rate the employee is not eligible for merit pay, or market adjustments. The employee shall be eligible for pay increases when cost of living or market adjustments increase the salary range maximum above the employee's current salary. The employee is eligible for longevity pay.

Salary Effect of Salary Range Revisions

When a class of positions is assigned to a higher salary range, employees in that class shall receive a pay increase of at least approximately 5%, or to the minimum rate of the new range, whichever is higher.

When a class of positions is assigned to a lower salary range, the salaries of employees in that class will remain unchanged. If this assignment to a lower salary range results in an employee being paid at a rate above the maximum rate established for the new class, the salary of that employee shall be maintained at that level until such time as the employee's salary range is increased above the employee's current salary (see **Reclassifications** above).

Transition to a New Salary Plan

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

- 1) No employee shall receive a salary reduction as a result of the transition to a new salary plan.
- 2) All employees being paid at a rate lower than the minimum rate established for their respective classes shall have their salaries raised to at least the new minimum for their classes.
- 3) All employees being paid at a rate below the maximum rate established for their respective classes shall be paid at a rate listed in the salary schedule.
- 4) all employees not at a listed rate shall have their salaries raised to a listed rate.
- 5) All employees being paid at a rate above the maximum rate established for their respective classes shall be maintained at that salary level until such time as the employees' salary range is increased above the employees' current salary (see **Reclassifications** above).

Effective Date of Salary Changes

Salary changes approved after the first working day of a pay period shall become effective at the beginning of the next pay period.

Pay for Interim Assignments in a Higher Level Classification

An employee who is formally designated by the Town Manager to perform the duties of a job that is assigned to a higher salary grade than that of the employee's regular classification shall receive an increase for the duration of the Interim assignment. The employee shall receive a salary adjustment to the minimum level of the job in which the employee is acting or an increase of 5%, whichever is greater. The salary increase shall be temporary and upon completion of the assignment, the employee shall go back to the salary he or she would have had if not assigned in the interim role, taking into account any increases the employee would have received if they had not been placed in the interim role.

Hourly Rate of Pay – Part-Time/Temporary Capacity

Employees working in a part-time or temporary capacity with the same duties as full-time employees will be paid at a rate in the same salary range as full-time employees.

Overtime Pay Provisions

The Town Manager, based on the recommendation of the Human Resources Director, shall determine which jobs are non-exempt and eligible for overtime compensation in the form of either overtime pay or compensatory time off.

Non-exempt employees will be paid at a straight time rate for all hours actually worked up to 40 hours in a work week. (Eligibility for overtime compensation for police personnel will be different). The Town will compensate non-exempt employees (except law enforcement officers) with compensatory time off for time worked beyond 40 hours in a single workweek at the rate of time and one-half hours of paid time off for every hour of overtime worked.

Non-exempt sworn law enforcement employees with the Police Department will be paid one and one-half times their regular hourly rate for all time actually worked beyond 171 hours in a 28-day work period.

In determining eligibility for overtime in either a work week or a work period, only hours actually worked shall be considered. Vacation, sick leave, compensatory time used or paid holidays or any other time not actually worked shall not be included in the computation of hours worked for overtime purposes.

Accumulation/Use of Compensatory Time Off

Overtime work that would result in the accumulation of more than 40 hours of compensatory time off requires the approval of the Town Manager. The only time an employee will be paid for any accrued compensatory time is when his or her

employment is terminated with the Town or when the Town Manager deems it to be in the interest of the Town to pay down an employee's compensatory time balance.

When scheduling time out of the office, compensatory time must be used before any accumulated vacation time is used.

Avoiding the Creation of Overtime Work

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

Employees of the Town can be requested and may be required to work in excess of their regularly scheduled hours as necessitated by the needs of the Town and determined by the Department Head. All work in excess of regularly scheduled hours, which would result in overtime, must be approved by the Department Head.

Exempt Employees

Employees in positions determined to be exempt will not be paid for hours worked in excess of their normal work periods. These employees may be granted compensatory leave by their supervisor where the convenience of the department allows and in accordance with procedures established by the Town Manager. Compensatory time given to exempt employees is not guaranteed to be taken and will not be paid out upon separation from the Town.

In emergency situations, where exempt employees are required to work long and continuous hours, the Town Manager can recommend to the Town Council bonus compensation for those hours worked beyond the normal work week. In the alternative, the Town Manager or the Town Council may grant time off with pay for rest and recuperation to ensure safe working conditions.

Call-back Pay

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

Non-exempt employees will be guaranteed a minimum payment of two hour's wages for being called back to work outside of normal working hours. Call-back provisions do not apply to previously scheduled overtime work.

Payroll Deduction

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

ARTICLE 7. EMPLOYEE BENEFITS

Definitions Used in This Article

Full-time Employee. An employee who is in a position for which an average work week is 40 hours, and continuous employment of at least 12 months is required by the Town.

Part-time Employee. An employee who is in a position for which an average work week of at least 20 hours and less than 40 hours and continuous employment of at least 12 months are required by the Town.

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

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

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

Eligibility

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

Benefit Programs

Group Health and Hospitalization Insurance

The Town provides group health and hospitalization insurance programs for full-time and part-time employees.

Employees who are scheduled to work 20 hours or more but less than 40 hours per week on a continuous year-round basis may, if they so desire, purchase available group health through the Town for themselves or for themselves and qualified dependents. A pro-rated amount of the cost of coverage paid for a full-time employee shall be paid by the Town with the remainder of the cost being paid by the employee. This pro-rated amount shall be based on regularly scheduled hours.

Information concerning cost and benefits is available to all employees from the Human Resources Department.

Retired Employees.

The Town has adopted a separate policy to govern retiree health and dental insurance effective November 7, 2007. Please refer to this separate policy to determine proper coverage.

Life Insurance

The Town pays for a life insurance policy for each full-time employee. The employee can elect to purchase dependent coverage through the same company. The Town also offers a variety of supplemental insurance policies (including life insurance, short- and long-term disability insurance, cancer insurance, accident insurance and other types) to the employees. Employees pay for the costs for these optional forms of insurance. Employees can find out about this benefit by contacting the Human Resources Department.

Retirement

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

Social Security

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

Workers' Compensation

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

Responsibility for claiming compensation under the Workers' Compensation Act is on the injured employee, and such claims must be filed by the employee with the North Carolina Industrial Commission within two years from date of injury. The Department Head will assist the employee in filing the claim.

This provision also applies to reactions to smallpox vaccinations administered to Town employees under Section 304 of the Homeland Security Act. Such reactions shall be treated the same as any other workers compensation claim as regards leave and salary continuation.

Before returning to work from an injury arising out of or due to employment with the Town, a statement from the attending physician should be submitted to the Town confirming that the employee is fit for duty and specifying any necessary restrictions or conditions. Upon return to work in their usual position, the employee's salary will be

computed on the basis of the last salary plus any salary increase to which the employee would have been entitled based upon performance and other compensation policies.

During the disability covered by Workers Compensation benefits, an employee continues to earn annual leave, sick leave, and will retain all accumulated sick or annual leave.

Employees may use compensatory time off, sick leave and/or vacation leave both during the waiting period before Workers' compensation benefits begin, and afterward to supplement the remaining one-third of salary, except that employee may not exceed the regular salary amount using this provision.

Unemployment Compensation

Town employees who are separated due to a reduction in force or released from Town service may apply for benefits through the local Employment Security Commission office, where a determination of eligibility will be made.

Employee Assistance Program

All employees of the Town of Southern Shores and their spouse and children are encouraged to use the Vidant Employee Assistance Program. The services provided by the EAP are confidential and free for the first 6 visits. The EAP offers confidential counseling with a licensed behavioral health professional near your place of employment. To schedule an appointment employees may call 252-847-4357 or 877-843-7207. For more information about the Employee Assistance Program employees may also contact the Human Resources Department.

Tuition Assistance Program

Full-time employees who have completed initial probation may apply for tuition reimbursement for courses taken on their own time, which will improve their skills for their current job or prepare them for promotional opportunities within the Town service. Tuition, registration, fees, laboratory fees, and student fees are eligible expenses. Employees may be reimbursed eligible expenses up to a total of one thousand dollars (\$1,000) per fiscal year. Satisfactory completion of the courses will be required for reimbursement. Requests for tuition assistance shall be submitted to the Department Head prior to course registration. These requests are subject to the review and approval of Town Manager. These requests are also subject to the availability of funds.

Longevity Pay

Employees shall receive longevity pay in the payroll following his/her anniversary date that reflects years of service. Employees shall receive longevity pay according to the following schedule:

<u>Years of Service</u>	<u>Longevity Amount</u>
0 - 4	\$ 0
5-9	500
10- 14	1000
15-19	1500
20-24	2000
25 or more	2500

ARTICLE 8. HOLIDAYS, LEAVE AND ADVERSE WEATHER

Policy

The policy of the Town is to provide annual leave, sick leave, and holiday leave to all regular full-time and part-time employees., and to provide proportionately equivalent amounts to employees having average work weeks of different lengths. Employees shall accrue leave proportionately with each payroll.

Definitions Used in This Article

Immediate Family. Includes wife, husband, mother, father, brother, sister, son, daughter, grandmother, grandfather, grandson, granddaughter, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepmother, stepfather, stepson, stepdaughter, stepbrother, or stepsister.

Essential Employees [Adverse Weather]. These are employees who have been designated as essential to the successful and efficient management of an emergency situation by their Department Head or the Town Manager. Essential employees are expected to report when contacted by the Department Head or Supervisor. This group includes, but is not limited to all Police, Public Works employees, the Building Inspector, and the Deputy Town Manager/Planning Director.

Holidays

The following days, and other such days as the Town Council may designate, are holidays with full pay for employees and officers of the Town:

- | | |
|-----------------------------|--------------------------------|
| New Year's Day | Independence |
| Martin Luther King Birthday | Day Labor Day |
| President's Day | Veteran's Day |
| Good Friday | Thanksgiving Thursday & Friday |
| Memorial Day | Christmas [3 days] |

When any designated holiday falls on Saturday or Sunday, the following Monday will be the designated holiday. Christmas holidays include the last business day before Christmas, Christmas Day and the business day after Christmas. When Christmas falls on a Saturday, Thursday, Friday and Monday will be the designated holidays. When Christmas falls on a Sunday, Friday, Monday and Tuesday will be the designated holidays.

Holidays: Effect on Other Types of Leave

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

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

Employees required to perform work on regularly scheduled holidays shall be paid at the rate of time and one half for hours actually worked and receive pay at the regular rate for the holiday hours they did not take off.

Order of Use of Leave

Non-exempt employees with accumulated compensatory time off leave are required to use that leave before using vacation leave.

Vacation Leave

Vacation leave shall be used for rest and relaxation, and may be used for medical appointments, school appointments, observance of religious holidays not recognized by the Town, or other such needs.

Vacation Leave: Use by Probationary Employees

Employees in an initial probationary period may accumulate vacation leave but shall not be permitted to take vacation leave during the first three months of the probationary period. Employees shall be allowed to take accumulated vacation leave after three months of service. The Town Manager may, at the request of a Department Head, allow use of accumulated vacation leave during the first three months of the probationary period.

Vacation Leave: Accrual Rate

Each full employee of the Town shall earn annual leave at the following schedule,

Years of Service	Days Accrued Per Year
0 to 4	12
5 to 9	15
10 -19	20
20 plus	24

Police Officer Vacation Leave Accrual

Police Officers accrue vacation leave at the following rates:

Years of Service	Days Accrued Per Year
0 to 4	12.84
5 to 9	16.05
10 plus	21.39
20 plus	25.68

Part-time employees shall earn annual leave prorated by the average number of hours in the employee's workweek.

Vacation Leave: Maximum Accumulation

Vacation leave may be accumulated without any applicable maximum until December 31 of each year. If the employee terminates employment with the Town, payment for accumulated vacation leave shall not exceed 30 days. From the last payroll in the calendar year, any employee with more than 30 days of accumulated leave shall have the excess accumulation transferred to sick leave.

Employees should not retain vacation leave over the 30 days maximum until late in the calendar year. Because of the necessity to keep all Town functions in operation throughout the year, large numbers of employees cannot be granted vacation leave at any one time. If an employee has excess leave accumulation during the latter part of the year and is unable to take such leave because of staffing demands, the employee shall receive no special consideration either in having vacation leave scheduled or in receiving any exception to the maximum accumulation.

Vacation Leave: Manner of Taking

Employees are expected to request vacation leave in advance and must receive approval before taking the leave. Department Heads are responsible for insuring that approved vacation leave does not hinder the effectiveness of service delivery. Vacation leave may be taken in amounts of not less than 15 minutes. Employees who fail to comply with these requirements are subject to disciplinary actions up to and including dismissal.

Vacation Leave: Payment upon Separation from Employment

The maximum amount of accumulated vacation leave that will be paid out is 30 days. An employee who has completed the probationary period will normally be paid for accumulated vacation leave upon separation, provided notice is given to the supervisor at least two weeks in advance of the effective date of resignation. Any employee failing to give the notice required by this section shall forfeit payment for accumulated leave. The notice requirement may be waived by the Town Manager when deemed to be in the best interest of the Town. Employees who are involuntarily separated shall receive payment for accumulated annual leave subject to the 30-day maximum.

Vacation Leave: Payment upon Death

The estate of an employee who dies while employed by the Town shall be paid for all the accumulated vacation leave credited to the employee's account not to exceed 30 days.

Sick Leave

Sick leave is a privilege which the Town grants and not a right. Sick leave may be used when the employee is unable to fully or safely perform their duties due to illness or injury. Sick leave may also be used when an employee must care for a member of his/her immediate family who is ill.

Notification of the need to take sick leave should be submitted to the employee's supervisor prior to the leave or according to departmental procedures.

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

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

Sick Leave: Accrual Rate and Accumulation

Sick leave shall accrue at a rate of one day per month of service or twelve days per year. Sick leave for full-time and part-time employees working other than the basic work schedule shall be pro-rated as described in this Article. Sick leave will be cumulative for an indefinite period of time and may be converted upon retirement for service credit consistent with the provisions of the North Carolina Local Government Employees' Retirement System.

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

Transfer of Sick Leave from Previous Employer

The Town will accept the transfer of sick leave for employees from other employers who are participants of the North Carolina Local Government or State Employees Retirement System. The sick leave will be treated as though it were earned with the Town of Southern Shores. The sick leave amount must be certified by the previous employer. The sick leave must have been accrued under a leave system similar to that used by the Town.

Sick Leave: Medical Certification

A Department Head who believes that an employee is abusing the privilege of sick leave may require a physician's certificate. The Department Head is required to ensure:

- a) Employees shall not be on duty when they might endanger their health or the health of other employees or members of the public; and
- b) There will be no abuse of leave privileges.

Claiming sick leave under false pretense to obtain a day off with or without pay shall subject the employee to disciplinary action up to and including dismissal.

Leave Without Pay

A full or part-time employee may be granted a leave of absence without pay for a period of up to twelve months by the Town Manager. The leave shall be used only for these reasons:

- a) personal disability after all other available paid leave has been exhausted,

- b) sickness or disability of immediate family members,
- c) continuation of education,
- d) special work that will permit the Town to benefit by the experience gained or the work performed,
- e) or for other reasons deemed justified by the Town Manager.

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

Workers' Compensation Leave

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

When worker's compensation leave extends long enough for the waiting period to be reimbursed, the employee shall return the reimbursement check to the Town and have leave hours re-instated for all time covered by paid leave. In such cases, the Town will pay the employee for any unpaid time that is owed the employee.

Military Leave

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

Reinstatement Following Military Service.

- a) The Town will fully comply with the requirements of USERRA and other related federal regulations. An employee called to extended active duty with the United States military forces, who does not volunteer for service beyond the period for which called, shall be reinstated with full benefits provided the employee applies for reinstatement within ninety days after the release from military service: and:
- a) Is able to perform the duties of the former position or similar position; or
- b) Is unable to perform the duties of the former position or a similar position due to disability sustained as a result of the military service but is able to perform the duties of another position in the service of the Town. In this case the employee shall be employed in such other position as will provide the nearest approximation of the seniority, status, and pay which the employee otherwise would have been provided, if available.

Civil Leave

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

Parental School Leave

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

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

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

Family/Medical Leave

As a public employer the federal Family/Medical Leave Act covers the Town of Southern Shores. As a covered employer, the Town is required to post information about the Family/Medical Leave Act and complies with that requirement.

However, since the Town of Southern Shores does not employ the statutorily required

minimum of fifty (50) employees, employees of the Town are not entitled to the other provisions of the FMLA, including twelve weeks of unpaid leave. Questions about the Family/Medical Leave Act should be directed to the Human Resources Department.

Bereavement Leave

A full-time regular employee may take up to three full days of bereavement leave for the death of a member of the employee's immediate family as defined in this Article. This entitlement is for each occurrence of a death in an employee's immediate family. This time will not be deducted from accumulated leave.

Adverse Weather Conditions

Policy

Town offices and departments shall remain open for the full scheduled working day unless authorization for early closing or other deviation is received from the Town Manager's office. All departments and offices will be notified by the Town Manager or designee as soon as possible of any authorized early closings.

Definition – Administrative Leave

For the purposes of this policy only, administrative leave is paid time off given to employees during a period of adverse weather. It is not added to any other form of paid leave, it must be used within 90 days from the end of the inclement weather event and it is not paid out if the employee leaves before using it.

Town Operations during Adverse Weather Conditions

In the event of adverse or catastrophic weather conditions, the following provisions will apply:

- A. Employees who leave work early, report for work late or do not report for work at all, when there has been no official cancellation or delay announced, will be required to use earned annual or compensatory time off for days or hours taken. The Department Head may approve specific make-up times for these employees as long as the time can be made up within the same work week and does not result in overtime work for that work week.
- B. Employees in departments that officially close due to adverse weather conditions should record administrative leave for the period of time during which the office was closed. Non-emergency employees who continue to work at their regular workstation during the time of an official closing will be paid but will not receive administrative leave for this time. Nor can the employee carry forward administrative leave that is not used during the time period when the office or department is officially closed.
- C. Employees on sick, annual, or personal leave are not eligible for the administrative leave and will be charged for their accrued paid leave for any leave time during which their department is closed due to inclement weather.

D. Both exempt and non-exempt employees in departments that must remain open during periods of inclement weather when the majority of Town departments are officially closed shall receive administrative leave to be used at a later date equivalent to the administrative leave received by other Town employees. Administrative leave must be used within 90 days from the end of the inclement weather and must be used before any other form of paid leave. This also applies to employees who work in departments that may officially close, but are assigned to shelter duty, or are otherwise placed on Emergency Call Back duty. Note: This policy does not apply to sworn law enforcement employees of the Police Department.

E. Essential Personnel: Employees essential to the successful and efficient management of an emergency situation shall be designated by their Department Head and are expected to report when contacted by Town officials. Failure to be available or to report when called shall be deemed insubordination and will subject the employee to disciplinary actions.

An essential employee who is unable to report for their scheduled shift due to legitimate environmental conditions that preclude them from travel to the work site, should contact their supervisor to see if alternate transportation can be arranged. This procedure also applies to any other reason outside the control of the employee that renders him/her unable to report to work. The supervisor must approve the absence of an essential employee during an emergency situation.

F. Return to Work During Adverse Weather Conditions

If an employee fails to respond to reasonable calls for emergency service, either special or routine, the employee shall be subject to disciplinary actions up to and including dismissal by the Town Manager.

G. Non-exempt employees reporting for emergency duty shall be compensated for travel time for travel from home to the emergency site and back home. This does not apply to exempt employees.

ARTICLE 9. SUBSTANCE ABUSE/DRUG TESTING POLICY

Alcohol and Drug Free Workplace Policy

Alcohol and drug abuse pose a threat to the health and safety of Town employees and to the security of the Town's equipment and facilities. A drug-free workplace will be the most prepared for reducing accidents, lowering employer liability, and preventing any damage to the reputation of the Town. For these reasons the Town is committed to the elimination of drug and alcohol use/abuse in the workplace.

All testing done under this policy will be conducted in a manner that will protect the rights of employees and applicants. The Town will take all necessary steps to safeguard the dignity of those being tested and will ensure adherence to the procedures within this policy. The Town will adhere to all standards of confidentiality. It will make sure that testing records and results will be released only to those persons authorized to receive them.

Employees with substance abuse problems are encouraged to voluntarily seek help, including using the Town's Employee Assistance Program. If an employee should seek help prior to being identified as a drug/alcohol user through testing, all positive consideration for a medical leave of absence for treatment or counseling will be pursued.

Employees who fail drug or alcohol tests may be disciplined, up to and including dismissal.

All employees will be provided with a copy of this policy. Employees are required to sign a receipt for this policy. Acceptance of this policy is a condition of employment for both new and current employees.

This policy applies to all employees and applicants.

Definitions Used in This Article

Town Premises. This includes all buildings, offices, facilities, grounds, parking lots, lockers, places and vehicles owned, leased or managed by the Town or on any site on which the Town is conducting business.

Illegal Drug. This means a substance whose use or possession is controlled by federal law but that is not being used or possessed under the supervision of a licensed healthcare professional. (Controlled substances are listed in Schedules I-V of 21 C.F.R. Part 1308)

Refuse To Cooperate. This means to obstruct the collection or testing process; to submit an altered, adulterated or substitute sample; to fail to show up for a scheduled test; to refuse to complete the requested drug testing forms; or to fail to promptly provide specimen(s) for testing when directed to do so, without a valid medical basis for the failure. Employees who leave the scene of an accident without justifiable explanation prior to submission to drug and

alcohol testing will also be considered to have refused to cooperate and will be subject to dismissal.

Under The Influence of Alcohol. An employee with the presence of any alcohol in his/her blood will be considered to be under the influence.

Under The Influence of Drugs. This is a confirmed positive test result for illegal drug use per this policy. In addition, it means the misuse of legal drugs (prescription and possibly OTC) when there is not a valid prescription from a physician for the lawful use of a drug in the course of medical treatment (containers must include the patient's name, the name of the substance, quantity/amount to be taken and the period of authorization).

Employee Assistance

The Town will assist and support employees who voluntarily seek help for such problems before becoming subject to discipline or termination under this or other Town policies. Such employees will be allowed to use accrued paid time off, or placed on leave without pay, when referred to treatment providers and otherwise accommodated as required by law. Such employees will be required to document that they are successfully following prescribed treatment and to take and pass follow-up tests.

Employees are required to report to work fit for duty and free of any adverse effects of illegal drugs or alcohol. This policy does not prohibit employees from the lawful use and possession of prescribed medications. Employees must, however, consult with their doctors about the medication's effect on their fitness for duty and ability to work safely, and they must promptly disclose any work restrictions to their supervisor. Employees need not and should not, however, disclose to the Town underlying medical conditions unless directed to do so.

Prohibited Behaviors Under This Policy

Whenever Town employees are working, are operating any Town vehicle, are present on Town premises or are conducting work for the Town offsite, they are prohibited from:

1. The use, consumption, possession or storage, manufacture, distribution, dispensation or sale of illegal drugs or illegal paraphernalia on Town premises or any Town work area, in Town vehicles, or while on Town business.
2. The use, consumption, or sale of alcohol on Town premises or any Town work area, in Town vehicles, or while on Town business.
3. Reporting to work or working on Town premises or any Town work area, in Town vehicles or on Town business while under the influence of alcohol, illegal drugs, or non-prescribed drugs.
4. Conviction of selling illegal drugs or of possession with intent to sell illegal drugs at any time or place.
5. Conviction of any criminal drug or alcohol statute at any time or place may be evaluated on a per-case-basis for relevancy to job duties or responsibilities.
6. Failure to notify the supervisor of any conviction under any criminal drug or alcohol statutes by the next workday following the conviction.

7. Failure to notify the supervisor, before beginning to work, of any prescription or over-the-counter medication use which may interfere with the safe and effective performance of duties.
8. Refusal to immediately submit to an alcohol and drug test when requested by a supervisor, in accordance with this policy.
9. Failure to adhere to the requirements of any drug or alcohol treatment program in which the employee is enrolled as a condition of continued employment.
10. Tampering with or obstruction of a drug or alcohol test being administered by or for the Town.

Required Testing

Pre-Employment

All applicants must pass a drug test before beginning work or receiving an offer of employment. Refusal to submit to testing or testing positive for drugs or alcohol as defined in Work Rules will result in disqualification for further employment consideration.

Reasonable Suspicion

An employee who reports to work and there is reasonable suspicion s/he is under the influence of a controlled substance or impaired by the use of prescription/nonprescription medication or alcohol shall immediately be relieved of employment related duties and responsibilities and when practicable, the employee will also be referred for appropriate testing.

Reasonable suspicion inferences may be drawn from observations concerning the appearance, behavior, speech or body odors of the employee, including but not limited to one or a combination of these documented facts: bloodshot or watery eyes; extensive sweating; dilated or constricted pupils; unfocused blank stare; slow reactions; unstable walking; poor coordination; or slurred or slowed speech.

In incidences of reasonable suspicion, if possible, the supervisor should confer with another supervisor to verify observed behavior or actions. She/he should consult with Human Resources prior to meeting with the employee or referring an employee for testing. The supervisor must meet with the employee privately about the performance/behavioral issues, state suspicions and allow the employee to provide an explanation for his/her actions or condition. Failure to take action when the supervisor has reason to believe an employee is impaired while at work will result in disciplinary action being taken against the supervisor.

If specimen collection must take place off site, the supervisor must drive the employee to the collection site in order to ensure the employee's safety, in addition to note the employee's arrival time, confirm the employee's identity and authorize the test. The employee cannot drive to the collection site. If the employee insists on driving, she/he will be subject to disciplinary action up to and including dismissal.

Immediately after the employee has been tested, the employee's supervisor shall provide written documentation of the behaviors and/or conditions which support reasonable

suspicion, including any prior related disciplinary action or other attempts to address the problem, and submit the documentation to Human Resources and the Department Head.

Within 24 hours of referral for testing, a letter will be given to the employee explaining the reasons for the reasonable suspicion testing and advising the employee that she/he is being placed on Investigatory Status with Pay and will be placed on administrative leave until the results of drug and/or alcohol screen are received. If the employee tests positive, the administrative leave will be adjusted to any appropriate and available leave categories. The employee shall be advised of any disciplinary action that may be taken as outlined in the progressive disciplinary process.

Random Testing

Employees in designated safety sensitive positions will be subject to random, unannounced drug and alcohol screening. The Human Resources Office will receive a quarterly listing from the designated medical facility [Outer Banks Urgent Care – Kitty Hawk.]

Human Resources will maintain a list of jobs selected for random testing. This list will be updated as the need exists. When an employee is selected for random testing, the employee will be notified by Human Resources Designee and must report immediately to the designated drug testing facility. Any employee selected for random testing who refuses to submit to testing or who has a positive test will be placed on Investigatory Status with Pay. If the positive test is confirmed, there will be a pre-termination review with the Department Head, and Human Resources, and consultation with the Town's attorney before a decision to be made regarding termination.

Collection and Testing Procedures

Drug Testing

Employees subject to drug testing should be driven to a Town designated medical facility and directed to provide a urine specimen. The collected specimen shall be sent to an approved laboratory and the specimen shall be screened as required by N.C.G.S. § 95-232.

The laboratory shall transmit all positive drug test results to a medical review officer retained by the medical facility who should offer persons with positive results a reasonable opportunity to rebut or explain the results. Individuals with positive test results may also ask to have their split specimen sent to another federally certified laboratory to be tested at the applicant's or employee's own expense. Such requests must be made within 72 hours of notice of test results. The employee must request release of the sample in writing specifying to which approved laboratory the sample is to be sent.

The applicant or employee incurs all reasonable expenses for chain of custody procedures, shipping, and retesting of positive samples related to this request.

If the second facility fails to find any evidence of drug use in the split specimen, the employee or applicant will be treated as a negative drug screen. In no event shall a positive test result be communicated to the Town until such time that the test has been confirmed to be positive.

Alcohol Testing

A positive test for alcohol will result in the employee immediately being placed on administrative leave and scheduled for a pre-disciplinary conference with the Department Head for unacceptable personal conduct.

Testing Procedure

Prior to leaving for the testing facility, Human Resources will contact the testing facility to inform it that a staff member from the Town will be arriving and will need a drug or alcohol test completed.

The employee to be tested must present a photo ID (i.e. a driver's license) to the testing facility staff before the specimen can be obtained. Ensure that the employee brings the photo ID with him or her when leaving the Town premises.

The employee to be tested must sign a consent form provided by the testing facility. Refusal to sign is addressed under the "Consequences" section of this document.

A Town representative must sign as a witness to the collection procedure, along with the tested employee.

After returning to the work site or when leaving the testing facility, the supervisor/manager must make arrangements to transport the person home (unless a negative test result is immediate). Under no circumstances will an employee who is tested due to reasonable suspicion be allowed to drive home.

Consequences

Employees who have tested positive, or otherwise violated this policy, are subject to discipline, up to and including dismissal.

Applicants or employees who test positive will not be eligible for employment with the Town unless and until they produce documentation proving they have completed a drug or alcohol rehabilitation treatment program through the Employee Assistance program and pass a pre-employment drug screen.

Employees who refuse to cooperate in required tests or who use, possess, buy, sell, manufacture or dispense an illegal drug in violation of this policy will be placed on administrative leave and scheduled for a pre-disciplinary conference with their Department Head. If the employee refuses to be tested, yet the Town believes he or she is impaired, under no circumstances will the employee be allowed to drive home.

Employees will be paid for time spent in alcohol or drug testing and time spent waiting for the results of the drug or alcohol test. After the results of the test are received, employees who test positive are subject to disciplinary action up to and including dismissal. If the results are negative, the employee will be returned to work.

Confidentiality

Information and records resulting in positive test results, drug and alcohol dependencies, and legitimate medical explanations provided to the MRO are kept confidential to the extent

required by law and maintained in the Human Resources Department. Information will not be released without written consent of the applicant or employee except as a result of action initiated by or on behalf of the applicant or employee or in compliance with a legal subpoena reviewed and approved by the Town legal department. Test results are to be maintained accordance with the Town records retention schedule.

Inspections

The Town reserves the right to inspect all portions of its premises for drugs or other contraband. All employees may be asked to cooperate in inspections of their persons, work areas and property that might conceal a drug, alcohol or other contraband. Any illegal drugs or drug paraphernalia discovered on Town premises will be turned over to an appropriate law enforcement agency and may result in criminal prosecution.

Employees who possess such contraband or refuse to cooperate in such inspections are subject to appropriate discipline up to and including dismissal.

Safety Sensitive Classifications for the Town of Southern Shores

A list of safety sensitive positions for the Town of Southern Shores is maintained in the office of the Town Manager and in the Human Resources Department for the administration of random drug tests.

ARTICLE 10. DISCIPLINARY ACTION AND DISMISSAL

Purpose

While most employees are able to perform the essential functions of their jobs, and conduct themselves as adult, professional individuals, some employees cannot or will not perform their jobs satisfactorily or cannot or will not conduct themselves in an appropriate fashion. For those few individuals, the Town of Southern Shores has adopted this policy. This policy is designed to assist employees in understanding their job duties and how to discharge them effectively, thus reducing turnover; and to quickly remove from the workplace those employees who do not behave in an adult, professional manner.

Policy

It is the policy of the Town of Southern Shores to encourage fair, efficient, and equitable solutions for problems arising out of the employment relationship. This policy is designed to help and encourage all employees to achieve and maintain satisfactory standards of performance and conduct. All employees are responsible for acquainting themselves with performance criteria for their particular job, along with rules, procedures, and standards of conduct established by their department, and maintain standards of performance and conduct suitable and acceptable to the work environment.

Coverage

The provisions of this policy apply to all Town employees who have completed a probationary period. The provisions of this policy do not apply to employees in a probationary period.

Definitions Used in This Article

Active Written Warning. A written warning will remain active for a period of twenty-four (24) months after it is issued.

Disciplinary Demotion. Demotion is an involuntary movement from a higher-level position to a lower level position for disciplinary reasons with a corresponding permanent reduction in pay.

Disciplinary Suspension without Pay. A disciplinary action in which an employee is removed from work without pay lasting at least one (1) full work-day but not more than ten (10) consecutive work-days.

Unsatisfactory Job Performance. Unsatisfactory job performance occurs when an employee fails to satisfactorily meet job requirements as specified in the relevant class description or position description, work plan or as directed by the management of the work unit or agency.

Unacceptable Personal Conduct Discipline. Unacceptable personal conduct includes, but is not limited to, behavior that causes the functioning of the Town to be impaired; the safety of persons or property to be threatened; or the laws of the federal, state, or local government to be violated. Unacceptable personal conduct is intentional behavior, rather than inadvertent or negligent behavior.

Department Heads and supervisors are responsible for maintaining the proper job performance or conduct of employees under their supervision. When an employee's performance or conduct is determined by a supervisor or Department Head to be unsatisfactory or unacceptable, disciplinary action may be taken. The Town Manager or Department Head, with the assistance of Human Resources shall review the reasons for any disciplinary action, other than oral and written warnings, before any disciplinary action is taken.

Disciplinary Action Policy

Reason for Disciplinary Action

Any employee may be warned, demoted, suspended or dismissed by the Town Manager or his/her designee. The degree and type of action taken shall be based upon the sound and considered judgment of the Town Manager in accordance with the provisions of this policy. Disciplinary actions may take the form of:

1. Oral or written warning;
2. Reprimand;
3. Extension of or placement on probation;
4. Disciplinary suspension without pay;
5. Demotion; and
6. Dismissal.

Either unsatisfactory job performance or unacceptable personal conduct constitutes good business reason for discipline or dismissal.

This Article guides the process for imposition of any disciplinary action for a non-probationary employee

Employee Responsibilities

All employees are responsible for performance of their job duties and assignments in a manner that is consistent with, but not limited to, job expectations, class descriptions, personnel policies, and work rules. Employees are responsible for maintaining behavior consistent with Town policy and normal expectations of the workplace. Employees are responsible for knowing, understanding, and abiding by the Town's employment policies.

Department Head Responsibilities

Department Heads are responsible for ensuring timely and thorough documentation of all disciplinary actions. Documentation should contain:

1. A clear description of the performance that is the basis for the discipline, together with any work rules, expectations or standards that were not followed or achieved;

2. The action taken by the Department Head;
3. How the employee's performance must change;
4. The time frame during which the employee must demonstrate a change in performance and the date of a follow-up with the affected employee;
5. The expectation that the new performance must be sustained.

Department Heads, in conjunction with the Human Resources Director and Town Manager, are also responsible for ensuring that the Town applies discipline on a consistent basis.

Bases For Disciplinary Action

Unsatisfactory Job Performance

Unsatisfactory job performance is work-related performance that fails to satisfactorily meet job requirements as specified in the relevant class description or position description, work plan or as directed by management.

Unsatisfactory performance of duties, depending upon the circumstances, includes, but is not limited to:

1. Poor quality or volume of work
2. Insufficient quantity of work
3. Inefficient performance of work-related analysis, decisions, or judgment
4. Poor accuracy of work
5. Failure of regular and timely attendance

It is the Town's intent to assist and promote employee performance that meets or exceeds expectations.

This policy covers all types of performance-related deficiencies and does not require that successive disciplinary actions all concern the same type of unsatisfactory performance.

Before an employee will be dismissed for unsatisfactory job performance, they will usually receive at least two (2) prior disciplinary actions within the previous thirty-six (36) months. Any prior disciplinary actions provide notice that failure to make the required performance improvements may result in dismissal. This does not limit the authority of a supervisor to recommend, or the Town Manager to implement, the dismissal of any employee at any time regardless of whether they have been previously warned or disciplined.

Prior to the decision to dismiss a non-probationary employee on the basis of unsatisfactory job performance, the Town Manager or his/her designee will conduct a pre-disciplinary conference with the employee. At the request of the Town Manager or his designee, Human Resources may assist in this process.

An employee must file a grievance within fifteen (15) calendar days from being notified of dismissal.

Unacceptable Personal Conduct

Employees may be disciplined up to and including dismissal for any incident of unacceptable personal conduct without prior warning or disciplinary action. The Town

Manager shall determine whether any offense is of such a grievous nature as to justify and termination or lesser disciplinary action.

Unacceptable personal conduct may include but is not limited to:

1. Conduct for which no reasonable person should expect to receive prior warning;
2. Job related conduct which constitutes a violation of state or federal law;
3. Misappropriation of Town funds or property; or causing misappropriation of Town funds or property;
4. Falsification of Town records;
5. Providing any false information;
6. Reporting to work under the influence of alcohol or illegal drugs or partaking of alcohol or illegal drugs while on duty or while on public property, except that prescribed medication may be taken within the limits set by the physician so long as medically necessary and not disruptive to the employee's performance of job duties;
7. Carelessness, damage or destruction of Town property, or acts that would endanger the lives and property of others;
8. Acceptance of gifts in exchange for favors or influence;
9. Fraud in securing appointment, falsification of an employment application or other employment documentation or failure to disclose relevant work history;
10. Failure to maintain necessary credentials;
11. Insubordination, which is the willful failure or refusal to carry out a reasonable order from an authorized supervisor. Insubordination is considered unacceptable personal conduct for which any level of discipline, including dismissal, may be imposed without prior warning;
12. Disrespectful treatment of anyone while performing duties, on Town property, in a Town vehicle or during any Town event;
13. Violation of any Town policy or requirement.

Prior to the decision to dismiss a non-probationary employee on the basis of unacceptable personal conduct, the Town Manager or his/her designee will conduct a pre-disciplinary conference with the employee. At the request of the Town Manager or his/her designee, Human Resources may assist in this process.

An employee must file a grievance within fifteen (15) calendar days from being notified of dismissal.

Types of Disciplinary Actions

Oral or Written Warnings

It is the responsibility of every supervisor/Department Head to monitor the satisfactory performance of work assignments and acceptable standards of conduct.

Oral or Written warnings may be issued to correct behavior for minor infractions or repeated violations of policy, procedure, or work rules.

Oral or Written warnings are not grievable.

Disciplinary Suspension Without Pay

An employee may be suspended without pay for disciplinary purposes for unsatisfactory job performance

A disciplinary suspension without pay for an employee who is subject to the overtime compensation provisions of the Fair Labor Standards Act (FLSA) must be for at least one (1) full workday, but not more than ten (10) workdays. The length of a disciplinary suspension without pay for an employee who is exempt from the overtime compensation provisions of the FLSA must be for at least one (1) full workweek, but not more than two (2) full workweeks.

Prior to placing any employee on disciplinary suspension without pay, the Town Manager or his/her designee shall conduct a pre-disciplinary conference with the employee.

Demotion

A Department Head, upon review and in agreement with the Town Manager, may retain an employee in a lesser capacity when the employee's performance or conduct is sufficient to satisfy grounds for dismissal but the employee shows promise of acceptable performance or conduct in a lesser position.

Any employee may be demoted as a disciplinary measure. Demotion may be made on the basis of either unsatisfactory job performance or unacceptable personal conduct.

Prior to the decision to demote an employee for disciplinary reasons, the Town Manager must conduct a pre-disciplinary conference.

Procedure for Implementing Discipline**Fact Finding**

Prior to taking any formal disciplinary action, the Department Head should gather any and all pertinent details regarding the situation. The Department Head will review the information and then shall discuss details with the Human Resources Director and the Town Manager or her/his designee.

Pre-Disciplinary Conference

Before any non-probationary employee may be demoted, suspended or dismissed, the Town Manager or her/his designee will conduct a pre-disciplinary conference with the employee.

The purpose of a pre-disciplinary conference is to give the employee an opportunity to provide information that he/she would like to have considered in the decision on whether to impose discipline, and if so, what form of discipline.

A pre-disciplinary conference is not a hearing, and the employee may not have an attorney or any other person present.

After the pre-disciplinary conference, the Town Manager or her/his designee may tell the employee to return to work or may send the employee home on administrative leave for the rest of the day.

Placement on Investigatory Status

Investigatory status is used to temporarily remove an employee from work status. Placement on investigation with pay does not constitute a disciplinary action as defined in this Article and is not an action that may be appealed. The Department Head must notify an employee in writing of the reasons for investigatory placement. An investigatory placement with pay may last no longer than thirty (30) calendar days without written notice of extension from the Town Manager. Under no circumstances is it permissible to use placement on investigation status for the purpose of delaying an administrative decision on an employee's work status pending the resolution of a civil or criminal court matter involving the employee.

It is permissible to place an employee in investigation status with pay only under the following circumstances:

1. To investigate allegations of performance or conduct deficiencies that could lead to disciplinary action;
2. To provide time within which to schedule and conduct a pre-disciplinary conference; or

Employee Appeal

An employee who has successfully completed the probationary period who wants to appeal a demotion, suspension or dismissal may present the matter in accordance with the provisions of the grievance procedure set forth in Article 11, Grievance Procedure/Discrimination, Harassment, and Retaliation Complaint Procedure.

ARTICLE 11. GRIEVANCES AND PROCEDURES FOR RESPONDING TO COMPLAINTS OF DISCRIMINATION, HARASSMENT AND RETALIATION

A. Town Grievance Procedure

Purpose

The purpose of this procedure is to provide the Town of Southern Shores and its employees a fair, effective, and prompt method of resolving an employee's grievance.

Policy

It is the policy of the Town of Southern Shores to provide a means whereby employees may freely discuss problems with supervisors and to provide a procedure for the presentation and mutual adjustment of points of disagreement that arise between employees and their supervisors. This grievance procedure is designed to assure all employees that their grievances will be answered and decided fairly, quickly, and without reprisal or threat.

Coverage

All Town employees who have completed a probationary period are eligible to use this Grievance Procedure. Employees who have not completed the probationary period are not eligible to use this procedure but may file a complaint regarding unlawful discrimination, unlawful harassment or retaliation under Part B of this Article.

Definitions Used in This Article

The following are definitions used in this procedure:

Grievance. A grievance shall be defined as a complaint or dispute of an employee relating to his/her employment, including but not limited to:

- (1) working conditions relevant to safety and health; and
- (2) other concerns about working conditions; and
- (3) decisions of the Town relative to disciplinary suspension without pay, demotion, or dismissal.

Days. Whenever used in this procedure, "days" shall mean calendar days, not working days. If a deadline for appealing or taking any action under this procedure falls on a weekend or holiday, the deadline shall move to the next business day for the Town.

Grievant. A grievant is either a current or former employee who has timely filed a grievance under this procedure that is within the authority of the procedure to deal with.

Non-grievable issues

Non-grievable issues include:

- (1) The negotiation of wages, salaries, or fringe benefits;
- (2) Performance evaluation ratings;
- (3) Any work activity accepted by the employee as a condition of employment;

- (4) Operating and/or organizational changes adopted by the Town for the efficient and economical operation of Town services, including but not limited to hours of work, licenses and certifications, work assignments including temporary assignments, and other specified conditions of employment;
- (5) Denial of promotion or transfer (unless due to illegal discrimination, harassment, or retaliation);
- (6) Disciplinary actions of less severity than suspension without pay, demotion, or dismissal (such as written warnings, reprimands, performance improvement plans, disciplinary probation, etc.); and
- (7) Subjects covered by existing regulations or established personnel policies and procedures.

Grievability Determination: When the question of whether or not an employee has just cause for a grievance cannot be satisfactorily resolved at the department level, the employee may make a request for a ruling on grievability from the Director of Human Resources, who shall respond in writing within two complete working days of the request. The decision of the Town Manager shall be final, and there shall be no further appeal.

Filing a Grievance and Steps in Grievance Procedure.

Filing a Grievance

An employee or former employee shall begin the grievance process by filing a written grievance request with the Human Resources Director within fifteen (15) days of the occurrence or decision the employee is grieving. After determining that the grievance is a grievable issue and that it has been filed in a timely fashion, the Human Resources Director shall forward to the Town Manager all information received relating to the grievance. The Human Resources Director shall then notify the employee that he/she may request a meeting with the Town Manager to discuss the grievance. Once this occurs, the employee has 5 days to request a meeting with the Town Manager.

Meeting with and Decision by Town Manager

The employee may appeal his/her grievance to the Town Manager within 5 days after notification from the Human Resources Director. The Town Manager (or her/his designee) shall meet with the employee as soon as possible to discuss the grievance. The Town Manager shall provide a written decision to the grievant within 10 days of meeting with him/her. The decision of the Town Manager is the final decision for the Town and may not be appealed further.

Note: During the grievance process, neither the Town nor the grievant may be represented by an attorney or any other person. If requested, the Human Resources Director may attend this meeting.

B. Discrimination/Harassment/Retaliation Complaint Procedure

Purpose

The policy is established to make clear to all Town employees, at all levels, that discrimination as prohibited by these policies, harassment on any basis, and retaliation for raising an issue of discrimination or harassment, or participating in a grievance or investigation, whether based on discrimination, harassment or any other basis is strictly prohibited.

Policy

The Town of Southern Shores prohibits discrimination on the basis of race, color, religion, gender, age, national origin, disability, genetic information, sexual orientation, gender identity or other protected status. The Town prohibits harassment on any of the above bases. The Town prohibits retaliation by any Town employee against any other Town employee for raising an issue of discrimination or harassment, or participating in any grievance, complaint or investigation based on any kind of allegation. If the Town finds that an employee has committed harassment or retaliation, the Town will discipline that employee up to and including dismissal.

Coverage

All Town employees, full time and part-time, including those employees who are still in the probationary period may use this complaint resolution procedure.

Filing A Discrimination, Harassment or Retaliation Complaint and Steps in Complaint Resolution Procedure

To file a complaint of discrimination, harassment or retaliation, an employee may file a complaint with the Human Resources Director or with a supervisor who is not the subject of the complaint. Any management person who receives such a complaint must transmit that complaint to the Human Resources Director. The Director will review the complaint and will see that the complaint is investigated. The investigation will result in a written report to the Town Manager or his/her designee, and the complaining employee.

If the report does not resolve the matter to the complainant's satisfaction, the complainant may request a meeting between complainant, the Town Manager and anyone the Town Manager thinks needs to be in meeting. The purpose of this meeting is to allow the complainant to discuss his/her complaint and to try to resolve it.

This is final step of the process for Town employees.

Any complaint under this policy that concerns the conduct of the Town Manager may be made to the Mayor or Town Attorney. The Town Attorney is responsible for ensuring that the complaint is investigated and addressed appropriately.

ARTICLE 12. SEPARATION/REINSTATEMENT

Types of Separations

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

Resignation

An employee may resign by submitting the reasons for resignation and the effective date in writing to the immediate supervisor as far in advance as possible. In all instances, the minimum notice requirement is two weeks. Failure to provide minimum notice shall result in forfeit of payment for accumulated annual leave unless the notice is waived by the Town Manager.

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

Reduction in Force

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

Disability

An employee who cannot perform the required essential duties because of a physical or mental impairment even with reasonable accommodation may be separated for disability. Action may be initiated by the employee or the Town. The Town may require an examination, at the Town's expense, performed by a physician of the Town's choice.

Retirement

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

Death

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

Dismissal

An employee may be dismissed in accordance with the provisions and procedures of Article 10. An employee dismissed for detrimental personal conduct is not eligible for rehire by the Town.

Reinstatement

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

Rehiring

An employee who resigns while in good standing may be rehired with the approval of the Town Manager, and may be regarded as a new employee, subject to all of the provisions of rules and regulations of this Policy. An employee in good standing who is separated due to a reduction in force shall be given the first opportunity to be rehired in the same or a similar position.

ARTICLE 13. PERSONNEL RECORDS

Purpose

The Town of Southern Shores will maintain all personnel records as required by applicable State and federal law.

The Human Resources Director will maintain such personnel records as are necessary for the proper administration of the human resources system. The Town shall maintain in personnel records only information that is relevant to accomplishing personnel administration purposes.

Policy

It is the policy of the Town of Southern Shores to maintain all relevant and legally required personnel records in a safe and confidential manner and will release such information as determined to be public information by State and Federal law and regulations.

Public Information

Information on each Town employee shall be maintained in accordance with General Statutes 160A-168.

The Town shall maintain certain personnel as confidential information in accordance with N.C.G.S. §160A-168.

Access to Personnel Records

The Town will comply with G.S. 160A-168, as amended, regarding public access to personnel records and information. Access to non-confidential information shall be governed by the following provisions:

- a. All disclosures of records shall be accounted for by keeping a written record (except for authorized persons processing personnel actions) of the following information: Name of employees; information disclosed; date information was requested; name and address of the person to whom the disclosure is made; purpose for which information is requested. This information must be retained for a period of two years.
- b. Upon request, records of disclosure shall be made available to the employee to whom it pertains.
- c. An individual examining a personnel record may copy any information that is public information. Town photocopying facilities may be made available. The cost

of photocopying may be charged to the person copying the information at the rate of \$.15 per page. Such charges may apply only in the event of copying more than 15 pages.

Records of Former Employees And Applicants

The provisions for access to records apply to former employees and applicants as they apply to current employees.

Personnel Actions

The Human Resources Director will prescribe necessary forms and reports for all personnel actions and will retain records necessary for the proper administration of the personnel system. There shall be one set of official personnel files, centrally located as designated by the Town Manager.

Penalties for Permitting Access to Confidential Records

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

Remedies of Employees Objecting to Material in Personnel File

An employee who objects to material in his file may place in his file a statement relating to the material he considers to be inaccurate or misleading.

ARTICLE 14. IMPLEMENTATION OF PERSONNEL POLICIES

Conflicting Policy Repealed

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

Separability

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

Violations of Resolution Provision

An employee violating any of the provisions of this Policy shall be subject to suspension and/or dismissal, in addition to any civil or criminal penalty, which may be imposed for the violation of the same.

TOWN OF SOUTHERN SHORES
PERSONNEL POLICY

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

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ARTICLE I. GENERAL PROVISIONS

Section 1. Purpose of the Policy

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

Section 2. At Will Employment

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

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

Section 3. Merit Principle

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

Section 4. Responsibilities of the Town Council

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

Section 5. Responsibilities of the Town Manager

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

The Town Manager shall:

- a) recommend rules and revisions to the personnel system to the Town Council for consideration;
- b) make changes as necessary to maintain an up to date and accurate position classification plan;
- c) prepare necessary revisions to the pay plan;
- d) determine which employees shall be subject to the overtime provisions of FLSA;

- e) establish and maintain a roster of all persons and authorized positions in the municipal service, setting forth each position and employee, class title of position, salary, any changes in class title and status, and such data as may be desirable or useful;
- f) develop and administer such recruiting programs as may be necessary to obtain an adequate supply of competent applicants to meet the needs of the Town;
- g) perform such other duties as may be assigned by the Town Council not inconsistent with this Policy; and
- h) appoint an employee to the role of Human Resources Officer.

Section 6. Responsibilities of the Human Resources Officer

The Town Manager shall appoint a Human Resources Officer or perform this role himself or herself. If serving as Human Resources Officer, the Manager may choose to delegate any of these responsibilities. The responsibilities of the Human Resources Officer are to make recommendations to the Town Manager on the following:

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

Section 7. Application of Policies, Plan, Rules, and Regulations

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

and commissions will be exempted except in sections where specifically included. An employee violating any of the provisions of this policy shall be subject to appropriate disciplinary action, as well as prosecution under any civil or criminal laws which have been violated.

Section 8. Departmental Rules and Regulations

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

Section 9. Definitions

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

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

Part-time employee. An employee who is in a position for which an average work week of at least 20 hours and less than 37.5 hours and continuous employment of at least 12 months are required by the Town.

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

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

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

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

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

ARTICLE II. POSITION CLASSIFICATION PLAN

Section 1. Purpose.

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

Section 2. Composition of the Position Classification Plan

The classification plan shall consist of:

- a) a grouping of positions in classes which are approximately equal in difficulty and responsibility which call for the same general qualifications, and which can be equitably compensated within the same range of pay under similar working conditions;
- b) class titles descriptive of the work of the class;
- c) written specifications for each class of positions; and
- d) an allocation list showing the class title of each position in the classified service.

Section 3. Use of the Position Classification Plan

The classification plan is to be used:

- a) as a guide in recruiting and examining applicants for employment;
- b) in determining lines of promotion and in developing employee training programs;
- c) in determining salary to be paid for various types of work;
- d) in determining personnel service items in departmental budgets; and
- e) in providing uniform job terminology.

Section 4. Administration of the Position Classification Plan

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

Section 5. Adoption of the Position Classification Plan

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

Section 6. Request for Reclassification

Any employee who considers the position in which classified to be improper shall submit a request in writing for reclassification to such employee's immediate supervisor, who shall immediately transmit the request through the department head to the Human Resources Officer. Upon receipt of such request, the Human Resources Officer shall study the request, determine the merit of the reclassification, and recommend a revision to the classification and pay plan where necessary to the Town Manager.

ARTICLE III. THE PAY PLAN

Section 1. Definition

The pay plan includes the basic salary schedule and the "Assignment of Classes to Grades and Ranges" adopted by the Town Council. The salary schedule consists of hiring or beginning, minimum, midpoint, and maximum rates of pay for all classes of positions, and a designation of the standard hours in the work week for each position.

Section 2. Administration and Maintenance

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

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

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

Section 3. Starting Salaries

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

Section 4. Trainee Designation and Provisions

Applicants being considered for employment or Town employees who do not meet all of the requirements for the position for which they are being considered may be hired, promoted, demoted, or transferred by the Town Manager to a "trainee" status. In such cases, a plan for training, including a time schedule, must be prepared by the department head. "Trainee" salaries may be no more than two grades below the minimum salary established for the position for which the person is being trained. A new employee designated as "trainee" shall be regarded as a probationary employee.

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

Section 5. Probationary Pay Increases

Employees hired, promoted, or reclassified into the minimum rate of the pay range shall receive a salary increase within the range of approximately 5% upon successful completion of the probationary period, upon completion of six months of satisfactory service if the employee is not on probation. Employees serving a twelve month probationary period may be considered for this increase after six months of employment. Employees hired or promoted above the minimum (probationary completion position) of the pay table are not eligible for a probationary increase.

Section 6. Merit Pay

Upward movement within the established salary range for an employee is not automatic, but rather based upon specific performance-related criteria. Procedures for determining performance levels and performance pay increases or other performance-related movement within the range shall be established in procedures approved by the Town Manager.

Section 7. Merit Pay Bonus

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

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

Promotions. When an employee is promoted, the employee's salary shall normally be advanced to the minimum level of the new position, or to a salary which provides an increase of at least approximately 5% over the employee's salary before the promotion, provided, however, that the new salary may not exceed the maximum rate of the new salary range. The purpose of the promotion pay increase is to recognize and compensate the employee for taking on increased responsibility.

In the case of a) highly skilled and qualified employees, b) shortage of qualified applicants, c) the promotion exceeds an increase of two pay grades, or d) for other reasons related to the merit principle of employment, the Town Manager may set the salary at an appropriate rate in the range of the position to which the employee is promoted that best reflects the employee's qualifications for the job and relative worth to the Town. In this case, the Town Manager shall consult with the Human Resources Officer and consider internal equity comparisons with other employees in the same or similar jobs.

Demotions. Demotion is the movement of an employee from one position to a position in a class assigned to a lower salary range. When an employee is demoted to a position for which qualified, the salary shall be set at the rate in the lower pay range which provides a salary that reflects the employee's qualifications for the job. If the current salary is within the new range, the employee's salary may be retained at the current rate when appropriate. If the demotion is the result of discipline, the salary shall be decreased at least approximately 5%, but may be no greater than the maximum of the new range.

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

Reclassifications. An employee whose position is reclassified to a class having a higher salary range

shall receive a pay increase of approximately 5% or an increase to the minimum of the new pay range, whichever is higher. If the employee has completed probation, the employee's salary shall be advanced to at least the probation completion amount in the new range.

If the position is reclassified to a lower pay range, the employee's salary shall remain the same. If the employee's salary is above the maximum established for the new range, the salary of that employee shall be maintained at the current level until the range is increased above the employee's salary. The employee is not eligible for merit pay, cost of living or market adjustment or any other adjustment. However, the employee is eligible for longevity pay, if any is provided to other employees by the Town.

Section 9. Salary Effect of Salary Range Revisions

When a class of positions is assigned to a higher salary range, employees in that class shall receive a pay increase of at least approximately 5%, or to the hiring rate of the new range, whichever is higher. If the employee has passed probation, the employee's salary shall be advanced at least to the probation completion amount in the new range. When a class of positions is assigned to a lower salary range, the salaries of employees in that class will remain unchanged. If this assignment to a lower salary range results in an employee being paid at a rate above the maximum rate established for the new class, the salary of that employee shall be maintained at that level until such time as the employee's salary range is increased above the employee's current salary (see section 8 above).

Section 10. Transition to a New Salary Plan

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

- 1) No employee shall receive a salary reduction as a result of the transition to a new salary plan.
- 2) All employees being paid at a rate lower than the minimum rate established for their respective classes shall have their salaries raised to the new minimum for their classes.
- 3) All employees being paid at a rate below the maximum rate established for their respective classes shall be paid at a rate listed in the salary schedule; all employees not at a listed rate shall have their salaries raised to a listed rate.
- 4) All employees being paid at a rate above the maximum rate established for their respective classes shall be maintained at that salary level until such time as the employees' salary range is increased above the employees' current salary (see section 8 above).

Section 11. Effective Date of Salary Changes

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

Section 12. Overtime Pay Provisions

Employees of the Town can be requested and may be required to work in excess of their regularly scheduled hours as necessitated by the needs of the Town and determined by the Department Head. An employee should not work overtime hours unless such hours are approved in advance by the department head or Town Manager.

To the extent that local government jurisdictions are so required, the Town will comply with the Fair

Labor Standards Act (FLSA). The Human Resources Officer shall determine which jobs are "non-exempt" and are therefore subject to the Act in areas such as hours of work and work periods, rates of overtime compensation, and other provisions. The time sheet for exempt employees is for the purpose of management analysis and workforce planning, not for time keeping.

Non Exempt Employees: Non-exempt employees will be paid at a straight time rate for hours up to the FLSA established limit for their position (usually 40 hours in a 7 day period; 171 hours in a 28 day cycle for police). The Town will allow non-exempt employees (except police) to be compensated with compensatory time for hours worked beyond the FLSA established limit at the rate of time and one half. Non exempt employees with the Police Department will be compensated with pay at the overtime rate of time and one half for hours worked over the FLSA established limit. In determining eligibility for overtime in a work period, only hours actually worked shall be considered; in no event will vacation, sick leave, or holidays be included in the computation of hours worked for FLSA purposes. Compensatory leave requires approval by the Town Manager when creating a balance that exceeds 40 hours. The only time an employee will be paid for any accrued compensatory time is when his or her employment is terminated with the Town or when the Manager deems it to be in the interest of the Town to pay down the compensatory time balance. When scheduling time out of the office, compensatory time must be used before any vacation time is used.

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

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

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

Section 13. Call-back Pay

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

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

Section 14. Payroll Deduction

Deductions shall be made from each employee's salary, as required by law. Additional deductions may

be made upon the request of the employee on determination by the Town Manager as to capability of payroll equipment and appropriateness of the deduction.

Section 15. Hourly Rate of Pay

Employees working in a part-time or temporary capacity with the same duties as full-time employees will work at a rate in the same salary range as the full-time employees.

The hourly rate for employees working other than 40 hours per week, such as police officers working an average 42 hours per week, will be determined by dividing the average number of hours worked scheduled per year into the annual salary for the position.

Section 16. Pay for Interim Assignments in a Higher Level Classification

An employee who is formally designated by the Town Manager to perform the duties of a job that is assigned to a higher salary grade than that of the employee's regular classification shall receive an increase for the duration of the Interim assignment. The employee shall receive a salary adjustment to the minimum level of the job in which the employee is acting or an increase of 5%, whichever is greater. The salary increase shall be temporary and upon completion of the assignment, the employee shall go back to the salary he or she would have had if not assigned in the Interim role, taking into account any increases the employee would have received if they had not been placed in the Interim role.

ARTICLE IV. RECRUITMENT AND EMPLOYMENT

Section 1. Equal Employment Opportunity Policy

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

It is a violation of Town policy to retaliate in any way against an employee who assists, participates in, or supports this policy, or anyone making a bona-fide complaint under this policy or who participates or assists in any EEOC, OSHA or other internal or external processes protected by law.

Section 2. Implementation of Equal Employment Opportunity Policy

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

Section 3. Recruitment, Selection and Appointment

Recruitment Sources. When position vacancies occur, the Human Resources Officer, shall publicize these opportunities for employment, including applicable salary information and employment qualifications. Information on job openings and hiring practices will be provided to recruitment sources, including organizations and news media available to minority applicants. In addition, notice of vacancies shall be posted at designated conspicuous sites within departments. Individuals shall be recruited from a geographic area as wide as necessary to ensure that well-qualified applicants are obtained for Town service. The North Carolina Employment Security Commission shall normally be used as a recruitment source.

Job Advertisements. Jobs will ordinarily be advertised in local newspapers, relevant web sites, with professional associations, and other relevant sites in order to establish a diverse and qualified applicant pool. Employment advertisements shall contain assurances of equal employment opportunity and shall comply with Federal and State statutes.

Application for Employment. All persons expressing interest in employment with the Town shall be given the opportunity to file an application for employment for positions which are vacant during the time the Town recruits for the vacancy. Resumes and applications will be taken only when the Town specifies recruitment and only for the positions being recruited. All applications should come to the Human Resources Office for official tracking and return for maintaining necessary files.

Applicant Interest Card. Persons interested in employment with the Town may complete an applicant interest card concerning all of the positions for which they wish to apply. These cards will be maintained for a period of six months. When a vacancy occurs in positions of interest, the card will be sent,

notifying the person and requesting that the person complete an application before the designated deadline.

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

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

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

Section 4. Probationary Period

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

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

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

Section 5. Promotion

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

- 1) the benefits to employees and the organization of promotion from within;
- 2) providing equal employment opportunity and a diversified workforce to the community; and
- 3) obtaining the best possible employee who will provide the most productivity in that position.

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

Section 6. Demotion

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

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

Section 7. Transfer

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

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 in the most cost effective manner possible.

Section 2. Political Activity

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

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

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

Section 3. Outside Employment

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

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

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

Section 4. Dual Employment

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

Section 5. Employment of Relatives

The Town prohibits the hiring and employment of immediate family in permanent positions within the same work unit. "Immediate Family" is defined in Article VII, Section 12. The Town also prohibits the employment of any person into a permanent position who is an immediate family member of individuals holding the following positions: Mayor, Mayor Pro Temp, Town Council Member, Town Manager, Town Clerk, Human Resources Officer or Town Attorney. Otherwise, the Town will consider employing family members or related persons in the service of the Town, provided that such employment does not:

- 1) result in a relative supervising relatives;
- 2) result in a relative auditing the work of a relative;
- 3) create a conflict of interest with either relative and the Town; or
- 4) create the potential or perception of favoritism.

This provision shall not apply retroactively to anyone employed when the provision is adopted by the Town. Should an immediate family member of a Town employee be elected to the Council, the employee shall resign within six months of the beginning of the relative's term of office.

Section 6. Harassment Prohibited

The Town prohibits harassment on the basis of race, color, religion, gender, national origin, age or disability. Such harassment may be characterized as unlawful discrimination or harassment. The Town opposes unlawful harassment by supervisors and co-workers in any form. Harassment is verbal or physical conduct that denigrates or shows hostility or aversion toward an individual because of his or her race, color, religion, gender, national origin, age, or disability, or that of his or her relatives, friends, or associates.

Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when 1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; 2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or 3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment. Sexual harassment may include, but is not limited to unwelcome touching, suggestions or demands for sexual involvement accompanied by implied or overt promises of preferential treatment or threats, continued or repeated offensive sexual flirtation or propositions, continued or repeated verbal remarks about an individual's body or physical characteristics, sexually degrading words used towards an individual or to describe an individual, or the display in the workplace of sexually suggestive objects or pictures.

Harassment may also include reckless, false, and completely unfounded accusations against others.

Slanderous conduct will not be tolerated in the workplace.

Any employee who believes that he or she may have a complaint of harassment or may follow the Grievance Procedure described in this Policy or may file the complaint directly with the Human Resources Officer, Town Manager, department head, or other Town official. The Human Resources Officer will insure that an investigation is conducted into any allegation of harassment and advise the employee and appropriate management officials of the outcome of the investigation. If the investigations reveals that the complaint is valid, prompt attention and disciplinary action designed to stop the harassment immediately and to prevent its recurrence shall be taken. The Town will make every effort to correct, prohibit or remedy the harassment, and to protect the employee from further harassment.

Any person who retaliates against a person making a valid or good faith complaint or participating in a investigation or grievance hearing as provided for this policy will be subject to disciplinary action.

Employees who are found to be engaged in harassment are subject to disciplinary action up to and including dismissal.

Section 7. Solicitation and Acceptance of Gifts and Favors

No official or employee of the Town shall solicit or accept any gift, favor, meal, or thing of value that may tend to influence such employee in the discharge of the employee's duties, or grant in the discharge of duty an improper favor, service, or thing of value. Exempted from this provision are advertising items or souvenirs of nominal value or meals furnished at banquets. Gifts between employees and their friends and relatives are also exempted.

Section 8. Performance Evaluation

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

Section 9. Safety

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

Section 10. Substance Abuse Policy

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

Section 11. Electronic Communications

The Town maintains an electronic communications, social media, internet access policy that guides employees. This policy is a separate stand alone policy allowing for updates as necessary as technology continues to change.

ARTICLE VI. EMPLOYEE BENEFITS

Section 1. Eligibility

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

Section 2. Group Health and Hospitalization Insurance

The Town provides group health and hospitalization insurance programs for full-time and part-time employees.

Employees who are scheduled to work 20 hours or more per week on a continuous year-round basis may, if they so desire, purchase available group health through the Town for themselves or for themselves and qualified dependents. A pro-rated amount of the cost of coverage paid for a full-time employee shall be paid by the Town with the remainder of the cost being paid by the employee. This pro-rated amount shall be based on regularly scheduled hours.

Information concerning cost and benefits shall be available to all employees through the Human Resources Office.

Retired Employees.

The Town has adopted a separate policy to govern retiree health and dental insurance effective November 7, 2007. Please refer to this separate policy to determine proper coverage.

Section 3. Group Life Insurance

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

Section 4. Other Optional Group Insurance Plans

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

Section 5. Retirement

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

Section 6. Supplemental Retirement Benefits

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

Section 7. Social Security

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

Section 8. Workers' Compensation

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

Responsibility for claiming compensation under the Workers' Compensation Act is on the injured employee, and such claims must be filed by the employee with the North Carolina Industrial Commission within two years from date of injury. The department head will assist the employee in filing the claim.

This provision also applies to reactions to small pox vaccinations administered to Town employees under Section 304 of the Homeland Security Act. Such reactions shall be treated the same as any other workers compensation claim as regards leave and salary continuation.

Before returning to work, a statement from the attending physician should be submitted to the Human Resources Office giving permission for the employee to resume regular duties.

Upon return to work, the employee's salary will be computed on the basis of the last salary plus any salary increase to which the employee would have been entitled based upon performance and other compensation policies..

During the disability covered by Workers Compensation benefits, an employee continues to earn annual leave, sick leave, and will retain all accumulated sick or annual leave.

Employees may use sick leave and/or vacation both during the waiting period before Workers' compensation benefits begin, and afterward to supplement the remaining one-third of salary, except that employee may not exceed the regular salary amount using this provision.

Section 9. Unemployment Compensation

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

Section 10. Tuition Assistance Program

Full-time employees who have completed initial probation may apply for tuition reimbursement for courses taken on their own time, which will improve their skills for their current job or prepare them for promotional opportunities within the Town service. Tuition, registration, fees, laboratory fees, and student fees are eligible expenses. Employees may be reimbursed eligible expenses up to a total of one thousand dollars (\$1000) per fiscal year. Satisfactory completion of the courses will be required for reimbursement. Requests for tuition assistance shall be submitted to the Department Head prior to course registration and are subject to the review and approval of Human Resources Officer, subject to availability of funds.

Section 11. Longevity Pay

Employees shall receive longevity pay in the payroll following his/her anniversary date that reflects years of service. Employees shall receive longevity pay according to the following schedule:

<u>Years of Service</u>	<u>Longevity Amount</u>
0 - 4	\$ 0
5 - 9	500
10 - 14	1000
15 - 19	1500
20 - 24	2000
25 plus	2500

Section 12. Law Enforcement Separation Allowance

Every sworn law enforcement officer, as defined by N.C. Gen. Stat. ' 128-21(11b) or N.C. Gen. Stat. ' 143-166.50, shall be eligible for a separation allowance, as provided by N.C. Gen. Stat. ' 143-166.42, in the amount specified in N.C. Gen. Stat. ' 143-166.41(a). The purpose of this allowance is to provide additional income until the law enforcement officer is eligible for social security benefits with the consideration that the law enforcement officer may no longer be able to perform law enforcement work. Given this purpose, eligibility and continuation of these benefits are subject to the following conditions:

- a. The officer shall have completed 30 or more year of creditable service, or have attained 55 years of age and completed five or more years of creditable service; and
- b. Not have attained 62 years of age;
- c. Have completed at least five years of continuous service as a law enforcement officer immediately preceding a service retirement, as defined by N.C. Gen. Stat. ' ' 143-166.41(a)(3) and 143-166.41(b); and

Termination of these benefits happens:

- a. At death;
- b. On the last day of the month prior to which the officer attains 62 years of age; or
- c. Upon the first day of re-employment in any position in any local government in North Carolina.

The Town may employ retired officers in a public safety position in a capacity not requiring participation in the Local Governmental Employees' Retirement System and doing so shall not cause payment to cease to those officers under these benefits. Participation in the retirement system is required by anyone scheduled to work 1000 hours per year or more.

ARTICLE VII. HOLIDAYS AND LEAVES OF ABSENCE

Section 1. Policy

The policy of the Town is to provide annual leave, sick leave, and holiday leave to all full-time and part-time employees, and to provide proportionately equivalent amounts to employees having average work weeks of different lengths. Employees shall accrue leave proportionately with each payroll.

Section 2. Holidays

The following days, and other such days as the Town Council may designate, are holidays with full pay for employees and officers of the Town:

- | | |
|-----------------------------|--------------------------------|
| New Year's Day | Independence Day |
| Martin Luther King Birthday | Labor Day |
| President's Day | Veteran's Day |
| Good Friday | Thanksgiving Thursday & Friday |
| Memorial Day | Christmas (see schedule below) |

When any recognized holiday falls on Saturday or Sunday, the following Monday will be the designated holiday. When Christmas Day falls on the day of the week indicated below, the days set forth will be observed as holidays:

- | | | |
|-----------|---|---------------------------------|
| Sunday | - | Friday, Monday and Tuesday |
| Monday | - | Friday, Monday and Tuesday |
| Tuesday | - | Monday, Tuesday, and Wednesday |
| Wednesday | - | Wednesday, Thursday, and Friday |
| Thursday | - | Wednesday, Thursday, and Friday |
| Friday | - | Wednesday, Thursday, and Friday |
| Saturday | - | Friday, Monday, and Tuesday |

In order to receive a paid holiday, an employee must have worked the day before and the day after the holiday(s), or have been given approved leave by the department head or the Town Manager.

Section 3. Holidays: Effect on Other Types of Leave

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

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

Employees required to perform work on regularly scheduled holidays shall be paid at the rate of time and one half for hours actually worked and receive pay at the regular rate for the holiday hours they did not take off.

Section 5. Vacation Leave

Vacation leave is a privilege granted by the Town and is intended for rest and relaxation, and may be used for medical appointments, school appointments, or other such needs. Employees must request vacation leave from their respective department heads and shall be granted vacation leave based upon the continued effective functioning of the Town.

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

Section 6. Vacation Leave: Use by Probationary Employees

Employees serving a probationary period following initial employment may accumulate vacation leave but shall not be permitted to take vacation leave during the probationary period. Employees shall be allowed to take accumulated vacation leave after six months of service.

Section 7. Vacation Leave: Accrual Rate

Each full and part-time employee of the Town shall earn annual leave at the following schedule, prorated by the average number of hours in the workweek:

Years of Service	Days Accrued Per Year
0 - 4	12
5 - 9	15
10 plus	20

The formula for calculating vacation hours for law enforcement and part-time employees is found in Section 16 of this article.

Section 8. Vacation Leave: Maximum Accumulation

Vacation leave may be accumulated without any applicable maximum until December 31 of each year. However, if the employee departs from service, payment for accumulated vacation leave shall not exceed 30 days. Effective the last payroll in the calendar year, any employee with more than 30 days of accumulated leave shall have the excess accumulation removed so that only 30 days are carried forward to January 1 of the next calendar year. The excess vacation shall be transferred to sick leave as long as the employee has taken a minimum of five (5) days of vacation during the calendar year.

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

Section 9. Vacation Leave: Manner of Taking

Employees shall be granted the use of earned vacation leave upon request in advance at those times designated by the Department Head which will least obstruct normal operations of the Town. Department heads are responsible for insuring that approved vacation leave does not hinder the effectiveness of service delivery. Vacation may be taken in quarter hour (1/4 hour) increments.

Section 10. Vacation Leave: Payment upon Separation

An employee who has successfully completed six months of the probationary period will normally be paid for accumulated vacation leave upon separation not to exceed 30 days, provided notice is given to the supervisor at least two weeks in advance of the effective date of resignation.

Any employee failing to give the notice required by this section shall forfeit payment for accumulated leave. The notice requirement may be waived by the Town Manager when deemed to be in the best interest of the Town. Employees who are involuntarily separated shall receive payment for accumulated annual leave subject to the 30 day maximum.

Section 11. Vacation Leave: Payment upon Death

The estate of an employee who dies while employed by the Town shall be entitled to payment of all the accumulated vacation leave credited to the employee's account not to exceed the maximums established in Section 8 of this Article.

Section 12. Sick Leave

Sick leave is a privilege which the Town grants and not a right. Sick leave may be granted to a probationary or regular employee absent from work for any of the following reasons: sickness, bodily injury, required physical or dental examinations or treatment, or exposure to a contagious disease, when continuing work might jeopardize the health of others.

Sick leave may be used when an employee must care for a member of his or her immediate family who is ill.

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

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

"Immediate family" shall be defined as spouse, child, parent or step-parent, brother, sister, grandparent, grandchild, son-in-law or daughter-in-law of the employee or spouse of the employee, or guardian.

Notification of the desire to take sick leave should be submitted to the employee's supervisor prior to the leave or according to departmental procedures.

Section 13. Sick Leave: Accrual Rate and Accumulation

Sick leave shall accrue at a rate of one day per month of service or twelve days per year. Sick leave for full-time and part-time employees working other than the basic work schedule shall be pro-rated as described in this Article. Sick leave will be cumulative for an indefinite period of time and may be converted upon retirement for service credit consistent with the provisions of the North Carolina Local Government Employees' Retirement System.

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

Section 14. Transfer of Sick Leave from Previous Employer

The Town will accept the transfer of sick leave for employees from other employers who are participants of the North Carolina Local Government or State Employees Retirement System. The sick leave will be treated as though it were earned with the Town of Southern Shores. The sick leave amount must be certified by the previous employer.

Section 15. Sick Leave: Medical Certification

The employee's supervisor or Department Head may require a physician's certificate documenting that the employee is ill and the employee's capacity to resume duties, for each occasion on which an employee uses sick leave or whenever the supervisor observes a "pattern of absenteeism." The employee may be required to submit to such medical examination or inquiry as the Department Head deems desirable. The Department Head shall be responsible for the application of this provision to the end that:

- 1) Employees shall not be on duty when they might endanger their health or the health of other employees; and
- 2) There will be no abuse of leave privileges.

Claiming sick leave under false pretense to obtain a day off with pay shall subject the employee to disciplinary action up to and including dismissal.

Section 16. Leave Pro-rated

Holiday, annual, and sick leave earned by full-time and part-time employees with fewer or more hours than the basic work week shall be determined by the following formula:

- 1) The number of hours worked by such employees shall be divided by the number of hours in the basic work week (usually 40 hours).
- 2) The proportion obtained in step 1 shall be multiplied by the number of hours of leave earned annually by employees working the basic work week.
- 3) The number of hours in step 2 divided by 12 shall be the number of hours of leave earned monthly by the employees concerned or divided by 26 to determine the hours earned bi-weekly.

Section 17. Family and Medical Leave

The Town will grant up to 12 weeks of family and medical leave during any 12 month period to eligible employees in accordance with the Family and Medical Leave Act of 1993 (FMLA).

The leave may be paid (coordinated with the Town's Vacation and Sick Leave positions), unpaid, or a combination of paid and unpaid. Earned Compensatory time may also be used during the FMLA leave.

Unpaid leave will be granted only when the employee has exhausted all appropriate types of paid leave. Additional time away from the job beyond the 12 week period may be approved in accordance with the Town's Leave without Pay policy.

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

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

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

2. the placement of a child for adoption or foster care;
3. to care for a spouse, child, or parent with a serious health condition;
4. the serious health condition of the employee; or
5. military exigency.

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

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

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

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

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

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

“Military Exigency” is a qualifying exigency arising out of the fact that the fact that the employee’s spouse, son, daughter, or parent is a military service member (reserve or national guard) under a call or order to federal active duty in support of a contingency operation. Qualifying events are:

1. deployment of service member with seven or fewer days notice;
2. military ceremonies and events such as family-assistance or informational programs related to the family member’s active duty or call to active duty;
3. urgent, immediate childcare or arranging for alternative childcare for the children of service members;
4. attending school or daycare meetings relating to the child of service member;
5. making financial or legal arrangements related to a family member’s active duty status or call to active duty; or
6. post-deployment activities for a period of ninety days after the termination of the service member’s active duty status.

Military Caregiver Leave: An employee whose spouse, son, daughter, parent or next of kin is a current service member who is undergoing treatment, therapy, recuperation or outpatient treatment or has temporary disability retirement for injury or illness sustained in the line of duty, is eligible for 26 weeks of leave in a single 12 month period. During a single 12 month period, the employee is eligible for a total of 26 weeks of all types of FMLA leave.

Section 18. Medical and Family Leave - Certification

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

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

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

Section 19. Leave Without Pay

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

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

Section 20. Family Medical Leave and Leave Without Pay: Retention and Continuation of Benefits

When an employee is on leave under FMLA (maximum of 12 weeks in a year), the Town will continue the employee's health benefits during the leave period at the same level and under the same conditions as if the employee had continued to work. If an employee chooses not to return to work for reasons other than a continued serious health condition, the Town will require the reimbursement of the amount paid for the employee's health insurance premium during the FMLA leave period.

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

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

Section 21. Workers' Compensation Leave

An employee absent from duty because of sickness or disability covered by the North Carolina Workers'

Compensation Act may elect to use accrued sick leave or vacation during the first waiting period. The employee may also elect to supplement workers' compensation payments after they begin with sick leave, vacation, or compensatory time, provided that the combination of leave supplement and workers' compensation payments does not exceed normal compensation.

An employee on workers' compensation leave may be permitted to continue to be eligible for benefits under the Town's group insurance plans. Other insurance and payroll deductions are the responsibility of the employee and the employee must make those payments for continued coverage of that benefit.

When worker=s compensation leave extends long enough for the waiting period to be reimbursed, the employee shall return the reimbursement check to the Town and have leave hours re-instated for all time covered by paid leave. In such cases, the Town will pay the employee for any unpaid time that is owed the employee.

Section 22. Military Leave

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

Section 23. Reinstatement Following Military Service.

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

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

Section 24. Civil Leave

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

Section 25. Parental School Leave

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

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

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

Section 26. Adverse Weather and Emergency Conditions Policy

The Town has responsibility for providing emergency services. Adequate staff are required to operate these critical services seven days per week and 24 hours per day in all weather. The Town Manager, upon recommendation of department heads, should designate which staff are in critical positions required to report to work regardless of weather or other hazardous conditions.

The adverse weather/hazardous conditions policy is established to be as fair as possible to all employees applying the following principles:

- a) maintain adequate staffing of emergency services at all times;
- b) provide for as much safety as possible for all employees in traveling to and from work in hazardous conditions; and
- c) not pay regular salaries to some employees for not working when others are required to be at work.

Town offices and departments shall remain open for the full scheduled working day unless authorization for closing or other deviation is received from the Town Manager's office. The Town Manager will consider the hazard of driving conditions and other relevant factors in determining whether to close Town offices. To the extent possible, all departments and offices will be given sufficient advance notice of any authorized closing of non-critical Town functions.

Employees in non-critical positions who leave work before an official early closing time, as well as employees who report for work late or do not report for work because of hazardous conditions may use earned vacation or compensatory leave for days or hours not worked. Employees in designated critical positions may be subject to disciplinary action for failure to report to work as required.

ARTICLE VIII. SEPARATION AND REINSTATEMENT

Section 1. Types of Separations

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

Section 2. Resignation

An employee may resign by submitting the reasons for resignation and the effective date in writing to the immediate supervisor as far in advance as possible. In all instances, the minimum notice requirement is two weeks. Failure to provide minimum notice shall result in forfeit of payment for accumulated annual leave unless the notice is waived upon recommendation of the Department Head and approval by the Town Manager.

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

Section 3. Reduction in Force.

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

Section 4. Disability

The Town will comply with the Americans with Disabilities act and will make all responsible efforts to provide reasonable accommodation to employees who may be or become disabled. An employee who cannot perform the required essential duties with reasonable accommodation because of a physical or mental impairment may be separated for disability. Action may be initiated by the employee or the Town. In cases initiated by the employee, such action must be accompanied by medical evidence acceptable to the Town Manager. The Town may require an examination, at the Town's expense, performed by a physician of the Town's choice.

Section 5. Voluntary Retirement

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

Section 6. Death

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

Section 7. Dismissal

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

Section 8. Reinstatement

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

Section 9. Rehiring

An employee who resigns while in good standing may be rehired with the approval of the Town Manager, and may be regarded as a new employee, subject to all of the provisions of rules and regulations of this Policy. An employee in good standing who is separated due to a reduction in force shall be given the first opportunity to be rehired in the same or a similar position.

ARTICLE IX. UNSATISFACTORY JOB PERFORMANCE AND DETRIMENTAL PERSONAL CONDUCT

Section 1. Disciplinary Action for Unsatisfactory Job Performance

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

Section 2. Unsatisfactory Job Performance Defined

Unsatisfactory job performance includes any aspects of the employee's job which are not performed as required to meet the standards set by the Department Head or Town Manager. Examples of unsatisfactory job performance include, but are not limited to, the following:

- 1) Demonstrated inefficiency, negligence, or incompetence in the performance of duties;
- 2) Careless, negligent or improper use of Town property or equipment;
- 3) Physical or mental incapacity to perform duties;
- 4) Discourteous treatment of the public or other employees;
- 5) Absence without approved leave;
- 6) Improper use of leave privileges;
- 7) Failure to report for duty at the assigned time and place;
- 9) Failure to complete work within time frames established in work plan or work standards; or
- 10) Failure to meet work standards over a period of time.

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

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

An employee whose job performance is unsatisfactory over a period of time should normally receive at least two warnings from the supervisor before disciplinary action resulting in dismissal is taken by the Town Manager. In each case, the supervisor should record the dates of discussions with the employee, the performance deficiencies discussed, the corrective actions recommended, and the time limits set. The warnings given should include notice to the employee that failure to make timely corrections may result in disciplinary action including suspension, demotion, or dismissal from employment. If the employee's performance continues to be unsatisfactory, then the supervisor should use the following steps:

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

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

Disciplinary suspensions are for the purpose of communicating the seriousness of the performance deficiency, not for the purpose of punishment, and should not generally exceed three days (24 hours) for nonexempt employees. Suspensions for exempt employees shall be for one full work week in accordance with FLSA requirements to maintain exempt status.

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

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

Section 4. Disciplinary Action for Detrimental Personal Conduct

With the approval of the Town Manager, an employee may be placed on disciplinary suspension, demoted, or dismissed without prior warning for causes relating to personal conduct detrimental to Town service in order to 1) avoid undue disruption of work; 2) to protect the safety of persons or property; or 3) for other serious reasons. Disciplinary suspensions for nonexempt should not generally exceed three days (24 hours). Disciplinary suspensions for exempt employees should be for one week in order to retain the exempt status under FLSA.

Section 5. Detrimental Personal Conduct Defined

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

- 1) Fraud or theft;
- 2) Conviction of a felony or the entry of a plea of nolo contendere thereto;
- 3) Falsification of records for personal profit, to grant special privileges, or to obtain employment;
- 4) Willful misuse of gross negligence in the handling of Town funds;
- 5) Willful or wanton damage or destruction to property;
- 6) Willful or wanton acts that endanger the lives and property of others;
- 7) Possession of unauthorized firearms or other lethal weapons on the job;
- 8) Brutality in the performance of duties;
- 9) Reporting to work under the influence of alcohol or drugs or partaking of such while on duty. Prescribed medication may be taken within the limits set by a physician as long as medically necessary;
- 10) Engaging in incompatible employment or serving a conflicting interest;

- 11) Request or acceptance of gifts in exchange for favors or influence;
- 12) Engaging in political activity prohibited by this policy;
- 13) Harassment of and employee(s) and/or the public on the basis of sex or any other protected class status;
- 14) Stated refusal to perform assigned duties or flagrant violation of work rules and regulations; or
- 15) Giving false information or making false accusations against other persons.

Section 6. Pre-disciplinary Conference.

Before suspension, demotion, or dismissal action is taken, whether for failure in personal conduct or failure in performance of duties, the Town Manager, Human Resources Officer and/or a Department head will conduct a pre-disciplinary conference. At this conference, the employee may present any response to the proposed disciplinary action to the Town Manager, Human Resources Officer and/or Department Head. The Town Manager or Department Head will consider the employee's response, if any, to the proposed disciplinary action, and will, within three working days following the pre-disciplinary conference, notify the employee in writing of the final decision to take disciplinary action. The notice of the final disciplinary action by a shall contain a statement of the reasons for the action and the employee's appeal rights.

Section 7. Non-Disciplinary Suspension

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

- 1) Temporarily relieve the employee of all duties and responsibilities and place the employee on paid or unpaid leave for the duration of the suspension, or
- 2) Assign the employee new duties and responsibilities and allow the employee to receive such compensation as is in keeping with the new duties and responsibilities.

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

ARTICLE X. GRIEVANCE PROCEDURE AND ADVERSE ACTION APPEAL

Section 1. Policy

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

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

Section 2. Grievance Defined

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

Section 3. Purposes of the Grievance Procedure

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

- 1) Providing employees with a procedure by which their complaints can be considered promptly, fairly, and without reprisal;
- 2) Encouraging employees to express themselves about the conditions of work which affect them as employees;
- 3) Promoting better understanding of policies, practices, and procedures which affect employees;
- 4) Increasing employees' confidence that personnel actions taken are in accordance with established, fair, and uniform policies and procedures; and
- 5) Increasing the sense of responsibility exercised by supervisors in dealing with their employees.
- 6) Encouraging conflicts to be resolved between employees and supervisors who must maintain an effective future working relationship, and therefore, encouraging conflicts to be resolved at the lowest level possible in the chain of command and in a manner of mutual agreement wherever possible; and
- 7) Creating a work environment free of continuing conflicts, disagreements, and negative feelings about the Town or its leaders, thus freeing up employee motivation, productivity, and creativity.

Section 4. Procedure

When an employee has a grievance, the following successive steps are to be taken unless otherwise provided. The number of calendar days indicated for each step should be considered the maximum, unless otherwise provided, and every effort should be made to expedite the process. However, the time limits set forth may be extended by mutual consent. The last step initiated by an employee shall be considered to be the step at which the grievance is resolved. A decision to rescind a disciplinary suspension, demotion or dismissal must be approved by the Town Manager before the decision becomes effective.

Informal Resolution. Prior to the submission of a formal grievance, the employee and supervisor should meet to discuss the problem and seek to resolve it informally. Either the employee or the supervisor may involve the Department Head and/or Human Resources Officer as a resource to help resolve the grievance. In addition, the employee or supervisor may request mediation from a local mediation services or other qualified parties to resolve the conflict. Mediation may be used at any step in the process when mutually agreed upon by the employee and relevant Town supervisor or Manager. Mediation is the process where a neutral party assists the parties in conflict with identifying mutually agreeable solutions or understandings.

Step 1. If no resolution to the grievance is reached informally, the employee who wishes to pursue a grievance shall present the grievance to the appropriate supervisor in writing. The grievance must be presented within fifteen calendar days of the event or within fifteen calendar days of learning of the event or condition. The supervisor shall respond to the grievance within ten calendar days after receipt of the grievance. The supervisor should, and is encouraged to, consult with any employee of the Town in order to reach a correct, impartial, fair and equitable determination or decision concerning the grievance. Any employee consulted by the supervisor is required to cooperate to the fullest extent possible.

The response from the supervisor for each step in the formal grievance process shall be in writing and signed by the supervisor. In addition, the employee shall sign a copy to acknowledge receipt thereof. The responder at each step shall send copies of the grievance and response to the Human Resources Officer.

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

Step 3. If the grievance is not resolved to the satisfaction of the employee at the end of Step 2, the employee may appeal, in writing, to the Town Manager within ten calendar days after receipt of the response from Step 3. The Town Manager shall respond to the appeal, stating the determination of decision within ten calendar days after receipt of the appeal. The Town Manager's decision shall be the final decision. The Town Manager would notify the Town Council of any impending legal action.

Department Heads. In the case of Department Heads or other employees where the Town Manager has been significantly involved in determining disciplinary action, including dismissal, the Town may wish to obtain a neutral outside party to either:

- 1) provide mediation between the grieving department head and the Town Manager (see definition of mediation in "informal resolution" above); or
- 2) consider an appeal and make recommendations back to the Town Manager concerning the appeal. Such parties might consist of human resource professionals, attorneys trained in mediation, mediators, or other parties appropriate to the situation.

Section 5. Role of the Human Resources Officer

Throughout the grievance procedure, the roles of the Human Resources Officer shall be as follows:

1. To advise parties (including employee, supervisors, and Town Manager) of their rights and responsibilities under this policy, including interpreting the grievance and other policies for

consistency of application;

2. To be a clearinghouse for information and decisions in the matter including maintaining files of all grievance documents.
3. To give notices to parties concerning timetables of the process, etc.;
4. To assist employees and supervisors in drafting statements; and
5. To facilitate the resolution of conflicts in the procedures or of the grievance at any step in the process; and
6. To help locate mediation or other resources as needed.

The Human Resources Officer shall also determine whether or not additional time shall be allowed to either side in unusual circumstances if the parties cannot agree upon extensions when needed or indicated.

Section 6. Grievance and Adverse Action Appeal Procedure for Discrimination

When an employee, former employee, or applicant, believes that any employment action is discriminates illegally (IE. is based on age, sex, race, color, national origin, religion, creed, political affiliation, or non-job related handicap), he or she has the right to appeal such action using the grievance procedure outlined in this Article (Section 4 above). While such persons are encouraged to use the grievance procedure, they shall also have the right to appeal directly to the Human Resources Officer or Town Manager. Employment actions subject to appeal because of discrimination include promotion, training, classification, pay, disciplinary action, transfer, layoff, failure to hire, or termination of employment. An employee or applicant should appeal an alleged act of discrimination within thirty calendar days of the alleged discriminatory action, but may appeal for up to six months following the action.

ARTICLE XI. RECORDS AND REPORTS

Section 1. General

All information contained in a Town employee's personnel file, other than the information specifically identified as public information is confidential and shall be open to inspection only as permitted by GS 160A-168.

Section 2. Public Information

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

- 1) name;
- 2) age;
- 3) date of original employment or appointment to the service;
- 4) the terms of any contract by which the employee is employed whether written or oral, past and current , to the extent that the Town has the written contract or a record of the oral contract in its possession;
- 5) current position title;
- 6) current salary;
- 7) date and amount of each increase or decrease in salary with the Town;
- 8) date and type of each promotion, demotion, transfer, suspension, separation, or other change in position classification with the Town;
- 9) date and general description of the reasons for each promotion with the Town;
- 10) date and type of each dismissal, suspension, or demotion for disciplinary reasons taken by the 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; and
- 11) the office to which the employee is currently assigned.

Any person may have access to this information for the purpose of inspection, examination, and copying, during regular business hours, subject only to such rules and regulations for the safekeeping of public records as the Town may adopt.

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

Section 3. Access to Confidential Records

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

- 1) The employee or his/her duly authorized agent may examine all portions of his/her personnel file except letters of reference solicited prior to employment, and information concerning a medical disability, mental or physical, that a prudent physician would not divulge to the patient.
- 2) A licensed physician designated in writing by the employee may examine the employee's medical record.
- 3) A Town employee having supervisory authority over the employee may examine all material in the employee's personnel file.

- 4) By order of a court of competent jurisdiction, any person may examine all material in the employee's personnel file.
- 5) An official of an agency of the State or Federal Government, or any political subdivision of the State, may inspect any portion of a personnel file when such inspection is deemed by the Town Manager to be necessary and essential to the pursuit of a proper function of the inspecting agency, but no information shall be divulged for the purpose of assisting in a criminal prosecution of the employee, or for the purpose of assisting in an investigation of the employee's tax liability. However, the official having custody of the personnel records may release the name, address, and telephone number from a personnel file for the purpose of assisting in a criminal investigation.
- 6) An employee may sign a written release to be placed in his/her personnel file that permits the record custodian to provide, either in person, by telephone, or by mail, information specified in the release to prospective employers, educational institutions, or other persons specified in the release.
- 7) The Town Manager, with the concurrence of the Town Council, may inform any person of the employment, non-employment, promotion, demotion, suspension or other disciplinary action, reinstatement, transfer, or termination of a Town employee, and the reasons for that action. Before releasing that information, the Town Manager shall determine in writing that the release is essential to maintaining the level and quality of Town services. The written determination shall be retained in the Town Manager's office, is a record for public inspection, and shall become a part of the employee's personnel file.

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

Section 4. Personnel Actions

The Human Resources Officer, with the approval of the Town Manager, will prescribe necessary forms and reports for all personnel actions and will retain records necessary for the proper administration of the personnel system. There shall be one set of official personnel files, centrally located as designated by the Town Manager, normally in the Human Resources office. Any document not located there is not an official part of that employee's personnel record. These files shall contain documents such as employment applications and related materials, records of personnel actions, documentation of employee warnings, disciplinary actions, performance evaluations, retirement and insurance records, letters of recommendation, and other personnel-related documents.

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

Section 7. Penalties for Permitting Access to Confidential Records

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

Section 8. Examining and/or Copying Confidential Material without Authorization

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

Section 9. Destruction of Records Regulated

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



Town of Southern Shores

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Resolution 2009-10-14

RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF SOUTHERN SHORES, NORTH CAROLINA, AMENDING PERSONNEL POLICY ARTICLE V, CONDITIONS OF EMPLOYMENT-LIGHT DUTY *Section 11 Light Duty*

WHEREAS, the Town Council for the Town of Southern Shores approved and adopted a personnel policy on August 5, 2003 (the "Town Personnel Policy"); and

WHEREAS, the Town Council approved and adopted the Town Personnel Policy in order to provide certain protections for the Town of Southern Shores and its employees; and

WHEREAS, the adoption and approval of an amendment to the Town's Personnel Policy detailing the eligibility, options and procedures associated with light-duty status would be in the best interests of the Town of Southern Shores and its employees.

NOW, THEREFORE, BE IT RESOLVED by the Town Council of Southern Shores that the Town Personnel Policy Article V – Conditions of Employment hereby amend Section 3. Eligibility for Light-Duty Status and Section 6. Return from Light-Duty Status to Regular Duty as stated below in italics:

Section 3. Eligibility for Light-Duty Status

An employee is eligible for light-duty status when the following conditions are met:

- a. *A job related or non-job related injury or illness which restricts the employee's ability to perform the essential functions of his or her job. The employee must provide the Town with the certification of a licensed physician knowledgeable about the employee's condition(s) and the requirements of the job, which sets out a definite time after which the employee should be able to return to full duty. The physician must also certify that in the interim the employee can safely perform duties as described.*
- b. ~~The employee suffers from a job-related injury or illness and their claim is accepted by the worker's compensation administrator for the Town. In a worker's compensation situation, if the examining physician certifies that the employee is able to safely resume light duty work, upon the Town's request that the employee return to light duty work, the employee must do so.~~
- c. ~~The injury or disease temporarily restricts the employee's ability to perform the essential functions of his or her job. The employee must provide the Town with the certification of a licensed physician knowledgeable about the employee's condition(s) and the requirements of the job, which sets out a definite time after which the employee should be able to return to full duty. The physician must also certify that in the interim the employee can safely perform light duty as described. In a non-worker's compensation situation the employee must submit an evaluation by a physician that certifies the employee is capable of light duty work and the employee must report for light duty work upon the Town's request.~~

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- d. ~~Work beneficial to the Town must exist with duties which can safely be performed by a person within the restrictions indicated by the physician. In order to be allowed light duty status, duties must exist which can safely be performed by a person with the restrictions indicated by the physician.~~

Section 6. Return from Light-Duty Status to Regular Duty

An employee will be returned to regular duty as soon as the employee's conditions permit. However, before an employee placed on light-duty status may be transferred back to regular duty, the employee must provide a physician's certification that he or she can return to work without restrictions. Return to regular duty must be approved by the Town Manager, following consideration of recommendations by the department head and the Personnel Officer. Once approved, the employee must immediately return to regular duty. Failure to comply with any requirements during a light-duty assignment or to perform adequately while on light-duty is grounds for discipline, including dismissal.

In no event will an employee be allowed to remain on light-duty for longer than 6 ~~12~~ months. Employees who are unable to return to duty on their usual schedule and perform the essential functions of their usual position with or without a reasonable accommodation for a period of 6 consecutive months will be terminated except in those situations where additional leave is required by the ADA.

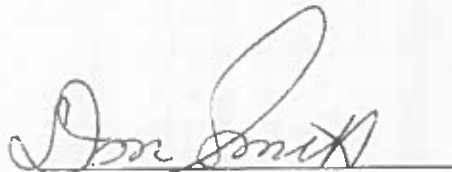
If all of these conditions are met, the Town may request and require the employee to return to light-duty work. An employee eligible for FMLA under the Town's FMLA policy may accept, but may not be compelled to accept, a light-duty position during their FMLA leave. An employee who elects not to accept a light-duty assignment while on FMLA leave will not be terminated for such election during their FMLA leave, but could be subject to a suspension or decrease in their worker's compensation benefits as determined by the worker's compensation administration.

The Town is under no obligation to create a position in order to offer any employee light-duty.

Adopted this 27th day of October, 2009.

ATTEST




 Don Smith, Mayor



Town of Southern Shores

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Resolution 2008-11-04

RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF SOUTHERN SHORES, NORTH CAROLINA, AMENDING PERSONNEL POLICY ARTICLE V, CONDITIONS OF EMPLOYMENT-LIGHT DUTY

WHEREAS, the Town Council for the Town of Southern Shores approved and adopted a personnel policy on August 5, 2003 (the "Town Personnel Policy"); and

WHEREAS, the Town Council approved and adopted the Town Personnel Policy in order to provide certain protections for the Town of Southern Shores and its employees; and

WHEREAS, the adoption and approval of an amendment to the Town's Personnel Policy detailing the eligibility, options and procedures associated with light-duty status would be in the best interests of the Town of Southern Shores and its employees.

NOW, THEREFORE, BE IT RESOLVED by the Town Council of Southern Shores that the Town Personnel Policy Article V – Conditions of Employment be hereby amended to add Section 11-Light Duty as stated below:

Section 1. Purpose

Ordinarily, the Town will not provide temporary job modifications to allow an employee to perform less than the usual or essential functions of their job. However, in order to serve as a cost-saving measure, to facilitate an employee's continued employment following a job related accident or occupational disease, and to minimize an employee's lost income during a temporary disability resulting from Town service, the Town may provide light-duty in accordance with this policy.

Section 2. Light Duty Defined

"Light-Duty" is non-strenuous work or work which requires minimal physical activity. Such duties will only be provided if approved by the employee's physician and of benefit to the Town.

Section 3. Eligibility for Light-Duty Status

An employee is eligible for light-duty status when the following conditions are met:

- a. The employee suffers from a job-related injury or illness and their claim is accepted by the worker's compensation administrator for the Town.

- b. The injury or disease temporarily restricts the employee's ability to perform the essential functions of his or her job. The employee must provide the Town with the certification of a licensed physician knowledgeable about the employee's condition(s) and the requirements of the job, which sets out a definite time after which the employee should be able to return to full duty. The physician must also certify that in the interim the employee can safely perform light-duty as described.
- c. Work beneficial to the Town must exist with duties which can safely be performed by a person within the restrictions indicated by the physician.

If all of these conditions are met, the Town may request and require the employee to return to light-duty work. An employee eligible for FMLA under the Town's FMLA policy may accept, but may not be compelled to accept, a light-duty position during their FMLA leave. An employee who elects not to accept a light-duty assignment while on FMLA leave will not be terminated for such election during their FMLA leave, but could be subject to a suspension or decrease in their worker's compensation benefits as determined by the worker's compensation administration.

The Town is under no obligation to create a position in order to offer any employee light-duty.

Section 4. Approval Process for Light-Duty Status

- a. Light-Duty status will only be approved if the proposed duties are needed by the Town.
- b. Light-Duty status must be approved by the Town Manager following consideration of recommendations by the department head, and the Personnel Officer.
- c. Light-Duty status should not extend for more than thirty days without review, an updated medical certification and approval by the Town Manager, following consideration of recommendations by the department head, and the Personnel Officer. If extended, similar reviews must occur every thirty days.
- d. Current employees in existing positions may not be replaced solely for purposes of making a light-duty position available.

Section 5. Options Available for Light-Duty Status

Light-Duty status may deviate from an employee's normal position, including, but not limited to as follows:


- a. The employee's schedule may provide for fewer working hours and/or different working hours.
- b. Duties may be different and/or the same as required in the employee's normal position.
- c. Light-Duty may be performed in a different department or under different supervision than the employee's normal position.
- d. Light-Duty responsibilities may be adjusted as the employee's recovery progresses.


Section 6. Return from Light-Duty Status to Regular Duty


An employee will be returned to regular duty as soon as the employee's conditions permit. However, before an employee placed on light-duty status may be transferred back to regular duty, the employee must provide a physician's certification that he or she can return to work without restrictions. Return to regular duty must be approved by the Town Manager, following consideration of recommendations by the department head and the Personnel Officer. Once approved, the employee must immediately return to regular duty. Failure to comply with any requirements during a light-duty assignment or to perform adequately while on light-duty is grounds for discipline, including dismissal.

In no event will an employee be allowed to remain on light-duty for longer than 12 months. Employees who are unable to return to duty on their usual schedule and perform the essential functions of their usual position with or without a reasonable accommodation for a period of 12 consecutive months will be terminated except in those situations where additional leave is required by the ADA.

Adopted this 25th day of November, 2008.


Don Smith, Mayor




Carrie Gordin, Town Clerk



TOWN OF SOUTHERN SHORES PURCHASING AND BID REQUIREMENTS POLICY

This purchasing and bid requirements policy is intended to serve as a guide for all departments in obtaining supplies, materials, equipment, apparatus, and services. The Town of Southern Shores' purchasing and bidding program is based on the principal of competitive bidding. A valid reason must be provided and documented when competitive bidding is not sought and obtained. The practice of favoritism, whether to the seller or the user department, is not permissible.

The Town's purchasing and bidding requirements are governed by North Carolina General Statutes and, therefore, must seek competitive offers from qualified sources of supply unless the items can be obtained through existing contracts established by NC State Purchasing and Contracts Division. Whenever possible, the Town of Southern Shores participates in the NC State Contracts. The Town's local purchasing and bidding requirements may cite provisions which are stricter in policy thresholds than the requirements of the applicable North Carolina General Statutes.

The Finance Officer relies on the Department Heads to fully identify their needs, obtain competitive pricing, and exercise sound and legal purchasing and contracting practices. Department Heads are responsible for communicating their needs to the Finance Officer on a timely basis in order to obtain the correct items at the best possible price.

Any and all purchases and contracts that are made on behalf of the Town of Southern Shores must be for the use of the Town. Such purchases can only be made if an appropriation has been set up in the approved annual budget.

A purchase order is needed for services, materials, supplies and equipment purchased that exceed \$250.00. The amount for shipping and handling along with sales tax should be included on the purchase order. The Finance Officer may not validate any purchase order unless sufficient unencumbered funds are available to pay at the time of purchase. A properly signed purchase order must **precede** the purchase. No invoice will be honored if the purchase order has not been issued and signed by the appropriate Department Head and Finance Officer. The purchase orders will be pre-numbered for control purposes and should include descriptions of the items being purchased. Unauthorized purchases are classified as a personal expense, and therefore, will be paid by the employee. In the event that the Finance Officer is not available, the purchase order can be signed by both the Department Head and the Town Manager.

The following steps must be taken:

1. All Department Heads will read and understand this policy;
2. All employees involved in the purchasing process will become familiar with the procedures outlined in this policy;
3. This policy will be kept where it is easily accessible for reference;
4. All comments or clarifications of contents contained in this policy will be directed to the Town Manager or the Finance Officer.

GENERAL RULES AND PROCEDURES FOR PURCHASING AND BIDDING

Note: all obligations evidenced by a contract or agreement, regardless of amount, must be certified as pre-audited by the Finance Officer.

Purchases of \$250.00 to \$29,999.99

All purchases between \$250.00 and \$29,999.99 (individually or in total) must be made with the use of a purchase order. The department wishing to make the purchase will prepare a purchase order and present it to the Finance Officer for approval. Town Council has given authority to the Town Manager to approve all contracts/purchases up to a maximum of \$29,999.99.

Informal Bidding Process

For all purchases, lease-purchases, and contracts above \$29,999.99 and below the state mandated thresholds for formal bidding prescribed by NCGS § 143-129, informal bids must be obtained. Notwithstanding, and consistent with an annual budget authorization, the Town Manager is authorized to renew or extend any service provider contract in effect as of the date of this policy as amended and determined by the Town Manager to be in the best interest of the Town. Only written informal proposals will be accepted. The purpose of public bidding is to obtain the best value for tax dollars, to provide fairness in contracting and prevent favoritism. Contracts will be awarded to the lowest responsible bidder, taking into consideration quality, performance and time. A Bid Form will be used for this process. Three (3) written proposals will be sought during the bidding process. In cases where available or appropriate vendors are limited, every effort will be made to obtain bids from at least two (2) vendors. In cases where the item or service is available from a single source, this information must be noted on the Bid Form. For any purchase, lease-purchase or contract cost not previously authorized by the Council in an annual budget appropriation, the Town Council must authorize the award of all bids over \$29,999.99. The Finance Officer will issue a purchase order to the chosen vendor and the Department Head will proceed with the purchase.

Formal Bidding Process

Expenditure of funds totaling or exceeding the state mandated thresholds for formal bidding prescribed by NCGS § 143-129, either for the purchase of apparatus, supplies, materials and equipment, or for construction or repair work, are required to be handled by the Formal Bid Process, and the bonding requirements of NCGS §44A-26 shall apply.

Note: Performance and payment bonds are required for contracts costing more than \$50,000 that are part of a project costing more than \$300,000.

The advertisement for bidders required by this section shall appear at a time where at least seven (7) full days shall lapse between the date on which the notice appears and the date of the opening of bids. The advertisement shall: (i) state the time and place where plans and specifications of proposed work or a complete description of the apparatus, supplies, materials, or equipment may be had; (ii) state the time and place for opening of the proposals; and (iii) reserve to the board or governing body the right to reject any or all proposals.

Purchases not requiring a Purchase Order

The following purchases do not require a purchase order:

- A. Advertising;
- B. Dues;
- C. Utilities;
- D. Insurance;
- E. Postage;
- F. Professional services for accounting, legal, engineering, etc. that are covered by a separate approved contract;
- G. Purchases less than \$250.00.
- H. Purchases obligated by written contract or agreement (These written obligations require Finance Officer certification, regardless of amount).

Emergency Purchases

An emergency is defined as a sudden, urgent, usually unexpected occurrence or occasion requiring immediate action. When an emergency does arise, and can be rectified only by immediate purchase or rental of equipment, supplies, materials or services, the following procedures must be followed:

- A. Secure a purchase order from the Finance Officer or the Town Manager. If the emergency occurs when offices are closed, the department should proceed to acquire only the materials of services necessary to meet the emergency;
- B. On the next working day, the Department Head must submit a requisition to the Finance Officer with the following information:
 - 1. Nature of the Emergency;
 - 2. Itemized list of purchases made;
 - 3. Cost per item;
 - 4. Vendor's name and address;
 - 5. Account Number
 - 6. Authorizing signature of the Department Head
 - 7. Purchase Order Number – if one was given.
- C. The Finance Officer will prepare a confirming purchase order and send the requesting department a copy of the purchase order. The employee receiving the requested items should verify that the purchase order information is correct. The employee should also make sure that the vendor knows who to invoice and the correct address for billing. All invoices should be made out to the appropriate Town Department. Failure to make sure this information is passed on to the vendor could result in the misplacement of the invoice, causing late payment on the invoice and loss of any possible discount. No emergency purchase orders will be given unless it is an emergency as described above. North Carolina General Statutes govern this procedure. Written approval for disallowed emergency purchases will have to be obtained from the Town Manager, with overall approval resting with the Town Council.

Telephone Purchase Order Procedures

In certain emergency or special situations, the Finance Officer will issue a purchase order number over the telephone to the requesting department. In such cases, the requesting department will be required to submit a supporting requisition to the Finance Officer the next business day. The requisition is to include the vendor, complete item description, quantity, price, and the purchase order number that was issued.

Credit Cards

The credit cards are kept under the control of the Finance Officer and should be signed out by the employee and returned to the Finance Officer once the purchase is completed. All purchases in excess of \$100.00 made with the Town credit card must be preceded with a purchase order. When traveling out of town for training purposes, the employee **may** use the credit card for hotel stays and for the purchase of fuel **only**, providing that pre-approval **is obtained** from the Town Manager or the Finance Officer. A purchase order must be filled out immediately upon return. **A cash advance may be issued for the employee's cost of meals while out of town for training. Prior to departure, the employee may fill out a travel advance request form,** and a check will be issued to the employee for the amount of per diem **meal costs** as stated on the website at <http://www.gsa.gov/portal/content/104877> for the length of their stay and as outlined in the Town's travel policy. The employee is not authorized to pay for meals on the Town credit card, unless specifically authorized by the Town Manager. The Department Head must approve purchases. Unauthorized purchases are a violation of this policy. If proper procedures are not followed, the employee may be personally liable for the payment.

Updated 1/28/08

Revised 7/6/10

Revised 1/22/13

Revised 10/1/13

Revised 4/1/14

Adopted
November 7, 2007

**TOWN OF SOUTHERN SHORES
RETIREE HEALTH AND DENTAL
INSURANCE BENEFITS
POLICY**

A. HEALTH INSURANCE FOR RETIREES HIRED ON OR AFTER NOVEMBER 1, 2007

For employees hired on or after November 1, 2007, the term "qualified retiree" is defined as an employee who:

- (1) Retires from the Town with **25** completed years of service with the Town; **and**
- (2) Retires with **unreduced benefits** from the NC Local Government Employee's Retirement System. See definition of unreduced benefits in Section F of this policy.

A qualified retiree will have their individual health and dental insurance coverage paid for by the Town if the retiree elects to retain health and dental insurance for themselves through the Town. In the event that the Town's health insurance plan does not provide retiree health coverage, the Town shall reimburse the qualified retiree for monthly health premiums paid by the qualified retiree for individual employee only coverage. This shall be done upon receipt of proof of payment. The amount the Town will pay for coverage or will reimburse a qualified retiree for coverage shall not exceed the then current health benefit paid by the Town for active employees for individual employee only coverage. The Town will pay the premium (as stated above), for health and dental coverage **only** until the qualified retiree becomes eligible for Medicare coverage. Upon a qualified retiree becoming eligible for Medicare coverage or reaching the age of 65 whichever comes first, the Town will no longer pay premiums for health or dental coverage of any kind.

B. HEALTH INSURANCE BENEFITS FOR RETIREES HIRED BEFORE NOVEMBER 1, 2007

For employees hired before November 1, 2007, the term "qualified retiree" is defined as an employee who:

- (1) Retires from the Town with **10** completed years of service with the Town; **and**
- (2) Retires with **unreduced benefits** from the NC Local Government Employee's Retirement System. See definition of unreduced benefits in Section F of this policy.

A qualified retiree will have their health and dental insurance coverage paid for by the Town if the retiree elects to retain health and dental insurance for themselves through the Town. In the event the Town's health insurance plan does not provide retiree health coverage, the Town shall reimburse the qualified retiree for individual employee only coverage. The amount the Town will pay for coverage or will reimburse a qualified retiree for coverage shall not exceed the then current health benefit paid by the Town for active employees for individual employee only coverage.

Upon a qualified retiree becoming eligible for Medicare coverage or reaching the age of 65 whichever comes first, the Town will ~~no longer~~ pay premiums for a Medicare supplement and prescription plan only. The Town will no longer pay dental or vision premiums. Under no circumstances will the Town pay more than the amount the Town pays for individual employee only coverage for employees actively participating in the Town's health program.

Dependent coverage may also be purchased, but must be paid entirely by the qualified retiree.

In the event of the death of the retired employee, covered dependents may continue coverage for 36 months under COBRA.

C. ELECTION OF RETIREE HEALTH INSURANCE COVERAGE

Qualified retirees must decide within thirty (30) days after their retirement if they wish to continue Town health/dental insurance coverage, if it is available through the Town's plan. Before insurance can be reinstated, the qualified retiree must make payment arrangements for any premium due during the 30 day election period. If a decision has been made not to continue coverage, coverage will not be reinstated at any future date.

D. PAYMENT OF PREMIUM

Payment of premiums for coverage on dependents and the portion of the qualified retiree's premium not covered by the Town must be made by the last business day of the month prior to coverage. For example, payments of premiums for coverage during the month of July must be made on or before June 30. (If June 30 is a Saturday, the payment must be made by June 29th). A 2% administrative fee may be charged in addition to the monthly premium. Payments can be made monthly or quarterly and can either be mailed or brought to the Town's Finance Department so long as the payment is actually received before the last business day of the month. Monthly statements will be sent out indicating any balances due. Failure to pay the required premium to the Town's Finance Department within thirty (30) days of the due date will result in cancellation and loss of coverage. Once coverage has been cancelled for any reason, it cannot be reinstated.

E. AMENDMENTS

This policy is subject to change from time to time as the coverage requirements of the NC Local Government Employee's Retirement System or other benefit plans sponsored by the Town change. All benefits are contingent on the financial condition of the Town and the provision for such funding in each annual budget. The insurance benefits are subject to change with or without notice and in no way should this section be construed as a contract or guarantee of provision of these benefits beyond the current fiscal year. This policy supersedes all other policies relating to health/dental benefits.

F. DEFINITION OF UNREDUCED BENEFITS

The NC Local Government Employee's Retirement System classifies unreduced benefits to be one of the following:

- Law Enforcement Employees who are age 55 and have completed 5 years of creditable service as an officer **OR** 30 years of creditable service at any age.
- All General Employee's who are age 65 and completed 5 years of creditable service **OR** age 60 with 25 years of creditable service **OR** 30 years of creditable service at any age.

Revised 7/6/10
Revised 4/1/14

TOWN OF SOUTHERN SHORES TRAVEL POLICY

Purpose

It is the intent of this policy to provide Town employees' a comprehensive reference for uniform interpretation of payment or reimbursement for travel expenses incurred while traveling on Town business.

All employees and officials of the Town are subject to this policy.

Employee & Council Member Responsibility

It is the responsibility of the Town employee or Council Member to use moderation in incurring travel expenses; thus the same care should be exercised in incurring expenses that a prudent person would exercise if traveling on personal business and spending personal funds. Excess costs, circuitous routes, luxury accommodations, and unnecessary and unjustified services in the performance of official business are not acceptable under this standard. Town employees and Council Members will be responsible for unauthorized costs and any additional expenses incurred for personal preference or convenience. Where practical, a travel advance for meals will be issued to responsible Town employees as a tool to help minimize the personal financial impact of conducting Town business. Detailed documentation is required of all Town credit card use. Willful violation of this policy may result in dismissal from Town employment or other disciplinary action.

Transportation

Transportation expenses include personal automobile, taxi, bus, train, airplane, motor pool charges, auto rentals, tolls and parking fees. All travel expenses must be incurred by and for employees or Council Members while conducting official Town business to be eligible for reimbursement. Receipts are necessary for reimbursement for auto rentals and all other means of transportation when available. The Town will pay the allowable automobile mileage rate as established by the Internal Revenue Service. Whenever possible employees should ride together or use Town owned vehicles.

Lodging

The Town will pay actual expenses incurred for lodging. Moderately priced accommodations should be sought as well as a government rate where available.

Meals

The Town credit card cannot be used for purchasing meals while out of town, unless specifically authorized by the Town Manager. The Town will issue a check to the employee for meals, upon completion of a travel advance form according to the current guidelines under GSA (US General Services Administration). If, for reason unforeseen, an employee does not receive a cash advance, the Town will only pay the costs of meals, up to the current per diem GSA guidelines, when a request for reimbursement is accompanied by receipts

The per diem may not be used, when a meal is furnished as part of a conference registration or is otherwise provided without cost. Employees and Council Members may receive allowances for meals (as stated above) for partial days of travel when the partial day is the day of departure or the day of return. Below are the guidelines:

Breakfast: Depart duty station prior to 6:00 a.m.

Lunch: Depart duty station prior to 10:00 a.m. (day of departure). Return to duty station after 2:00 p.m. (day of return).

Dinner: Return to duty station after 8:00 p.m. If stopping for dinner would cause the employee to return after 8:00 p.m., when he/she would otherwise have returned before 8:00 p.m., dinner will not be reimbursed.

Travel Advances

Travel advances may be made at the request of the department head; upon submission of a travel advance request from. Within 10 working days after the travel is completed, actual expense receipts will be attached to the completed expense voucher and presented for settlement. No travel advances will be approved unless all previous advances have been cleared.

Other Expenses

The Town will reimburse for long distance calls that relate to Town business. Personal phone calls while traveling are at the employee's expense.

Local Expenses

The cost of meals may be reimbursed when an employee/official pays for someone else's meal as a legitimate guest of the Town. The Town will also reimburse for after hours meals when attendance is a matter of Town business. The Town will not reimburse employees for "working lunches".

The Town will pay the allowable rate for local mileage for use of personal vehicles on Town business. Transportation from home to office is not reimbursable. Local mileage reimbursement expenses shall be submitted within 90 days of occurrence.

Adopted September 2007
Revised 4/1/14

Bonnie

Town of Southern Shores

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TOWN POLICY ON

COMPUTER SYSTEMS AND NETWORK

The Town computer system, comprised of hardware, software, and network access services and related facilities is to be used by Town employees, elected officers and other authorized users for Town business or approved, task-specific research only. These resources shall be used to accomplish Town business more efficiently and effectively and shall only be used for a business reason or for other purposes when expressly authorized by the Town Manager. Users may not bring in personal software or software packages for use on the Town's system. Software may only be downloaded that is relevant to Town business. Users will maintain provided computer equipment in a sound operating condition and report any performance or maintenance problems to the Network Administrators. All software applications will be used in accordance with the software's licensing agreement. No employee will remove Town computer equipment from Town facilities without the written consent of their department head.

Network Administration: The Town Manager will designate Network Administrators as required. Network Administrators are responsible for performing network maintenance, data back up, granting access privileges, maintaining network security, and procuring hardware/software/network support services as necessary. The Network Administrators are the only personnel authorized access to the network servers. Network Administrators will approve all requests for loading software applications onto the network and recommend any future capabilities or application needs to the Town Manager. Network Administrators are responsible for maintaining inventory records for all Town-owned computer hardware and software.

Remote Access Sites: Users of computer equipment at remote access locations will use their computer equipment primarily for record keeping and document preparation. The software applications installed on the workstation's hard drive will normally be used to support Town operations at sites outside the Town Hall. When it is necessary to access e-mail and Internet services, remote users will follow the sign-on and login instructions provided by the Network Administrators.

Town Websites: The Town will maintain active websites to promote the exchange of information, facilitate the growth of an electronic commerce capability, and encourage visitors to the Town. The websites will be developed and maintained by individuals or organizations authorized to perform such functions by the Town Manager. No employee will post information to Town websites without the approval of the sponsoring Department Head or the Town Manager. Information posted to Town websites will be professional, accurate, and maintained on an on-going basis.

Training: Department Heads are responsible for identifying training needs for their employees. Application-specific training will be coordinated with the Town Manager in order to afford training opportunities to as many employees as possible.

Security: Network Administrators will provide virus protection and firewall security for the Town network to prevent unauthorized access to Town data. Employees are responsible for maintaining network security as possible to include logging off their workstations at the end of each shift and not revealing passwords to unauthorized personnel.

Computer Systems and Network Use Policy:

The use of the computer network and related facilities by any employee or other person authorized by the department must be consistent with this Policy and security policies. Use is a privilege not a right.

Town computer network and related facilities users are required:

- To respect the privacy of other users; for example, users shall not intentionally seek information on, obtain copies of, or modify files or data, belonging to other users, unless explicit permission to do so has been obtained.
- To respect the legal protection provided to hardware, programs and data by copyright and license.
- To protect data from unauthorized use or disclosure as required by state and federal laws and Town regulations.
- 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.
- To safeguard their accounts and passwords. Any user changes of password must follow published guidelines for good passwords. Accounts and passwords are normally assigned to single users and are not to be shared with any other person without authorization. Users are expected to report any observations of attempted security violations. Users will create passwords to permit access to the Town network and the user's personal (F-Drive) folder. Passwords will be at least 7 characters in length and include at least 1 non-alpha character. Passwords will be changed every 120 days.
- Users may install appropriate screen savers on their monitors, so long as they comply with Town policies.

It is not acceptable, i.e. it is prohibited, to use Town computer Network and related facilities:

- For activities unrelated to the Town's mission;
- For activities unrelated to official assignments and/or job responsibilities, unless authorized by the Town Manager;
- For any illegal purpose;

- To transmit threatening, obscene, harassing, or disruptive or offensive language, materials or correspondence;
- For unauthorized distribution of Town data and information;
- To interfere with or disrupt network users, services or equipment;
- For private purposes such as marketing or business transactions;
- For solicitation for religious and political causes;
- For unauthorized not-for-profit business activities;
- To relay or transmit sexually explicit images, messages, cartoons, or any communication containing ethnic slurs, racial remarks, or any thing that may be construed as harassment or disparagement of others based upon race, national origin, sex, sexual orientation, age, disability, religious or political beliefs.
- Misrepresentation of oneself or the Town.
- To attempt or to gain access to other employees or officers personal computer records or e-mail messages without the express permission from the other employee or officer
- For private advertising of products or services; and
- For any activity meant to foster personal gain or
- Political activities.

Notice is hereby given that there are no facilities provided by this system for sending or receiving private or confidential electronic communications. Network Administrators and the Town Manager designee have access to all mail and user access requests, and will monitor messages as necessary to assure efficient performance and appropriate use. Messages relating to or in support of illegal activities will be reported to the appropriate authorities. All information or messages transmitted via the Town computer system are Town records.

The Town reserves the right to log network use and monitor file server space utilization by users and assumes no responsibility or liability for files deleted due to violation of file server space allotments.

The Town reserves the right to remove a user account from the network. The Town will not be responsible for any damages. This includes the loss of data resulting from delays, non-deliveries, or service interruptions caused by negligence, errors or omissions. Use of any information obtained is at the user's risk. Any computer connected to a network should have anti-virus software installed. The Town makes no warranties, either expressed or implied, with regard to software obtained from this system.

The Town makes no warranties (expressed or implied) with respect to computer network related facilities service, and it specifically assumes no responsibilities for:

- Any costs, liabilities or damages caused by the way the user chooses to use the network and facilities;

- Any consequences of service interruptions or changes, even if these disruptions arise from circumstances under the control of the Town. The services are provided on an as is, as available basis.

This policy is intended to be illustrative of the range of acceptable and unacceptable uses of the network and facilities and is not necessarily exhaustive. Questions about specific uses related to security issues not enumerated in this policy statement and reports of specific unacceptable uses should be directed to Town Manager. Other questions about appropriate use should be directed to your supervisor.

Internet Acceptable Use Policy:

The Town connection to the global Internet exists to facilitate the official work of the Town. The Internet facilities and services will contribute broadly to the missions of the Town.

The Internet connection and services are provided for employees and persons legitimately affiliated with the Town for the efficient exchange of information and the completion of assigned responsibilities consistent with the Town's statutory purposes.

The use of the Internet facilities by any employee or other person authorized by the department must be consistent with this Acceptable Use Policy and security policies. Use is a privilege not a right.

Town Internet users are required:

- To respect the privacy of other users; for example, users shall not intentionally seek information on, obtain copies of, or modify files or data, belonging to other users, unless explicit permission to do so has been obtained.
- To respect the legal protection provided to programs and data by copyright and license.
- To protect data from unauthorized use or disclosure as required by state and federal laws and Town regulations.
- 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.
- To safeguard their accounts and passwords. Any user changes of password must follow published guidelines for good passwords. Accounts and passwords are normally assigned to single users and are not to be shared with any other person without authorization. Users are expected to report any observations of attempted security violations.

It is not acceptable, i.e. it is prohibited, to use Town Internet facilities:

- For activities unrelated to the Town's mission;
- For activities unrelated to official assignments and/or job

- responsibilities;
- For any illegal purpose;
 - To transmit threatening, obscene, harassing, or disruptive or offensive language, materials or correspondence;
 - For unauthorized distribution of Town data and information;
 - To interfere with or disrupt network users, services or equipment;
 - For private purposes such as marketing or business transactions;
 - For solicitation for religious and political causes;
 - For unauthorized not-for-profit business activities;
 - To relay or transmit sexually explicit images, messages, cartoons, or any communication containing ethnic slurs, racial remarks, or any thing that may be construed as harassment or disparagement of others based upon race, national origin, sex, sexual orientation, age, disability, religious or political beliefs.
 - Misrepresentation of oneself or the Town.
 - To attempt or to gain access to other employees or officers personal computer records or e-mail messages without the express permission from the other employee or officer
 - For private advertising of products or services; and
 - For any activity meant to foster personal gain.

Notice is hereby given that there are no facilities provided by this system for sending or receiving private or confidential electronic communications. Network Administrators and the Town Manager and designee have access to all mail and user access requests, and will monitor messages as necessary to assure efficient performance and appropriate use. Messages relating to or in support of illegal activities will be reported to the appropriate authorities. All information or messages transmitted via the Town computer system are Town records.

The Town reserves the right to log network use and monitor file server space utilization by users and assumes no responsibility or liability for files deleted due to violation of file server space allotments.

The Town reserves the right to remove a user account from the network.

The Town will not be responsible for any damages. This includes the loss of data resulting from delays, non-deliveries, or service interruptions caused by negligence, errors or omissions. Use of any information obtained is at the user's risk. Any computer connected to a network should have anti-virus software installed. The Town makes no warranties, either expressed or implied, with regard to software obtained from this system.

The Town makes no warranties (expressed or implied) with respect to Internet service, and it specifically assumes no responsibilities

for:

- The content of any advice or information received by a user or any costs or charges incurred as a result of seeking or accepting such advice;
- Any costs, liabilities or damages caused by the way the user chooses to use his/her Town Internet access;
- Any consequences of service interruptions or changes, even if these disruptions arise from circumstances under the control of the Town. The Town's Internet services are provided on an as is, as available basis.

This policy is intended to be illustrative of the range of acceptable and unacceptable uses of the Internet facilities and is not necessarily exhaustive. Questions about specific uses related to security issues not enumerated in this policy statement and reports of specific unacceptable uses should be directed to Town Manager. Other questions about appropriate use should be directed to your supervisor.

E-Mail Use Policy

E-mail is one of the Town's core internal and external communication methods. The purpose of this policy is to ensure that e-mail systems used by Town staff support Town business functions to their fullest capacity. This policy advises staff and management of their responsibilities and provides guidance in managing information communicated by e-mail.

E-Mail services are provided to staff whose job functions require it and as resources allow. To request access, contact the Town Manager.

E-mail services, like other means of communication, are to be used to support Town business. Staff may use e-mail to communicate informally with others in the Town so long as the communication meets professional standards of conduct. Staff may use e-mail to communicate outside of the Town when such communications are related to legitimate business activities and are within their job assignments or responsibilities. Staff will not use e-mail for illegal, disruptive, unethical or unprofessional activities, or for personal gain, or for any purpose that would jeopardize the legitimate interests of the Town.

E-mail messages are not personal and private. Network and E-mail System Administrators may routinely monitor individual staff member's e-mail and will take reasonable precautions to protect the privacy of e-mail. However, Department Heads and technical staff may access an employee's e-mail:

- for a legitimate business purpose (e.g., the need to access information when an employee is absent for an extended period of time);
- to diagnose and resolve technical problems involving system hardware, software, or communications; and/or
- to investigate possible misuse of e-mail when a reasonable suspicion of abuse exists or in conjunction with an

approved investigation.

A user is prohibited from accessing another user's e-mail without his or her permission.

E-mail messages sent or received in conjunction with Town business may:

- be releasable to the public under the Freedom of Information Law;
- require special measures to comply with the Personal Privacy Protection Law.

All e-mail messages including personal communications may be subject to discovery proceedings in legal actions.

E-mail security is a joint responsibility of Town technical staff and e-mail users. Users must take all reasonable precautions, including safeguarding and changing passwords, to prevent the use of the account by unauthorized individuals.

Management and Retention of E-mail Communications

Applicable to records communicated via e-mail

E-mail created in the normal course of official business and retained as evidence of official policies, actions, decisions or transactions are records subject to records management requirements under the Arts and Cultural Affairs Law and specific department requirements.

Examples of messages sent by e-mail that typically *are records* include:

- policies and directives,
- correspondence or memoranda related to official business,
- work schedules and assignments,
- agendas and minutes of meetings,
- drafts of documents that are circulated for comment or approval,
- any document that initiates, authorizes, or completes a business transaction,
- final reports or recommendations.

Some examples of messages that typically *do not constitute records* are:

- personal messages and announcements,
- copies or extracts of documents distributed for convenience or reference,
- phone message slips,
- announcements of social events.

Records Retention

Records communicated using e-mail need to be identified, managed, protected, and retained as long as they are needed to meet operational, legal, audit, research or other requirements. Records needed to support department functions should be retained, managed, and accessible in existing filing system outside the e-mail system.

Records communicated via e-mail will be retained in a central depository and will be disposed of within the record keeping system guidelines in accordance with Federal, State and Local laws and in accordance with State Archives and Records Administration (SARA). Department Heads should consult with the Town Records Management Officer (Town Clerk) concerning their department's records.

Users should:

- Delete records of transitory or little value that are not normally retained in record keeping systems as evidence of Town activity.

The Network Administrators will insure that policies are implemented by department heads. The Network Administrators will develop and/or publicize record keeping practices in their area of responsibility including the routing, format, and filing of records communicated via e-mail. They will train staff in appropriate use and be responsible for ensuring the security of physical devices, passwords, and proper usage.

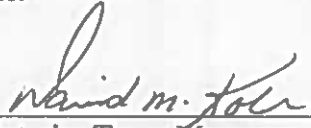
The Network Administrators and internal control (and/or internal audit) staff are responsible for e-mail security, backup, and disaster recovery.

All e-mail users will:

- Be courteous and follow accepted standards of etiquette.
- Protect others' privacy and confidentiality.
- Consider organizational access before sending, filing, or destroying e-mail messages.
- Protect their passwords.
- Remove personal messages, transient records, and reference copies in a timely manner.
- Comply with agency and unit policies, procedures, and standards.

The Town Manager or designee will periodically review and update this policy as new technologies and organizational changes are planned and implemented. Questions concerning this policy should be directed to the Town Manager.

Issued and effective this 18th day of February 2010


Interim Town Manager



Town of Southern Shores

5375 N. Virginia Dare Trail, Southern Shores, NC 27949

Phone 252-261-2394 / Fax 252-255-0876

info@southernshores-nc.gov

www.southernshores-nc.gov

Administrative Policy

COMPENSATORY TIME FOR FLSA EXEMPT EMPLOYEES.

An employee earns compensatory time for time worked in excess of a workweek as established by this policy that does not result from the FLSA provisions. Compensatory time off for exempt employees is not an entitlement or right that the employee may demand but is a privilege granted by the Town in recognition for service rendered. There is no property right associated with compensatory time for exempt employee. Exempt employees under the FLSA shall be compensated for compensatory time earned as specified below:

(A) Compensatory time shall be accrued on an hour-for-hour basis.

(B) Compensatory time shall be taken by an employee at the convenience of the department and in the sole discretion of the supervisor at a time, which will least obstruct the operation of the department. Exempt employees will not be allowed to have a balance of more than 80 hours of compensatory time.

(C) Compensatory time may not be transferred to any other type of leave.

(D) An employee may substitute compensatory time on a time-for-time basis for sick or annual leave.

(E) Compensatory time is lost when an employee is separated from Town service. The employee's separation date may not be moved forward in order to pay for compensatory time.

Peter Rascoe, III
Town Manager

Date: 29 OCT 2010



AGENDA ITEM SUMMARY

MEETING DATE: November 9, 2021

ITEM TITLE: Budget Amendment #14 Beach Nourishment -Legal

ITEM SUMMARY:

The amount of \$13,850 is needed to obtain the remainder of easements needed to do the beach nourishment project, including the properties in the taper in the Town of Duck.

STAFF RECOMMENDATION:

Staff recommends that Council approve the budget amendment.

REQUESTED ACTION:

Staff requests Council to approve the budget amendment.

**Town of Southern Shores
Budget Amendment Number # 14**

Streets Increases			Streets Decreases		
<u>Account Number</u>	<u>Description</u>	<u>Amount</u>	<u>Account Number</u>	<u>Description</u>	<u>Amount</u>
	<u>Revenues</u>				
40-39909	Unassigned Fund Balance	\$13,850			
	<u>Expenditures</u>				
57-50155	Beach Nourishment-Legal	\$ 13,850			

Explanation: Legal fees to obtain easements for beach nourishment

Recommended By:

Cliff Ogburn, Town Manager

Approved By:

Tom Bennett, Mayor

Date



AGENDA ITEM SUMMARY

ITEM #8

MEETING DATE: November 9, 2021

ITEM TITLE: Public Hearing-ZTA-21-08 Regulations Governing Signs

ITEM SUMMARY:

At the March 2, 2021 Town Council meeting, the Town Council instructed Town Staff to take valuable elements out of the adoption draft of the Town Code Update written by CodeWright for review by the Planning Board and the Town Council for future consideration. The proposed amendments to Section 36-57, Definition of Specific Terms and Words Section 36-165, Regulations Governing Signs are mostly a result of a U.S. Supreme Court ruling that signage requirements should be content neutral (see attached comments on Reed vs. Town of Gilbert). In an effort to make the Town's sign requirements content neutral, the proposed language addresses signage based on the applicable zoning district the subject property lies within. The proposed requirements for each district are shown in tables with the residential districts broken down into residential and nonresidential uses.

STAFF RECOMMENDATION:

The Town Planning Board considered three different drafts of ZTA-21-08 at three separate meetings and unanimously recommended approval of the application at their October 18, 2021 meeting. Town Staff feels that additional discussion and further revisions are needed, and Town Staff recommends that Council directs Town Staff to make further revisions to ZTA-21-08. Comments on the application from Council or anyone wishing to speak during the public hearing would be welcomed by Town Staff.

REQUESTED ACTION:

Motion direct Town Staff to make further revisions to ZTA-21-08.

ATTACHMENTS:

Reed case comments

UNC SOG Coates' Canons Blog: Temporary Signs in the Right-of-Way

STAFF REPORT

To: Southern Shores Town Council
Date: November 9, 2021
Case: ZTA-21-08
Prepared By: Wes Haskett, Deputy Town Manager/Planning Director

GENERAL INFORMATION

Applicant: Town of Southern Shores

Requested Action: Amendment of the Town Zoning Ordinance by amending Section 36-57, Definition of Specific Terms and Words and Section 36-165, Regulations Governing Signs.

ANALYSIS

At the March 2, 2021 Town Council meeting, the Town Council instructed Town Staff to take valuable elements out of the adoption draft of the Town Code Update written by CodeWright for review by the Planning Board and the Town Council for future consideration. The proposed amendments to Section 36-57, Definition of Specific Terms and Words Section 36-165, Regulations Governing Signs are mostly a result of a U.S. Supreme Court ruling that signage requirements should be content neutral (see attached comments on Reed vs. Town of Gilbert). In an effort to make the Town's sign requirements content neutral, the proposed language addresses signage based on the applicable zoning district the subject property lies within. The proposed requirements for each district are shown in tables with the residential districts broken down into residential and nonresidential uses.

The Town's currently adopted Land Use Plan contains the following Policy that is applicable to the proposed ZTA:

- **Policy 2:** The community values and the Town will continue to comply with the founder's original vision for Southern Shores: a low-density residential community comprised of single-family dwellings on large lots (served by a small commercial district for convenience shopping and services located at the southern end of the Town. This blueprint for land use naturally protects environmental resources and fragile areas by limiting development and growth.

RECOMMENDATION

The Town Planning Board considered three different drafts of ZTA-21-08 at three separate meetings and unanimously recommended approval of the application at their October 18, 2021 meeting. Town Staff feels that additional discussion and further revisions are needed, and Town Staff recommends that Council directs Town Staff to make further revisions to ZTA-21-08. Comments on the application from Council or anyone wishing to speak during the public hearing would be welcomed by Town Staff.



Town of Southern Shores

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PLANNING BOARD GENERAL APPLICATION FORM TOWN OF SOUTHERN SHORES, NC 27949

Date: 8 / 9 / 21 **Filing Fee:** \$200 **Receipt No.** N/A **Application No.** ZTA-21-08

NOTE: The Planning Board will follow the specific provisions of the Zoning Ordinance Chapter 36, Article X Administration and Enforcement, Section 36-299.

Please check the applicable Chapter/Article:

- Chapter 30. Subdivisions-Town Code
- Chapter 36. Article VII. Schedule of District Regulations. Section 36-207 C-General Commercial District
- Chapter 36. Article IX. Planned Unit Development (PUD)
- Chapter 36. Article X. Administration and Enforcement, Section 36-299 (b) Application for Building Permits and Site Plan Review other than one and two family dwelling units *
- Chapter 36. Article X. Section 36-300-Application for Permit for Conditional Use
- Chapter 36. Article X. Section 36-303 Fees
- Chapter 36. Article X. Section 36-304-Vested Rights
- Chapter 36. Article XIV. Changes and Amendments

Certification and Standing: As applicant of standing for project to be reviewed I certify that the information on this application is complete and accurate.

Applicant

Name Town of Southern Shores

Address: 5375 N. Virginia Dare Trl.
Southern Shores, NC 27949

Phone (252) 261-2394 Email whaskett@southernshores-nc.gov

Applicant's Representative (if any)

Name _____

Agent, Contractor, Other (Circle one)

Address _____

Phone _____ Email _____

Property Involved: ___ Southern Shores ___ Martin's Point (Commercial only)

Address: _____ Zoning district _____

Section _____ Block _____ Lot _____ Lot size (sq.ft.) _____

Request: ___ Site Plan Review ___ Final Site Plan Review ___ Conditional Use ___ Permitted Use
___ PUD (Planned Unit Development) ___ Subdivision Ordinance ___ Vested Right ___ Variance

Change To: ___ Zoning Map **X** ___ Zoning Ordinance

W.W. H. [Signature]
Signature

8-9-21
Date

* Attach supporting documentation.



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ZTA-21-08

10-18-21

Ordinance 2021-11-01

AN ORDINANCE AMENDING THE CODE OF ORDINANCES
OF THE TOWN OF SOUTHERN SHORES, NORTH CAROLINA

ARTICLE I. Purpose(s) and Authority.

WHEREAS, pursuant to N.C.G.S. § 160D-701, the Town of Southern Shores (the “Town”) may enact and amend ordinances regulating the zoning and development of land within its jurisdiction. Pursuant to this authority and the additional authority granted by N.C.G.S. § 160D-702, the Town has adopted a comprehensive zoning ordinance (the “Town’s Zoning Ordinance”) and has codified the same as Chapter 36 of the Town’s Code of Ordinances (the “Town Code”); and

WHEREAS, the Town desires content neutral signage standards and regulations that ensure that permitted signs reflect the aesthetics desired by its residents; promote traffic safety; and, provide minimum interference with individual property rights;

WHEREAS, the Town further finds that in accordance with the findings above it is in the interest of and not contrary to the public’s health, safety, and general welfare for the Town to amend the Town’s Zoning Ordinance as stated below.

ARTICLE II. Construction.

For purposes of this ordinance amendment, underlined words (underline) shall be considered as additions to existing Town Code language and strikethrough words (~~strikethrough~~) shall be considered deletions to existing language. Any portions of the adopted Town Code which are not repeated herein, but are instead replaced by an ellipses (“...”) shall remain as they currently exist within the Town Code.

ARTICLE III. Amendment of Zoning Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Southern Shores, North Carolina, that the Town Code shall be amended as follows:

PART I. That **Sec. 36-57. Definition of specific terms and words.** Be amended as follows:

Sec. 36-57. Definition of specific terms and words.

1 ...

2
3 Banner means any cloth, bunting, plastic, paper, or similar non-rigid material
4 attached to any structure, staff, pole, roper, wire, or framing. Banners are temporary in
5 nature and do not include flags.

6
7 ...

8
9 Flag means any symbol printed or painted on cloth plastic, canvas, or other like
10 material with distinctive colors, patterns, or symbols attached to a pole or staff and
11 anchored along only one edge or supported or anchored at only two corners.

12
13 ...

14
15 Pennant means a triangular or irregular piece of fabric or other material, commonly
16 attached in strings or strands, or supported on small poles intended to flap in the wind.

17
18 ...

19
20 *Sign* means any writing, pictorial representation, illustration, decoration (including
21 any material used to differentiate sign copy from its background), landscaping form,
22 emblem, symbol, design, trademark, banner, flag, pennant, captive balloon, streamer,
23 spinner, ribbon, sculpture, statue, or any other figure or character that:

- 24 (1) Is a structure or any part thereof (including ~~the roof or~~ wall of a building); or
- 25 (2) Is written, printed, projected, painted, constructed, or otherwise placed or
- 26 displayed upon or designed into landscaping or a structure or a board, plate,
- 27 canopy, awning, marquee, or vehicle, or upon any material object or device
- 28 whatsoever; and
- 29 (3) By reason of its form, color, wording, symbol, design, illumination or motion,
- 30 attracts or is designed to attract attention to the subject thereof or is used as a
- 31 means of identification, advertisement, or announcement or political or artistic
- 32 expression or decoration; but
- 33 (4) Landscaping constitutes a sign only to the extent that it is planted, trimmed,
- 34 graded, arranged, or installed in such a manner as to convey an explicit
- 35 commercial message.

36 ~~*Sign, commercial,* means a sign which identifies, advertises, or directs attention to a~~
37 ~~business, or is intended to induce the purchase of goods, property, or service, including,~~
38 ~~without limitation, any sign naming a brand of goods or service and real estate signs, as~~
39 ~~further defined below.~~

40 ~~*Sign, noncommercial,* means a sign designed and intended to promote, support, call~~
41 ~~attention to, or give notice to a cause, nonprofit and noncommercial service, or political~~
42 ~~message of an individual, charitable organization, political group or other entity. Any~~

1 symbols, letters or other identifying characteristics describing the commercial sponsor of
2 a noncommercial sign shall not exceed four inches in height and may not be repeated on
3 the same face of the sign. A noncommercial sign shall contain no commercial advertising
4 or statements, logos, designs or trademarks designed or intended to promote or produce
5 financial gain other than donations for charitable organizations such as groups which are
6 tax exempt pursuant to the Internal Revenue Code.

7 *Sign, noncommercial charity event,* means a temporary sign designed and intended to
8 promote, support, call attention to, or give notice to a specific noncommercial event
9 wholly organized by a nonprofit individual, charitable organization, political group or
10 other entity that is tax exempt pursuant to the Internal Revenue Code.

11 Sign, permanent, means a sign attached or affixed to a building, window, or
12 structure, or the ground in a manner that enables the sign to resist environmental loads,
13 such as wind, and that precludes ready removal or movement of the sign and whose
14 intended use appears to be indefinite.

15 *Sign, off site,* means an off site sign is any sign other than an on-site sign including
16 signs erected for the provision of outdoor displays or display space as a business on a
17 lease or rental basis.

18 *Sign, on site,* means a sign relating in its subject matter to the premises on which it is
19 located, or to products, services, accommodations, or activities on these premises.

20 *Sign, real estate,* means a sign indicating the availability for sale, rent, or lease of the
21 specific lot, building, or portion of a building upon which the sign is posted.

22 *Sign, temporary,* means a sign intended to display either commercial or
23 noncommercial messages of a transitory or temporary nature. Portable signs, or any sign
24 not permanently embedded in the ground, or not permanently affixed to a building or sign
25 structure that is permanently embedded in the ground, are considered temporary signs. A
26 temporary sign is:

- 27 (1) Intended for a temporary period. The temporary period may be different for
28 various types of events or circumstances the sign advertises;
- 29 (2) Typically constructed from nondurable materials, including paper, cardboard,
30 cloth, plastic, and/or wallboard;
- 31 (3) Does not constitute a structure subject to the town's building code and zoning
32 code provisions.

33 *Sign, vehicle,* means a permanent or temporary sign affixed, painted on or placed in
34 or upon any parked vehicle, parked trailer or any parked device capable of being towed,
35 which is displayed in public view under such circumstances as to location on the
36 premises, time of day, duration, availability of other parking space on the premises, and
37 the proximity of the vehicle to the area on the premises where it is loaded, unloaded or
38 otherwise carries out its principal function, which circumstances indicate that the primary
39 purpose of said display is to attract the attention of the public rather than to serve the
40 business of the owner thereof in the manner which is customary for said vehicle.

41 ...
42 ...

1
2 **PART II.** That **Sec. 36-165. Regulations governing signs.** Be amended as follows:

3
4 **Sec. 36-165. Regulations governing signs.**

5
6 The town adopts these standards and regulations to ensure that permitted signs
7 reflect the aesthetics desired by its residents; promote traffic safety; and, provide
8 minimum interference with individual property rights.

9 (1) *Exclusions.* The following shall not be included in the application of these
10 regulations:

- 11 a. ~~Signs not exceeding one square foot in area and bearing only property~~
12 ~~numbers, post box numbers, names of occupants of premises, or other~~
13 ~~identification of premises not having commercial connotations;~~
- 14 b. ~~Flags and insignia of any government except when displayed in connection~~
15 ~~with commercial promotion;~~
- 16 c. ~~Legal notices, identifications, directional and informational signs erected or~~
17 ~~required by governmental bodies, fire stations, public utilities or civic~~
18 ~~associations with the approval of town council;~~
- 19 da. Integral decorative or architectural features of buildings, except letters,
20 trademarks, moving parts, or moving lights;
- 21 e. ~~Signs directing and guiding traffic and parking on private property, but~~
22 ~~bearing no advertising matter;~~
- 23 fb. Temporary signs of less than one day duration.
- 24 c. Fence-wrap signs affixed to fences surrounding a construction site, and used
25 to indicate the construction firms actively working on a development site in
26 accordance with N.C.G.S. 160D-908.
- 27 d. Pennants.

28 (2) *Number and area.*

- 29 a. For the purpose of determining number of signs, a sign shall be considered
30 to be a single display surface or display device containing elements
31 organized, related, and composed to form a unit. Where matter is displayed
32 in a random manner without organized relationship of elements, or where
33 there is reasonable doubt about the relationship of elements, each element
34 shall be considered to be a single sign.
- 35 b. The surface area of a sign shall be computed as including the entire area
36 within a regular geometric form or combination of regular geometric forms
37 comprising all of the display area of the sign and including frames and all of
38 the elements of the matter displayed. The area of a double-faced sign shall be
39 the area of one face of the sign, provided that the two faces are of the same
40 size and are parallel to one another with no more than 24 inches between each
41 sign face.

- 1 (3) *Sign permit required.* No sign shall hereafter be erected or attached to,
 2 suspended from, or supported on a building or structure, nor shall any existing
 3 sign or outdoor advertising structure be structurally altered, remodeled or
 4 relocated, until a sign permit for same has been issued by the zoning administrator.
 5 No permit is required for signs ~~enumerated in subsection (8), (11) or (12) of this~~
 6 ~~section~~ in residential districts, temporary signs, or any sign not exceeding three
 7 square feet in area.
- 8 (4) *Material and design.* All signs requiring a permit shall be constructed and
 9 designed, according to generally accepted engineering practices, to withstand
 10 wind pressures and load distribution as specified in the current building code.
- 11 (5) *Inspection required.* Each sign or outdoor advertising structure subject to the
 12 regulations of subsection (3) of this section may be subject to an annual inspection
 13 by the building inspector for the purpose of ensuring that the structure is
 14 maintained in a safe condition. The fee for the annual inspection shall be in
 15 accordance with a regularly adopted fee schedule of the town. When a sign
 16 becomes structurally unsafe, the building inspector shall give written notice to the
 17 owner of the sign or outdoor advertising structure that the sign or outdoor
 18 advertising structure shall be made safe or removed within ten days of receipt of
 19 such notice.
- 20 (6) *Illuminated signs.* All signs or outdoor advertising structures in which electrical
 21 wiring and connections are to be used shall require a permit and shall comply with
 22 the electrical code of the state and be approved by the building inspector. The light
 23 source shall not be visible from the road right-of-way or from adjacent property.
- 24 (7) *Prohibited signs.* The following signs, sign construction, and displays are
 25 prohibited:
- 26 a. Any sign erected or maintained which is a copy or imitation of an official
 27 highway sign and carrying the words "STOP" or "DANGER" except such
 28 signs installed by the Town to regulate bicycle traffic on town-owned
 29 multipurpose pathways.
- 30 b. Any sign that obstructs corner visibility or visibility at a driveway between
 31 a height of two feet and ten feet.
- 32 c. A sign attached to any traffic sign, utility pole or structure, or tree.
- 33 d. Any sign that obstructs ingress and egress to any window, door, fire escape,
 34 stairway, ladder or opening intended to provide light, air, ingress or egress
 35 for any room or building as required by law.
- 36 e. Any sign that violates any provision of any law of the state relative to outdoor
 37 advertising.
- 38 f. ~~Any off-site signs.~~
- 39 g. Any sign which contains, employs, or utilizes lights or lighting which rotates,
 40 flashes, moves or alternates.
- 41 h. Any sign located within a public or private right-of-way.

- 1 ih. Any signs painted on or affixed to a roof surface.
- 2 ji. Vehicle signs.
- 3 kj. Signs supported in whole or in part by water, air or gas.
- 4 l. Tourist-oriented directional signs.

5 (8) *Signs permitted in residential districts.* The following requirements apply:

- 6 a. ~~Directional signs not over four square feet in area indicating the location of~~
7 ~~churches, schools, hospitals, parks, scenic or historic places, or other places~~
8 ~~of general interest. Any such sign and mounting shall not exceed three feet in~~
9 ~~total height.~~
- 10 b. ~~One two-sided name sign or bulletin board, not to exceed a total height of~~
11 ~~nine feet above approved grade as shown on the site plan, or exceeding 32~~
12 ~~square feet in size per face (excluding any support structure), for any~~
13 ~~permitted church, school or other semipublic institution, which sign or board~~
14 ~~may be indirectly lighted and shall be set back at least 15 feet from the~~
15 ~~property line.~~
- 16 c. ~~Temporary real estate sign, provided such sign shall be located on the site it~~
17 ~~advertises, shall be neatly painted and maintained, shall be removed when the~~
18 ~~property has been sold, shall not be illuminated, and in accordance with the~~
19 ~~following standards:~~
 - 20 1. ~~"For Sale" sign: One "For Sale" sign not to exceed five square feet in~~
21 ~~area, including riders, shall be permitted to be placed on the site it~~
22 ~~advertises. The lower edge of "For Sale" sign shall be no more than three~~
23 ~~feet above ground level, and the upper edge no more than five feet above~~
24 ~~ground level.~~
 - 25 2. ~~"For Lease" or "For Rent" sign: One "For Lease" or "For Rent" sign not~~
26 ~~to exceed 3½ square feet in area shall be permitted to be placed on the~~
27 ~~principal building it advertises.~~
- 28 d. ~~Temporary nonilluminated signs not exceeding six square feet in area~~
29 ~~advertising the general contractor, contractor, subcontractor, architect,~~
30 ~~landscape architect or other such professional persons or organizations~~
31 ~~engaged in or associated with the lawful construction, alteration, remodeling,~~
32 ~~or demolition of any building or use; provided that such signs shall be limited~~
33 ~~to one to each organization involved, and that the signs shall be removed upon~~
34 ~~completion of the work involved or issuance of a certificate of occupancy,~~
35 ~~whichever comes first.~~
- 36 e. ~~Signs announcing the name of a subdivision located on the premises at major~~
37 ~~entrances provided that such signs are neatly constructed and maintained;~~
38 ~~limited to announcing only the name of the subdivision; do not obstruct~~
39 ~~corner visibility; and do not exceed 32 square feet in area.~~
- 40 f. ~~Directional signs that bear no commercial information.~~

g. ~~Temporary "Open House" real estate signs shall be permitted in any residential district subject to the following conditions:~~

- 1. ~~There shall be a maximum of one such sign for the house offered for sale.~~
- 2. ~~The sign shall have a maximum area of six square feet.~~
- 3. ~~The sign shall not be placed in the right of way.~~
- 4. ~~The sign may be double faced and shall not be illuminated.~~
- 5. ~~The sign shall only be displayed between the hours of 8:00 a.m. and 8:00 p.m. and only when a salesperson is on duty at the home for sale.~~
- 6. ~~No such sign shall be displayed for more than 30 days in any calendar year.~~

h. ~~Country Club signs. One freestanding sign per street frontage. Sign may be one or two sided, not to exceed a total height of nine feet above existing grade or exceeding 32 square feet in size per face (excluding support structure), which may be indirectly lighted and shall be set back at least 15 feet from the property line.~~

(9) ~~Signs permitted in commercial (C) district. Total signage for each lot, tract or parcel in business use is limited to one square foot of sign area for each two linear feet of frontage facing on a public street right of way, not to exceed 64 square feet, and subject to the following limitations and qualifications:~~

- a. ~~Wall signs placed against the exterior walls of buildings shall not extend more than six inches beyond the building wall surface and shall not exceed 20 percent of the exposed finished wall surface including openings.~~
- b. ~~One freestanding sign per lot may be located either temporarily or permanently on the ground but shall not exceed 32 square feet in area and shall not exceed 12 feet in height above street grade.~~
- c. ~~Window signs shall be placed only inside a commercial building and shall not exceed 75 percent of the glass area of the pane upon which the sign is displayed.~~
- d. ~~Retail shopping center. In lieu of the above requirements for signs in the commercial (C) district, retail shopping centers may have the following on-site signage:~~

- 1. ~~Freestanding sign. Only one freestanding sign shall be allowed. The sign structure shall be located permanently on the ground and the sign structure and the sign shall not exceed 12 feet above street grade. The sign shall be limited to 64 square feet of sign display area on each sign face. There shall be no more than two sign faces on the freestanding sign. The sign structure shall be proportional to the sign display area, but in no event greater than 1½ times the approved sign display area. No messages shall be displayed on the sign structure other than on the sign display area on the sign face.~~

1 2.—Wall signs. One square foot of business sign area for each linear foot of
2 store frontage shall be allowed. Stores which are corner stores or end
3 stores shall be entitled to the amount of linear footage based on the total
4 frontage of the store front and adjacent exterior side. Wall signs shall be
5 placed on the exterior wall of the building which it advertises and shall
6 not extend more than 15 inches beyond the wall surfaces.

7 3.—Canopy sign. One under-canopy sign, visible from the sidewalk, will be
8 permitted for each store and shall not exceed four square feet in sign area,
9 nor be a hazard to pedestrians.

10 4.—Ice vending structure (automated). Wall signs placed against the exterior
11 walls of structure shall not extend more than six inches beyond the
12 structure wall surface and shall not exceed 20 percent of the exposed
13 finished wall surface on which the signage is located including openings.

14 (10)—*Nonecommercial signs.* Noncommercial signs, except nonecommercial charity
15 event signs, shall be allowed in all districts, on vacant and developed lots, subject
16 to the following limitations:

17 a.—No sign shall exceed six square feet in area on each side and shall not be
18 illuminated.

19 b.—No sign shall exceed ten feet in height above street grade.

20 c.—The side yard and front yard setback from any property line shall be at least
21 five feet. In the case of a corner lot, to ensure adequate sight clearance for a
22 distance of not less than 40 feet from the point of intersection of the
23 intersecting right of way lines, the side yard and front yard setback shall be
24 no less than 15 feet.

25 d.—Such signs shall be taken down within three calendar days after the event.

26 e.—Such signs shall be treated as temporary signs.

27 (11)—*Nonecommercial charity event signs.* Noncommercial charity event signs shall
28 be allowed in all districts, on vacant and developed lots, subject to the following
29 limitations:

30 a.—Signs shall be of a temporary "banner type" sign; shall be made of a flexible
31 or plasticized cloth, plastic or similar materials; and shall not be attached to
32 the ground or any other structure with the purpose of being more than a
33 temporary fixture.

34 b.—Sponsor logos may appear on a nonecommercial charity event sign but such
35 logos shall be subordinate to the principle message of the sign and, in
36 aggregate, shall not exceed 15 percent of the total area of one side of the sign.

37 c.—No sign shall have an area greater than 60 square feet on any one face. No
38 sign shall have more than two sides containing any message or sponsor logo.

39 d.—No sign shall be installed having a top height greater than ten feet.

1 e.—No sign shall be erected or installed in a town right-of-way or on other town-
2 owned property unless the event is organized by the town.

3 f.—No sign shall be erected or installed more than four weeks prior to the date
4 of the event and the sign shall be removed no later than three days upon
5 conclusion of the event. One sign shall only be located on the site where the
6 charity event is to occur.

7 (12)—~~Temporary signs permitted in all zones.~~ Temporary signs may be posted on
8 property in all zones of the town, subject to the following requirements and those
9 applicable provisions stated elsewhere in this section.

10 a.—The total square footage for temporary signs posted on a lot in all residential
11 zones shall not exceed six square feet. The total square footage for temporary
12 signs posted on a building lot in all other zones, in the aggregate, shall not
13 exceed 32 square feet, with no individual sign exceeding 32 square feet. The
14 total square footage of a sign is measured to include all of the visible display
15 area of one side of the sign.

16 b.—No temporary sign shall obstruct or impair access to a public sidewalk, public
17 or private street or driveway, traffic control sign, bus stop, fire hydrant, or
18 any other type of street furniture, or otherwise create a hazard, including a
19 tripping hazard.

20 c.—No temporary sign shall be illuminated or painted with light reflecting paint.

21 d.—A temporary sign shall only be posted with the consent of the property owner
22 or occupant.

23 e.—A temporary sign may be posted for a period of up to 90 days, at which time
24 the sign shall be removed or replaced.

25 f.—A temporary sign shall not advertise or promote any commercial enterprise
26 or event not conducted on the same building lot but may provide directional
27 information to the public.

28 (13)—~~Signs permitted in government and institutional (G/I) district.~~

29 a.—Town owned facilities are subject to the following conditions:

30 1.—One freestanding sign with frame or one attached sign with frame per
31 facility. Any such freestanding sign with frame shall not exceed 48
32 square feet, shall be located permanently on the ground and the sign
33 structure and the sign shall not exceed four feet above street grade. Any
34 such attached sign with frame shall not exceed 24 square feet, shall be
35 placed on the exterior wall of the building which it identifies and shall
36 not extend more than 15 inches beyond the wall surfaces.

37 2.—Directional signs as permitted in subsection (8) of this section.

38 b.—Nonprofit entities qualified under section 501(c)(3) of the Internal Revenue
39 Code:

- 1 1.— One freestanding sign with frame or one attached sign with frame per
- 2 facility. Any such freestanding sign with frame shall not exceed four
- 3 square feet, shall be located permanently on the ground and the sign
- 4 structure and the sign shall not exceed three feet above street grade. Any
- 5 such attached sign with frame shall not exceed four square feet.
- 6 2.— Directional signs as permitted in subsection (8) of this section.

**TABLE A. PERMANENT SIGNAGE IN A RESIDENTIAL DISTRICT
FOR NONRESIDENTIAL USES**

<u>Type of Nonresidential Use</u>	<u>Maximum Number of Signs per Lot (#)</u>	<u>Cumulative Sign Area per Lot (sq. ft.)</u>	<u>Maximum Surface Area for a Single Sign (sq. ft.)</u>	<u>Maximum Height (feet) above grade</u>	<u>Type of Signs Allowed</u>	<u>Additional Requirements</u>
Churches, Schools, Fire Stations, Country Clubs	2	64	32 per side	6 excluding support structure	Wall Sign; Freestanding Sign	<ul style="list-style-type: none"> 1. Signs shall not be internally illuminated. 2. Signs shall be at least 15 feet from a lot line. 3. Signs shall be located outside of sight distance triangles.
Properties Owned by a Civic Association or Property Owners Association	4	64	32 per side	6	Freestanding Sign	<ul style="list-style-type: none"> 1. Shall be placed on property owned by the Civic Association or Property Owners Association. 2. Shall be neatly constructed and maintained.

7

TABLE B. PERMANENT SIGNAGE IN A RESIDENTIAL DISTRICT FOR RESIDENTIAL USES

<u>Type of Residential Use</u>	<u>Maximum Number of Signs per Lot (#)</u>	<u>Maximum Surface Area for a Single Sign (sq. ft.)</u>	<u>Maximum Height (feet above grade)</u>	<u>Type of Signs Allowed</u>	<u>Additional Requirements</u>
<u>Major Entrances to Subdivisions</u>	4	32 per side	6	Freestanding Sign	1. Shall be placed on property within the subdivision. 2. Shall be neatly constructed and maintained. 3. Shall be limited to announcing only the name of the subdivision. 4. Shall not obstruct corner visibility. 5. Shall be allowed in Town rights-of-way.
<u>Single-family Dwellings, Vacation Cottages, Duplexes</u>	1	6	6	Freestanding Sign	1. Shall be limited to announcing only the name of the structure or property.

1

TABLE C. PERMANENT SIGNAGE IN THE COMMERCIAL DISTRICT

<u>Sign Type</u>	<u>Maximum Number of Signs per Lot (#)</u>	<u>Cumulative Sign Area per Lot (sq. ft.)</u>	<u>Maximum Surface Area for a Single Sign (sq. ft.)</u>	<u>Maximum Height (feet above grade)</u>	<u>Additional Requirements</u>
<u>Wall Sign</u>	<u>1 per business; 2 for corner stores or end stores in group developments</u>	<u>For group developments: 1 per every linear foot of store frontage for each store; For all other uses: 1 per every 2 linear feet of lot frontage with a maximum of 64</u>	<u>20% of the exposed wall surface (including openings)</u>	<u>Top of the wall</u>	<u>1. Must be placed on the exterior wall of the store it advertises 2. Sign shall not extend more than 15 inches beyond building wall surface. 3. Stores which are corner stores or end stores shall be entitled to the amount of linear footage based on the total frontage of the store front and adjacent exterior side.</u>
<u>Freestanding Sign</u>	<u>1</u>	<u>Greater of: 64 per face; maximum of 2 faces; or 1 per every 2 linear feet of lot frontage; maximum of 64</u>	<u>32</u>	<u>12</u>	<u>1. Sign structure shall not exceed the sign surface area by more than 1.5 times 2. No messages shall be displayed on sign structure.</u>
<u>Canopy Sign</u>	<u>1 per business</u>	<u>4</u>		<u>Under canopy of roof</u>	<u>1. Sign shall not create a hazardous situation for pedestrians.</u>
<u>Window Sign</u>	<u>No limit</u>	<u>1 per every 2 linear feet of lot frontage; maximum of 64</u>	<u>75% of the glass pane where displayed</u>	<u>N/A</u>	

2

TABLE D. PERMANENT SIGNAGE IN THE GOVERNMENT/INSTITUTIONAL DISTRICT

<u>Sign Type</u>	<u>Maximum Number of Signs per Lot (#)</u>	<u>Cumulative Sign Area per Lot (sq. ft.)</u>	<u>Maximum Height (feet above grade)</u>	<u>Type of Signs Allowed</u> <u>Additional Requirements</u>
Freestanding Sign	1 per establishment	48 (including frame)	4	1. Signs shall be placed outside the street right-of-way and at least 5 feet from all lot lines. 2. Signs shall be located outside of sight distance triangles.
Wall Sign	1 per establishment	24 (including frame)	Top of Wall	Sign shall not extend more than 15 inches beyond building wall surface.

1

TABLE E. TEMPORARY SIGNAGE

<u>Sign Type</u>	<u>Maximum Number of Signs per Lot (#)</u>	<u>Maximum Surface Area for a Single Sign (sq. ft.)</u>	<u>Maximum Height (feet above grade)</u>	<u>Maximum Duration Per Calendar Year (# of days)</u>	<u>Additional Requirements</u>
<u>Residential Districts</u>					
Freestanding Sign	3	3.5 per side	5	90	1. Temporary signs shall not be illuminated or painted with light-reflecting paint or other light reflecting materials. 2. Temporary signs shall be placed outside the right-of-way and at least 15 feet from the edge of the street pavement. 3. Temporary signs must have the lot owner's permission.
Banners	1	24	12	90	
Flags	N/A	24	35	N/A	1. Flags are not subject to the maximum 90 day duration.
<u>Government/Institutional and Commercial Districts</u>					

TABLE E. TEMPORARY SIGNAGE					
<u>Sign Type</u>	<u>Maximum Number of Signs per Lot (#)</u>	<u>Maximum Surface Area for a Single Sign (sq. ft.)</u>	<u>Maximum Height (feet above grade)</u>	<u>Maximum Duration Per Calendar Year (# of days)</u>	<u>Additional Requirements</u>
<u>Freestanding Sign</u>	<u>1</u>	<u>32 per side</u>	<u>12</u>	<u>30</u>	<p>1. Temporary signs shall not be illuminated or painted with light-reflecting paint or other light reflecting materials.</p> <p>2. Temporary signs shall be placed outside the right-of-way and at least 15 feet from the edge of the street pavement.</p> <p>3. Temporary signs must have the lot owner's permission.</p>
<u>Banners</u>	<u>1</u>	<u>24</u>	<u>12</u>	<u>N/A</u>	<p>1. Banners shall only be displayed during business hours.</p> <p>2. Banners shall not be subject to the maximum 30-day duration.</p>
<u>Flags</u>	<u>1</u>	<u>24</u>	<u>35</u>	<u>N/A</u>	<p>1. Flags shall only be displayed during business hours.</p> <p>2. Flags are not subject to the maximum 30-day duration.</p>
All Districts on Property Where the Lawful Construction, Alteration, Remodeling, or Demolition of any Building or Use is Taking Place					
<u>Freestanding Sign</u>	<u>5</u>	<u>3 per side</u>	<u>5</u>	<u>N/A</u>	<p>1. Shall be removed upon completion of the work involved or issuance of a certificate of occupancy, whichever comes first.</p>
All Districts on Property Where the Property is For Sale or Lease					
<u>Freestanding Sign</u>	<u>2</u>	<u>3.5 per side</u>	<u>5</u>	<u>N/A</u>	<p>1. For properties that are actively listed for sale, the sign shall be placed on the site it advertises which is not subject to the maximum 30-day duration and shall be removed following sale of the property.</p> <p>2. For properties that are actively listed for rent or lease, the sign shall be placed on the principal building it advertises which is not subject to the maximum 30-day duration.</p>

1
 2 **ARTICLE IV. Statement of Consistency with Comprehensive Plan and**
 3 **Reasonableness.**
 4

5 The Town's adoption of this ordinance amendment is consistent with the Town's adopted
 6 comprehensive zoning ordinance, land use plan and any other officially adopted plan that

1 is applicable. For all of the above-stated reasons and any additional reasons supporting the
2 Town’s adoption of this ordinance amendment, the Town considers the adoption of this
3 ordinance amendment to be reasonable and in the public interest.

4
5 **ARTICLE V. Severability.**

6
7 All Town ordinances or parts of ordinances in conflict with this ordinance amendment are
8 hereby repealed. Should a court of competent jurisdiction declare this ordinance
9 amendment or any part thereof to be invalid, such decision shall not affect the remaining
10 provisions of this ordinance amendment nor the Zoning Ordinance or Town Code of the
11 Town of Southern Shores, North Carolina which shall remain in full force and effect.

12
13 **ARTICLE VI. Effective Date.**

14
15 This ordinance amendment shall be in full force and effect from and after the ____ day of
16 _____, 2021.

17
18
19 _____
Tom Bennett, Mayor

20 ATTEST:

21
22 _____
23 Town Clerk

24
25
26 APPROVED AS TO FORM:

27
28 _____
29 Town Attorney

30
31 Date adopted:

32
33 _____
34 Motion to adopt by Councilmember:

35
36 _____
37 Motion seconded by Councilmember:

38
39
40 Vote: ___AYES___NAYS
41

Reed vs. Town of Gilbert Case Comments

CodeWright:

This section is proposed to replace Section 36-165 of the current code. As mentioned in the Code Assessment, federal laws with respect to the regulation of signs have changed dramatically based on the US Supreme Court's ruling in the Reed vs. Town of Gilbert case. Essentially, the holding from this case is that sign standards that require the regulator to read the sign's message to determine which kind of sign standards to apply are not content-neutral. Court precedent has indicated that sign standards must be content neutral (to pass muster under the 1st Amendment to the Constitution), or must withstand the strict scrutiny doctrine. To withstand strict scrutiny, standards must be developed with a compelling governmental interest and must be narrowly tailored to achieve that specific interest. In practice, most sign standards are focused on aesthetics, and thus will NOT pass the test of strict scrutiny.

As a result, local governments across the country are now revising their sign standards in two or three key ways: First, sign standards may not be structured in ways that require the sign to be read to determine which set of standards to apply (in other words, no longer may a community apply differential sign standards based on sign type – you may not have special standards for “for rent” signs versus “directional signs”). Second, sign standards may not distinguish between “commercial” signs versus “noncommercial” signs (since doing so requires reading the sign's message). Third, the Court has ruled that speaker-based standards (sign standards that relate to a particular kind of use, like signs for a restaurant or a signs for a vacation rental) are not content neutral, and must also pass strict scrutiny.

One of the best ways to address this new court precedent is to maintain the time, place, and manner provisions for signs that most communities (including Southern Shores) already have, and revise any specific sign-type standards into a set of generic time, place, and manner sign standards that differ by type of zoning district. Fortunately, the Town's current sign standards are already organized in this fashion, and will only require some moderate adjustment to avoid the strict scrutiny doctrine.

Town Attorney:

Prior to the 2015 Supreme Court case of Reed v. Town of Gilbert, Ariz., 576 U.S. 155, 135 S. Ct. 2218, 192 L. Ed. 2d 236 (2015), there was a substantial body of law, much from the USSCT, which allowed for a distinction between commercial and non-commercial signage and allowed for a lowered standard of review for commercial speech. The Reed case itself did not address this line of cases, but on its face seemed to say that if you have to look at the content to regulate then strict scrutiny applied. Federal appellate courts interpreting the Reed case have come to differing conclusions whether or not a distinction can still be made between commercial signage and other signage. A significant body of conflicting case law has developed since Reed was decided in 2015 (As of September 4, 2020 Westlaw shows that 669 cases have cited Reed since it's publication in 2015), and I am unaware of the USSCT revisiting the issue directly.

However, a handful of opinions have mentioned these distinctions without giving definitive analysis. See *Barr v. Am. Ass'n of Political Consultants, Inc*, 140 S. Ct. 2335, 2347 (2020) (Noting without a clear majority that the “decision is not intended to expand existing First Amendment doctrine or to otherwise affect traditional or ordinary economic regulation of commercial activity...” but also limiting that to “traditional or ordinary economic regulation of commercial activity that imposes incidental burdens on speech.”); *Nat'l Inst. of Family & Life Advocates v. Becerra*, 138 S. Ct. 2361, 2374, 201 L. Ed. 2d 835 (2018) (finding no exception to content neutral analysis for professional services, while also referencing noncommercial speech). Where the courts have allowed the distinction, a lower standard of review has been applied to commercial speech. Generally, it is probably best practice to avoid the issue all together by having content neutral sign regulations.

Also, while it is possible that the author is correct that determining the signage regulation based on use is considered to be content based, I am not aware of any courts holding that and would have to research the issue more thoroughly to determine the answer. See *Barr v. Am. Ass'n of Political Consultants, Inc*, 140 S. Ct. 2335, 2347 (2020) (confirming that “laws favoring some speakers over others demand strict scrutiny when the legislature's speaker preference reflects a content preference”) (citing *Reed*). However, again, it's easy enough to avoid the issue entirely by having regulations which do not address the use of the property and instead rely on the zoning district designation of the property as the new ordinance provisions seem to do.

Coates' Canons Blog: Temporary Signs in the Right-of-Way

By Adam Lovelady

Article: <https://canons.sog.unc.edu/temporary-signs-in-the-right-of-way/>

This entry was posted on October 16, 2018 and is filed under Administration & Enforcement, Campaign Signs, Constitutional & Statutory Limitations, Constitutional Issues, Elections, General Local Government (Miscellaneous), Land Use & Code Enforcement, Ordinances & Police Powers, Streets & Parking, Zoning

It's that time of year again. Leaves are falling and campaign signs are rising. Along with the signs come the questions about the laws and limits for regulating campaign signs. This can be a confusing topic because of the ruling from the U.S. Supreme Court in *Reed v. Town of Gilbert* and because of the overlapping authority between local governments and the North Carolina Department of Transportation (NCDOT).

Legal issues affecting the regulation of campaign signs include:

- Free speech protections limiting the regulation of sign content;
- Differences between regulations on private property and regulations on public property; and
- Differences between regulations on state maintained rights-of-way and municipally maintained rights-of-way.

This blog describes the basic aspects of these legal issues with a focus on regulations in the public right-of-way.

Free Speech Issues

The U.S. Supreme court has ruled that regulations of signs that are based on what the signs say (content-based regulations) are subject to strict scrutiny—a standard that requires compelling government justification and will likely be struck down. In contrast, content-neutral regulations of the time, place, and manner of speech are subject to intermediate scrutiny and are more likely to survive judicial review. Regulation of commercial speech also is subject to intermediate judicial scrutiny.

In *Reed v. Town of Gilbert*, 135 S. Ct. 2218 (2015), the U.S. Supreme Court made clear that categorizing noncommercial signs by the content of the message is content-based regulation subject to strict scrutiny. In that case the town's sign ordinance distinguished between campaign signs, ideological signs, and event-based signs, among other categories. Justice Thomas offered the following example: "If a sign informs its reader of the time and place a book club will discuss John Locke's *Two Treatises of Government*, that sign will be treated differently from a sign expressing the view that one should vote for one of Locke's followers in an upcoming election, and both signs will be treated differently from a sign expressing an ideological view rooted in Locke's theory of government." *Reed v. Town of Gilbert, Ariz.*, 135 S. Ct. 2218, 2227 (2015). The Court found those categories to be unconstitutional content-based restrictions that could not survive strict scrutiny. I wrote more about the *Reed* decision [here](#).

Following the *Reed* case, sign regulations need to treat noncommercial speech equally. So, if a sign regulation is going to permit temporary campaign signs, then it must equally permit temporary signs stating "Jesus Saves," "Anarchy Now," and "Save the Earth." Many local ordinances had (and still have) content-based distinctions that would not withstand constitutional challenge after *Reed*.

Content-neutral regulations that distinguish signs based on the characteristics of the sign generally survive judicial review under intermediate scrutiny. So, for example, reasonable regulations of the size or location of signs are generally acceptable. Distinctions among types of sign construction—monument signs, wall signs, temporary signs, and air-blown signs, for example—also are allowed generally. Such restrictions are based on the characteristics of the sign, not the content of the message. To be clear, these content-neutral regulations still must meet intermediate judicial scrutiny: The regulation must further a substantial governmental interest (such as public safety and community aesthetics), that governmental interest must be unrelated to limiting free expression, and the regulation must be no greater than necessary

to support the governmental interest.

Even after *Reed*, commercial messages may still be distinguished from noncommercial messages. To be sure, that distinction formally is a content-based distinction, but courts applying the *Reed* decision have re-affirmed that regulations of commercial speech remain subject to intermediate scrutiny under the *Central Hudson* case (447 U.S. 557 (1980)). For application of *Central Hudson* after *Reed*, see for example *Lone Star Sec. & Video, Inc. v. City of Los Angeles*, 827 F.3d 1192 (9th Cir. 2016) and *Geft Outdoor LLC v. Consol. City of Indianapolis & Cty. of Marion, Indiana*, 187 F. Supp. 3d 1002 (S.D. Ind. 2016)(*appeal dismissed sub nom*). As such, a government might permit temporary noncommercial signs (campaign signs and others) but still restrict temporary commercial signs.

In addition to the differences between content-based, content-neutral, and commercial speech regulations, courts have held that regulations may differentiate between signs on private property and signs on public property. As Justice Thomas noted in his opinion for the Court in *Reed*, “on public property, the Town may go a long way toward entirely forbidding the posting of signs, so long as it does so in an evenhanded, content-neutral manner.” *Reed v. Town of Gilbert, Ariz.*, 135 S. Ct. 2218, 2232(2015) (citing *Members of City Council of City of Los Angeles v. Taxpayers for Vincent*, 466 U.S. 789, 817(1984)). The discussion below first outlines considerations for temporary noncommercial signs on private property and then outlines additional considerations for temporary noncommercial signs on public rights-of-way.

Temporary Signs on Private Property

An ordinance or regulation may set reasonable content-neutral limits on noncommercial speech (including political signs) on private property. Such restrictions might include limits on the size, number, and location of temporary noncommercial signs.

Importantly, regulations of temporary noncommercial signs on private property must not be overly restrictive. The U.S. Supreme Court has noted the import of the residential signs because residential signs are inexpensive and convenient, they convey a message with a close connection to the speaker, and there are not adequate substitutes of expression if residents are completely prohibited from posting residential signs. In *City of Ladue v. Gilleo*, 512 U.S. 43 (1994), the city ordinance prohibited homeowners from displaying signs on their property, with limited exceptions. A resident challenged the ordinance when she was prevented from posting a sign protesting the Gulf War. The Court struck down the city’s ban of almost all residential signs, but allowed that the city can still address residential signs with reasonable regulations. Similarly in *Arlington County Republican Committee v. Arlington County*, 983 F.2d 587 (4th Cir. 1993), the Fourth Circuit Court of Appeals ruled that limiting property owners to only two campaign signs was overly restrictive.

Can a local government set a time limit on temporary noncommercial signs on private property? Durational limits that are not overly restrictive likely may be used, but local governments should be wary of the potential legal pitfalls. Even before *Reed* courts around the country struck down durational limits that were too short (routinely striking down sign codes that limited campaign signs to less than sixty days). This is a reminder that anytime the government is regulating noncommercial speech it must not be overly restrictive—especially as related to residential property and possible political speech.

The *Reed* decision did not directly address the question of durational limits for noncommercial signs, but did discuss it indirectly. Justice Thomas implies that a regulatory provision related to “whether and when an event is occurring” may be permissible if it permits “citizens to post signs on any topic whatsoever within a set period leading up to an election.” 135 S. Ct. at 2231. Along that line of thinking, a local government could establish a set amount of time (for example, ninety days before an election until ten days after the election) and permit a greater amount of temporary noncommercial signage during that time period.

Note, though, that such preference for campaign season may lack the tailoring necessary to justify a sign regulation. If the additional signage is permitted during campaign season, then what is the justification to prohibit a resident from posting a temporary sign during the Easter season, or the summer solstice, or at the start of the school year? While prior caselaw and Justice Thomas’ language in *Reed* indicates that time periods tied to campaign season may be permissible, there is some lack of clarity around this issue.

Temporary Signs in Public Rights-of-Way

As noted above, courts distinguish between regulations of signs on private property and regulations of signs on public property. This section explores statutory authority and Free Speech considerations for regulations of temporary signs in the public right-of-way in North Carolina.

Rules for NCDOT Rights-of-Way

The State of North Carolina has specific rules for signs in public rights-of-way controlled and maintained by the NC Department of Transportation. General Statute 136-32 outlines a general prohibition on posting signs on public highways and authorizes NCDOT to remove impermissible signs. The statute then sets forth the rules allowing for “political signs.” Political signs are permitted in the NCDOT right-of-way during the time period from 30 days prior to the first date of “one-stop” early voting until the tenth day after the primary or election day. (Note that the regulation is for public rights-of-way, not private property, so the shorter time period is likely permissible.)

The statute gives specific parameters for placement of qualifying signs:

- No sign shall be permitted in the right-of-way of a fully controlled access highway.
- No sign shall be closer than three feet from the edge of the pavement of the road.
- No sign shall obscure motorist visibility at an intersection.
- No sign shall be higher than 42 inches above the edge of the pavement of the road.
- No sign shall be larger than 864 square inches.
- No sign shall obscure or replace another sign.

Notably, the individual placing the sign must obtain permission of the owner of the property fronting the right-of-way where the sign is erected, although there is no detail about the form or evidence of such permission.

NCDOT is authorized to remove noncompliant signs. It is a Class 3 misdemeanor for an unauthorized individual to steal, deface, vandalize, or unlawfully remove a political sign placed in compliance with the statute.

This NCDOT rule as written is subject to constitutional challenge under the *Reed* decision. The statute allows “political sign”—defined as “any sign that advocates for political action”—but not other noncommercial signs. This preferential treatment of one category of noncommercial speech is precisely the kind of content-based regulation that the Court struck down in *Reed*.

Local Rules for Municipal Rights-of-Way

Under General Statute 160A-296, North Carolina municipalities have broad authority over their public streets, including the power to regulate the use of the streets and the duty to keep the streets free from unnecessary obstructions. This authority includes the power to regulate signs in the right-of-way.

Moreover, the statute about NCDOT authority, 136-32(f), confirms that cities may use their police powers to adopt regulations of signs in the rights-of-way within their jurisdiction and maintained by the city.

A municipality may prohibit temporary signs in the municipal right-of-way, or permit them subject to certain even-handed, content-neutral restrictions. As with other restrictions, this may include limits on size, location, time-frame, and other content-neutral aspects. A municipality may permit noncommercial temporary signs in the right-of-way, but still restrict commercial temporary signs.

Rules for When There Is No Local Ordinance

If a municipality does not adopt an ordinance prohibiting or regulating the placement of signs in the right-of-way, then the NCDOT rules under G.S. 136-32 apply to municipal rights-of-way. That section does not specifically address enforcement, but presumably the municipality would handle enforcement.

There is a common question concerning municipal enforcement of the NCDOT rule: If the NCDOT rule runs afoul of the *Reed* decision, how should the municipality enforce the rule? Some take the stance that although the state law may be challenged as unconstitutional, it is the applicable rule until a court says otherwise or until the General Assembly chooses to amend the statute. That stance, though, leaves the municipality open to legal challenge—your town might be the one that winds up in court. Alternatively, a municipality could use its enforcement discretion and apply the NCDOT rule to noncommercial speech, not just political campaign signs. In practice, most of the temporary signs in the right-of-way during campaign season will be campaign signs. When enforcing the NCDOT rule, the zoning enforcement officer or city transportation staff could pick up any temporary commercial signs, but leave any temporary noncommercial signs such as signs with religious messages, non-campaign political messages, and other noncommercial messages.

Rules for State Roads in a Municipality

What about NCDOT roads within a municipality? G.S. 136-32(b) sets forth the provisions allowing placement of “political signs in the right-of-way of the State highway system.” G.S. 136-32(f) makes clear that municipal rules, if adopted, apply to streets “located within the corporate limits of a municipality and maintained by the municipality.” With that phrasing, it appears that NCDOT rules would apply to a state road in a municipality unless the municipality maintains the state road. That said, it may be possible for NCDOT to contract with a municipality to handle enforcement along NCDOT-maintained highways within the municipal boundary. G.S. 136-66.1 outlines the responsibilities for streets inside municipalities, including authority for a municipality to undertake certain maintenance and construction duties related to state roads within the municipality.

Summary

Regulation of campaign signs requires some attention to detail. Given the ruling of the U.S. Supreme Court in *Reed v. Town of Gilbert*, a government regulation must treat noncommercial speech equally. So, if a local or state government wants to permit campaign signs it must equally permit other noncommercial signs. Our courts have recognized the importance of residential signs, so officials must be careful not to over-regulate them. With regard to signs in the public rights-of-way in North Carolina, the applicable rules will depend upon the location of the road, the responsibility for maintaining the road, and whether the municipality has adopted local rules.

Links

- www.ncleg.net/EnactedLegislation/Statutes/PDF/BySection/Chapter_136/GS_136-32.pdf
- www.ncleg.net/EnactedLegislation/Statutes/PDF/BySection/Chapter_160A/GS_160A-296.pdf



AGENDA ITEM SUMMARY FORM

MEETING DATE: November 9, 2021

ITEM TITLE: Appointments to the Reconstruction Task Force

ITEM SUMMARY:

Section 12-69 of the Town Code requires an annual appointment of a Reconstruction Task Force which would be activated upon the declaration of a building moratorium following a major storm event. The task force is responsible for advising the Town Council on a wide range of post-storm reconstruction issues. A primary function of the task force is to receive and review damage reports and other analyses of post-storm circumstances and to compare these circumstances with mitigation opportunities identified prior to the storm, to discern appropriate areas for post-storm change and innovation. The Task Force consists of two elected officials, two Planning Board members, Town Staff, a representative from the building or realty community, one representative from the SSCA, and one representative from the CPOA:

- Mayor
- Mayor Pro Tem
- Planning Board Chairperson
- Planning Board Vice Chairperson
- Town Manager
- Deputy Town Manager/Planning Director
- Police Chief
- Fire Chief
- SSCA President
- CPOA President
- Construction Community Representative (David Buchanan)

STAFF RECOMMENDATION:

Appointment of the Reconstruction Task Force.

REQUESTED ACTION:

Motion to appoint the Reconstruction Task Force.