

**TOWN OF APEX  
PERSONNEL POLICY  
August 13, 2024**

BE IT RESOLVED by the Town Council of the Town of Apex 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 Apex.

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## **ARTICLE I. GENERAL PROVISIONS**

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

This policy manual is designed to acquaint all employees with the Town of Apex rules and regulations set forth to establish a fair and uniform system of personnel administration and to provide information concerning working conditions, employee benefits, and some of the policies affecting Town employment.

Employees shall understand and comply with all provisions of this manual. If an employee is unclear of the meaning or purpose of a policy, he or she should seek assistance from a supervisor, Director of Human Resources for clarification or interpretation. The policy manual describes many responsibilities of an employee and outlines the programs the Town has developed to benefit our employees. One of our Town objectives is to provide a work environment that is conducive to both personal and professional growth.

No policy manual can anticipate every circumstance or question about every one of our policies. Furthermore, there may be situations where the need arises to revise, add, or cancel policies. Therefore, the Town reserves the right to add new policies, and to change or cancel existing policies at any time.

Employment by the Town of Apex is "at-will" employment. Employment-at-will permits the employee or the Town to end the employment relationship at any time. Nothing in this policy creates an employment contract or term between the Town and its employees. This policy is established under authority of Chapter 160A, Article 7 of the General Statutes of North Carolina. The Town's Human Resources Department will notify employees of any changes to the policies as they occur.

### **Section 2. 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 3. 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 attorneys providing legal advice to the Town Council and 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) recommend necessary revisions to the pay plan;
- d) determine which employees shall be subject to the overtime provisions of FLSA;
- e) 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;
- f) perform such other duties as may be assigned by the Town Council not inconsistent with this Policy.

#### **Section 4. Responsibilities of the Human Resources Director**

The responsibilities of the Human Resources Director are to make recommendations to the Town Manager on the following:

- a) recommend rules and revisions to the personnel system to the Town Manager for consideration;
- b) recommend changes as necessary to maintain an up to date and accurate position classification plan;
- c) recommend necessary revisions to the pay plan;
- d) recommend which employees shall be subject to the overtime provisions of FLSA;
- e) maintain a roster of all persons in the municipal service
- f) establish and maintain a list of authorized positions in the municipal service at the beginning of each budget year which identifies each authorized position, class title of position, salary range, any changes in class title and status, position number and other such data as may be desirable or useful;
- g) 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;
- h) develop and coordinate training and educational programs for Town employees;
- i) investigate periodically the operation and effect of the personnel provisions of this policy; and
- j) perform such other duties as may be assigned by the Town Manager not inconsistent with this Policy.

#### **Section 5. Application of Policies, Plan, Rules, and Regulations**

The personnel policy and all rules and regulations adopted pursuant thereto shall be applicable to all Town employees, unless otherwise noted. 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 6. 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 or their designee, except the rules for the Legal Department which are approved by the Town Attorney, and shall not in any way conflict with the provisions of this Policy, but shall be considered as a supplement to this Policy. A copy of the approved supplemental departmental rules shall be provided to the Human Resources Department and all employees of said department.

## **Section 7. 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 40 hours, and continuous employment of at least 12 months, are required by the Town.

**Part-time, benefited 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.

**Part-time, non-benefited employee.** An employee who is in a position for which an average work week of less than 20 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/Seasonal employee.** An employee who is hired to work up to 40 hours per week for a limited period of time. Generally, term of employment does not exceed one year.

**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.

**Intern.** A status that enables students (or persons new to a field of study) to gain practical knowledge of their particular occupational area of interest through service with the Town.

**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. Therefore, reference to "regular" 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 qualifications needed, and other required factors.

### **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 Director 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 Director shall periodically review portions of the classification plan and recommend appropriate changes to the Town Manager.

### **Section 5. Authorization of the Position Classification Plan**

The position classification plan shall be approved by the Town Council and on file with the Human Resources Director. Copies will be available to all Town employees for review upon request. New positions shall be established upon recommendation of the Town Manager or designee and approval of the Town Council after which the Town Manager, assisted by the Human Resources Director, 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.

New classifications may be created mid-year without Town Council approval if the fiscal year's authorized FTEs and budget are not exceeded; however, the new classification must be presented to and approved with all other classifications by Town Council during the following budget process.

#### **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 to the Department Head. The Department Head shall share the request with Human Resources, to determine the merit of the request and whether the position shall be studied out-of-cycle and during the next scheduled position study.



## **ARTICLE III. THE PAY PLAN**

### **Section 1. Definition**

The pay plan includes the basic salary schedule and the "Position Classification Plan" adopted by the Town Council. The pay plan consists of ranges for minimum to maximum rates of pay for all classes of positions.

### **Section 2. Administration and Maintenance**

The Town Manager, assisted by 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, except for employees in trainee status or employees whose existing salaries are above the established maximum rate following transition to a new pay plan. Employees whose salaries reach the maximum of that grade will be paid in lump sum bonuses for any pay increases awarded.

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, the Town Manager shall request the Human Resources Director to make comparative studies of all factors affecting the level of salary ranges and may make minor adjustments in the allocation of positions to salary grades as long as the fiscal year budget and authorized FTEs are not exceeded. When major adjustments encompassing numerous positions are needed, or when a general adjustment is needed to the pay plan, the Town Manager shall recommend such changes in salary grades as appear to be warranted to the Town Council. The Town Council shall adopt the Pay Plan and Position Classification Plan, including any minor adjustments made by the Town Manager during the previous budget year, annually as part of the budget process.

### **Section 3. Starting Salaries**

All persons employed in positions approved in the position classification plan shall be employed no lower than the minimum salary for the classification in which they are employed. Candidates that exceed the education and experience identified on the class specification may be employed above the minimum and up to the market rate of the established salary range. Offers that exceed the market rate require approval of the Human Resources Director or their designee.

### **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 to a "trainee" status. In such cases, a plan for training, including a time

schedule, must be prepared by the Department Head. "Trainee" salaries shall be one or (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 concurrently serve a probationary period. However, probationary periods shall be no less than six months and trainee periods may extend from three to eighteen months. A trainee shall remain a probationary employee until the trainee 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. Merit Pay**

Employees may be considered for advancement within the established salary range based on the quality of their overall performance. Guidelines for determining performance levels and performance pay increases shall be established in procedures recommended by the Human Resources Director and approved by the Town Manager.

### **Section 6. Merit Pay Bonus**

Employees who are at the top of the salary range for their position classification are eligible to be considered for a merit bonus at the time of their regular performance review date. Merit bonuses are awarded based on the performance criteria set in the performance pay matrix established each year. Merit bonuses are awarded in lump sum payments and do not become a part of base salary.

### **Section 7. Merit Pay Eligibility**

Employees in regular positions are eligible to receive merit pay if they have been employed in the same position for the entire year. Merit pay is pro-rated for any employee who is out of work on any combination of paid and unpaid leave for greater than 12 weeks. New Employees are eligible to receive merit pay if they are hired before March 1 in the performance year. Merit pay is prorated for new employees based on the number of months as an active employee during the annual review period.

Temporary/seasonal Employees who are promoted to a regular position are also eligible for merit pay, pro-rated based on the number of months in the regular position during the annual review period. Employees who vacate a full-time position for a Temporary/seasonal position are considered to have been "separated" for purposes of merit, and are therefore not eligible for merit pay.

Employees promoted, transferred or demoted into different positions by March 1 are eligible

for merit pay, awarded at the same time as the rest of the Town. Position changes that occur on or after March 1 will be eligible for merit pay after 6 months in the position. In either of these circumstances, employees will be eligible for full merit pay (not pro-rated), as long as the employee has served in a regular position for the entire annual review period.

### **Section 8. Career Progression Pay Increases**

The Town Manager may approve the use of an established career development ladder and associated schedule of salary increases, either provided as in-range salary adjustments or as a promotion to a different position classification. Career progression increases recognize and reward employees for attaining and maintaining a higher level of skill, knowledge, training and certification which provide added value to the Town.

The Human Resources Department will maintain a copy of the approved career development ladders and associated pay progressions established for Town positions.

### **Section 9. Special Salary Adjustments**

Once a year, the Town Manager may adjust an employee's salary if the employee has taken on added responsibilities that may not warrant a positions reclassification, but which increase the responsibility and complexity of the employee's work, or to establish equitable salary relationships. A justification for each adjustment will be documented in the employee's personnel file and may not exceed 10% of the employee's current salary.

Salary adjustments are not intended to be used as counter-offers to allow employees who get job offers to be rewarded for seeking new jobs while other employees have remained committed to Town employment. Special salary adjustments will become effective the first full pay period after approval, unless otherwise specified.

### **Section 10. Salary Effect of Promotions, Demotions, Laterals, Transfers, and Reclassifications**

**Interim Promotions.** Interim promotional increases may be approved by the Town Manager or their designee when an employee is anticipated to be in an "acting" capacity assuming the majority of the position's responsibilities for greater than two consecutive pay periods. Upon completion of the interim assignment, the employee's salary will revert to the salary that it would have been had the acting increase not occurred.

**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; however, if such action would create internal inequity within that classification, the salary shall be set appropriate to the employee's qualifications for the job in relationship to other employees in the same classification.

**Demotions.** When an employee is demoted to a position for which qualified, the salary may be set at the rate in the lower pay range which provides the smallest decrease in pay if action is not for cause or voluntary. If the current salary is within the new range, the employee's salary may be retained at the previous rate. If such action would create internal inequity within that classification, the salary shall be set appropriate to the employee's qualifications for the job in relationship to other employees in the same classification.

If the demotion is for cause (disciplinary), the salary shall be decreased by a minimum of at least approximately 5%, or to the maximum of the new range if that is a greater decrease.

**Lateral Transfers.** For non-competitive lateral moves or reassignments, there will normally be no change in salary. For a lateral move into a competitively recruited position, a salary increase may be granted based on the qualifications of the employee and the requirements of the position.

**Reclassifications.** An employee whose position is reclassified to a higher salary grade due to a change in the labor market will receive a pay increase according to guidelines established by the Human Resources Department and Town budget availability.

If a 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. An employee must be meeting performance expectations to receive a pay increase based on position reclassification

An employee whose position is reclassified due to significant job duty changes, such as taking on a supervisory role, or added responsibility for a major function at a higher level of responsibility which changes the employee's role, will be handled as a Promotion in accordance with the guidelines for promotional increases. A reclassification of this type typically results in a salary grade change of 2 or more grades.

**Special Assignment.** An employee may be eligible for special assignment pay if assigned to a duty of greater than 30 days where the duties differ significantly from those duties typical in the employee's normal job classification, or when the duties are increased significantly due to the additional assignment (such as serving as training officer for a new Police recruit.) The assignment pay increase amount may vary depending on assignment, but typically will not exceed of 5% and does not change the employee's classification or salary grade. Assignment pay is rescinded upon the expiration of the special assignment, unless otherwise stated in departmental policies.

### **Section 11. Salary Effect of Salary Range Adjustments**

The Town's salary ranges will be evaluated annually to determine if adjustments are needed for inflation or other competitive pay purposes. Any recommended salary adjustments will be presented to Town Council for approval as part of the annual budget process. Approved adjustments will be effective the first full pay period of the fiscal year, or as determined by Council as part of the budget approval.

If, as a result of adjusting the salary ranges, the salary of an employee falls below the minimum of the adjusted pay range, that employee's salary will be increased to the minimum of the pay range.

Employees whose salaries remain within the adjusted pay range may receive an increase up to the amount of the pay range adjustment, based on Town budget availability and Council approval.

### **Section 12. 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.

### **Section 13. Effective Date of Salary Changes**

Salary changes shall become effective as of the effective date of the change that warranted the salary adjustment, or at such specific date as may be provided by procedures approved by the Town Manager or their designee.

### **Section 14. Overtime Pay Provisions**

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

To the extent that local government jurisdictions are so required, the Town will comply with the Fair Labor Standards Act (FLSA). The Human Resources Director shall determine which jobs are "non-exempt" and are therefore subject to the Act in areas such as hours of work and work periods, rates of overtime compensation, and other provisions.

Non-exempt employees will be paid at a straight time rate for hours up to the FLSA established limit for their position (usually 40 hours in a 7 day period; 171 hours for police and 212 for fire personnel in a 28 day cycle). Hours worked beyond the FLSA established limit will be compensated in either time or pay at the appropriate overtime rate. In determining eligibility for overtime in a work period, only hours actually worked shall be considered. In no event will vacation, sick leave or holidays be included in the computation of hours worked for overtime compensation.

The Town prefers for employees to take comp-time at the appropriate rate wherever possible, as this reduces the budget impact to the Town. However, employees who have worked more than 40 hours in the workweek (171 hours in a 28-day cycle for non-exempt sworn law-enforcement officers and 212 in a 28-day cycle for firefighters) may receive paid overtime wages if approved in advance by their supervisor, and based on budget availability. In all cases, if the method for compensating overtime changes, the employee shall be made aware of the change prior to working the overtime. Compensatory leave balances may not exceed 100 hours at any time; however, departments may enforce a lower comp-time balance threshold, if needed, for budget related reasons. Employees must use compensatory leave time in advance of using accrued vacation leave to account for time off.

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

Non-exempt employees will be compensated for any remaining balance of compensatory time upon separation from the organization. Requests to 'cash in' earned compensatory time while employed are not allowed; however, the Town reserves the right to pay out or pay down comp balances at any time.

Employees are required to report any time in which they have worked but may not have been compensated; however, authorization to work overtime should be approved prior to working the extra hours; failure to do so may result in disciplinary action.

Employees in positions determined to be "exempt" from the FLSA will not receive pay for hours worked in excess of their normal work periods. These employees may be granted "professional leave" on an hour-for-hour basis, as approved by the Department Head. Exempt employees may not exceed a balance of 40 "professional" leave hours. Such leave time is not guaranteed to be taken and will not be compensated for any remaining hours upon separation from the organization.

The Town intends to make deductions from the pay of exempt employees only for authorized reasons as allowed under the Fair Labor Standards Act, and prohibits improper pay deductions. Exempt employees who wish to question deductions they believe to be improper should notify their supervisor and the Human Resources Director who will promptly investigate the concern. If

the deduction is found to be improper the Town will reimburse the employee for lost pay and take corrective action to ensure that such deductions do not occur again.

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

### **Section 15. Call-back and Stand-by Pay**

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

**Stand-by Status** – A non-exempt employee who is on “stand-by” status and is required to remain on Town premises, or so close to the Town's premises that the employee cannot use the time effectively for his own purposes, is considered to be working and all hours are compensable under the FLSA as “engaged to wait.”

**On Call Status** – Non-exempt employees who are required to remain “on call” but are otherwise able to lead their normal off duty activities will not be compensated for time spent in on-call status. Under the FLSA, this type of situation is defined as “waiting to be engaged.” Although the employee is not limited in where and how they spend their time, they must carry a cell phone or pager and remain available with a professional demeanor in the event they are called back to respond to a critical situation. Employees are required to respond to the call back request within 10 minutes and must arrive at the designated work site of the emergency within 1 hour (or other agreed upon time, as approved by the supervisor) from the time the call was made.

**On Call Pay** – Non-exempt employees required to be “on-call” will be paid 1.25 hours per day, not to exceed 8 hours a week.

**Call-back Pay** – When employees are called back to work outside of normal working hours, compensation will be provided for a minimum of 2 hours if the completion of the task(s) is less than two hours. Tasks performed over 2 hours will be compensated for the actual time worked.

Note: Additional calls that are received while responding to the initial call are not subject to the 2 hours minimum rule. A new 2 hour minimum only applies if the employee returns home and is then called away from home an additional time.

For non-exempt employees, compensable time in call back duty begins when the person leaves home and ends when the person returns home. If the employee does not go directly home after

the call back, the normal travel time from the employee's residence to the applicable department building shall be added to the time when the employee left home originally plus the hours worked during the call back. For the purposes of overtime, hours worked when responding to a call will be handled in accordance with the Fair Labor Standards Act.

Employees who are able to respond to calls from home (are not required to leave home or return to work to resolve the issue) will receive a minimum of one hour for responding to calls outside of normal working hours. Tasks performed over one hour will be compensated for the actual time worked. Additional calls that come in during the initial hour are not eligible for the minimum hour compensation, but will be included in total time worked for the employee.

Failure to be available for callback or failure to report to the duty station when called back to work may constitute insubordination and may be subject to disciplinary action. Employees who are assigned to positions that are subject to be called back but are unable to report due to legitimate environmental conditions or situations outside of their control, shall immediately contact their supervisor to inform them of the situation and to provide documentation of their circumstances. Based on the circumstances surrounding the individual situation, the Department Head, in consultation with the Human Resources Director, shall have discretion in deciding any further course of action.

Employees who hold positions that are classified as exempt from the provisions of the Fair Labor Standards Act are not eligible for call back pay.

#### **Section 16. Fee-based Pay**

Employees who offer a specialized Town service after normal working hours may be eligible for fee-based pay provided that the after-hours work generates a fee large enough to reimburse the full personnel costs of the service in addition to providing revenue to the Town. Fee-based pay rates may be set by the Town Council upon approval of the specialized Town service. Employees are not eligible for fee-based pay for work done during the Town's normal operating hours.

#### **Section 17. Special Event Pay**

Special Event Pay is provided to non-exempt employees who are required/volunteer to work in a special event that occurs outside of their regularly scheduled work hours within the same week of a pay period that the Town observes a holiday in which Town offices generally are closed. Administration will provide an annual calendar designating which special events qualify for Special Event Pay.

For non-exempt Fire and Police employees, Special Event Pay is provided when employees work in a special event that occurs outside of their regularly scheduled work hours within the same two-week pay period that the Town observes a holiday in which Town offices generally are closed.



For the purposes of this policy, if a non-exempt employee has completed a full work shift on the same day as an event and also works the event afterward, the event is considered to be outside of their regular schedule as referenced above.

Special Event Pay provides pay at 1.5 times the employee's hourly rate. Special event pay is for hours worked on an employee's regular day-of-rest, Saturday, Sunday, or "special days" and is therefore not subject to overtime hours/calculations and cannot be treated as compensatory time.

Hours worked in special events not designated on the Special Event Pay calendar will be addressed under regular Fair Labor Standards Act (FLSA) regulations, including eligibility for overtime compensation or compensatory time. Use of flexible schedules is encouraged, when possible, to allow employees the benefit of time off that would otherwise not be realized due to working a special event.

Exempt employees who work special events may either flex their schedules or accrue professional time per the personnel policy.

### **Section 18. 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 or their designee as to capability of payroll equipment and appropriateness of the deduction.

## **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, race, religion, religious belief or non-belief, ethnicity, color, national origin, creed, sex, sexual orientation, gender identity, marital status, natural hair style, genetic information, pregnancy, familial status, disability, veteran or military status, or disabled veteran 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 essential 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 the this policy or who participates or assists in any EEOC, OSHA or other internal or external investigative 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, race, religion, religious belief or non-belief, ethnicity, color, national origin, creed, sex, sexual orientation, gender identity, marital status, natural hair style, genetic information, pregnancy, familial status, disability, veteran or military status, or disabled veteran 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, Department Heads shall notify Human Resources concerning the number and classification of positions that are to be filled. Human Resources shall publicize these opportunities for employment, including applicable salary information and employment qualifications. It is the general practice that information concerning job openings and hiring practices shall be provided to recruitment sources, including organizations and other media available to ensure a diverse pool of applicants. In addition, notices of vacancies shall be posted on the Town website. Individuals shall be recruited from a geographic area as wide as necessary to ensure that well-qualified applicants are obtained for Town service. The local Department of Employment Security office may be notified of job

vacancies and may be used as a referral source. A vacancy may be filled using only internal recruitment to provide opportunities for qualified Town employees. In rare situations (because of emergency conditions, high turnover, lack of qualified applicants, etc. or where previous town experience is essential or exceptional qualifications of an internal candidate so indicate), the Town may hire or promote without advertising jobs, upon approval of the Town Manager or their designee.

**Job Advertisements.** 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.

**Application Reserve File.** Applications shall be kept in an inactive reserve file for a period of two years, in accordance with the records retention schedule issued by the N.C Division of Archives and History.

**Screening.** The Human Resources Department shall oversee the process for screening applications for employment and selecting a pool of candidates for further consideration.

**Selection.** Hiring Supervisors shall make such investigations and conduct such examinations as necessary to assess accurately the knowledge, skills, and experience qualifications required for the position. All selection devices administered by the Town shall be valid measures of job performance.

**Appointment.** Before any commitment is made to an applicant, either internal or external, the Hiring Supervisor shall make recommendations to Human Resources including the position to be filled, the salary to be paid, and the reasons for selecting the candidate over other candidates.

**Temporary/Seasonal Employee Appointments.** Department Heads may recruit and hire temporary/seasonal employees without the approval of the Human Resources Director and Town Manager provided that the temporary/seasonal employee is not a relative of a regular employee (as defined in the Town's "Employment of Relatives" policy) and the wages for the temporary/seasonal employee are included in the department's budget. Department Heads are responsible for ensuring that the average workweek of a temporary/seasonal employee does not exceed 20 hours per week unless the temporary/seasonal assignment is less than 12 months in duration. The Human Resources Department will assist with recruitment efforts when necessary to fill on- going temporary/seasonal assignments.

#### **Section 4. Probationary Period**

All new employees or employees promoted to a regular position shall serve a probationary period. Employees shall serve a six-month probationary period, except that sworn police and fire personnel 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. Before the end of the probationary period, the supervisor shall conduct a performance evaluation conference with the employee and discuss accomplishments, strengths, and needed improvements. A summary of this discussion shall be documented in the employee's personnel file. The supervisor shall recommend in writing whether the probationary period should be completed, extended, or the employee transferred, demoted, or dismissed. Probationary periods may be extended for a maximum of three additional months.

While an employee is on probationary status, he/she is not eligible to apply for other positions within the Town, except in matters of direct placement, or with the Town Manager's approval.

While serving on probationary status, all new full and part time employees shall receive all benefits provided in accordance with this Policy (any mandatory waiting periods will apply), but shall not be entitled to utilize the complaint resolution procedures established by this Policy.

Disciplinary action, including demotion and dismissal, may be taken at any time during the probationary period of a new hire without stating a reason and 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 employees retain all other rights and benefits such as the right to use of the complaint resolution process.

## **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.

The Town Manager has the authority to make a direct internal promotion, especially where previous town experience is essential (such as promotions to Police Sergeant), or exceptional qualifications of an internal candidate so indicate; however, in most cases, the Town will consider both external and internal candidates rather than automatically promote from within. Candidates for promotion shall be chosen on the basis of their qualifications and their work records. 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. An employee whose work or conduct in the current position is unsatisfactory may be demoted provided that the employee shows promise of becoming a satisfactory employee in the lower position. Such demotion shall follow the disciplinary procedures outlined in this policy.

Disciplinary demotions are not subject to “save pay” or “save grade” adjustments. Reassignment to a lower grade or lower pay position is a part of the disciplinary action and therefore there is no intent to retain or protect the employee’s previous pay or grade.

## **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.

A Department Head wishing to transfer an employee to a different department or classification shall make a recommendation to the Town Manager, or their designee, with the consent of the receiving Department Head. Any employee transferred without requesting the action may ask for a review of the action in accordance with the complaint resolution process 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 that meet the operational needs of the department in the most cost effective manner possible. All schedules must be approved by the Town Manager, or their designee, and will be in accordance with the Fair Labor Standards Act.

### **Section 2. Meal Periods and Rest Breaks**

The work schedule of fulltime employees should normally include a meal break of a minimum of 30 minutes to provide the employee the opportunity to rest and eat during the workday. Meal breaks for employees who do not work in public safety are unpaid and the employee is free to leave the work premises.

### **Section 3. Lactation Breaks**

A nursing mother will be provided with reasonable paid breaks during the work day for the purpose of expressing breast milk for her child. If the employee does not have a private office, the employee shall be provided with a private space (not a bathroom) in close proximity to the work area, where she can express milk in privacy.

### **Section 4. Attendance**

An employee is expected to report to his/her workstation at the required time. If the employee is going to be absent or tardy, the employee must notify the supervisor with as much notice as possible, in accordance with department notice procedures. If the supervisor is unavailable, the employee should contact their Department Head or Human Resources, if the Department Head is not available.

Employees who are delayed and who have not notified their supervisor of their expected tardiness or absence for that day may be charged leave without pay for the period of their absence. Repeated absences, tardiness, and/or unapproved leave can result in disciplinary action, including termination.

### **Section 5. 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 or 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 for the Town of Apex;

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

### **Section 6. Secondary 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 decide whether to approve the work.

Conflicting or unreported outside employment is grounds for disciplinary action up to and including dismissal.

Secondary employment is not permitted when it:

- Creates either directly or indirectly a conflict of interest with the Town, or
- Brings discredit to the Town or conflicts with the Town's goals, mission, or vision, or
- Impairs the employee's ability to perform all expected duties, and/or the ability to make decisions and carry out in an objective view the duties and responsibilities of the Town.

No regular, full-time employees are permitted to work in other departments within the Town.

Special exceptions to the rules above may be made, with the approval of the Town Manager, when deemed to be in the best interest of the Town.

Approval for secondary employment may be withdrawn at any time if it is determined that secondary employment has an adverse impact on primary employment. Secondary Employment arrangements should be reviewed annually for approval.

## **Section 7. Expectation of Ethical Conduct**

Successful business operation and reputation of the Town of Apex is built upon the principles of fair dealing and ethical conduct of our employees. Our reputation for integrity and excellence requires careful observance of the spirit and letter of all applicable laws and regulations, as well as a scrupulous regard for the highest standards of conduct and personal integrity. Continued success of the Town of Apex is largely dependent upon the public's trust, which we are dedicated to preserving. Employees owe a duty to the Town of Apex, the public, and Council members to act in a way that will merit the continued trust and confidence.

The Town of Apex will comply with all applicable laws and regulations. All employees are to conduct Town business in a professional manner and in accordance with the letter, spirit, and intent of all relevant laws and to refrain from any illegal, dishonest, or unethical conduct. All Town employees are to be treated with dignity and respect. In general, the use of good judgment, based on high ethical principles, will guide employees with respect to acceptable conduct. If a situation arises where it is difficult to determine the proper course of action, the employee should seek advice and consultation by discussing the matter openly with his/her immediate supervisor and, if necessary, with the Human Resources Department. Compliance with this policy is the responsibility of every Town of Apex employee. Disregarding or failing to comply with this standard of business ethics and conduct could lead to disciplinary action, up to and including possible termination of employment.

## **Section 8. Conduct and Working Environment**

Employees are expected to conduct themselves in an appropriate manner as judged by a reasonable person.

The Town encourages a congenial work environment of respect and professionalism. Decorum, collegiality, kindness, respect, and professional courtesy are ideals to be pursued amongst employees.

Disrespectful conduct or actions are prohibited. This prohibition includes but is not limited to intentional acts such as:

- Verbal abuse: slandering, ridiculing or maligning a person or his/her family; persistent name calling which is hurtful, insulting or humiliating; using a person as butt of jokes; abusive and offensive remarks
- Physical abuse: pushing; shoving; kicking; poking; tripping; assault, or threat of physical assault; damage to a person's work area or property
- Hostile Gestures: non-verbal threatening gestures
- Exclusion: socially or physically excluding or disregarding a person in work-related activities
- Persistent singling out of one person



- Shouting and/or yelling at an individual in public and/or in private
- Personal insults and use of offensive nicknames
- Deliberately interfering with mail and other communications
- Spreading rumors and gossip regarding individuals
- Refusing reasonable requests for leave in the absence of work-related reasons not to grant leave
- Using intimidation tactics and making threats
- Sabotaging another's work
- Stalking others
- Making malicious, false, and harmful statements about others or the Town
- Publicly disclosing another's private information (outside of public records law requirements)
- Fraud
- Falsification of records for personal profit

Any of the above actions, or conduct that is otherwise deemed as bullying or discriminatory, will not be tolerated and will be handled in accordance with Article IX. Unsatisfactory Job Performance and Detrimental Personal Conduct.

### **Section 9. Use of Town Time, Equipment, Supplies and Vehicles**

Town supplies and equipment are to be used for the Town's business. During working hours, employee personal use must be restricted to occasional use that does not interfere with the conduct of Town business. Personal use should be limited to personal time (breaks, after hours) and personal use of the phone, internet and e-mail on Town time must be kept to a minimum. Supervisors are expected to monitor the extent of personal use of these assets during regular working hours. For more information regarding appropriate use of Town supplies and equipment, please refer to the Town's Information Technology Policy.

Employees are responsible for assuring the security of Town confidential material in their possession and similarly maintaining the security of Town-provided equipment.

Town employees are required to report time worked in the Town's time & attendance system. Time claimed as "work time" shall accurately report actual time and physical attendance. Failing to accurately report time worked will be deemed as waste, fraud, and abuse and will be subject to disciplinary action.

All employees who use Town vehicles are required to follow applicable motor vehicle and safety requirements. Violation of Town vehicle policies or misuse of Town vehicles also subjects the employee to disciplinary action, up to and including dismissal.

### **Section 10. Employment of Relatives**

The Town prohibits the hiring and employment of immediate family members or domestic

partners (as defined herein) into any regular full or part-time position within the same work unit or department, or to any temporary/seasonal position in the same work unit or department, unless the temporary/seasonal position is either short-term in duration or only involves occasional and sporadic work. "Immediate family" shall be defined to include spouses, children, parents, siblings, grandparents, grandchildren (regardless of whether such family members are related by blood, adoption or marriage) and guardians.

The Town also prohibits the hiring and employment of any person who is an immediate family member of individuals holding the following positions: Town Manager, Assistant Town Manager, Finance Director, Town Attorney, or any members of the Human Resources Department.

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.

The Town also prohibits the hiring and employment of an immediate family member of the Mayor or a Town Council Member. An immediate family member of an elected official may remain employed if hired prior to the official's election or appointment to office.

For purposes of this Section, "domestic partners" shall mean two individuals who have reached the age of majority and live together in a relationship of indefinite duration, with an exclusive mutual commitment (i.e., are not married to anyone else, do not have another domestic partner, and are not related by blood more closely than would bar their lawful marriage pursuant to the laws of North Carolina) in which the partners share the necessities of life.

### **Section 11. Job Related Discrimination and Workplace Harassment**

The Town is committed to maintaining a work environment free of workplace harassment for its employees, customers and citizens. Town of Apex employees are prohibited from engaging in workplace harassment, which is defined as offensive and unsolicited speech or conduct that denigrates or shows hostility or aversion toward a person or group of persons because of such person's or persons' age, race, religion, religious belief or non-belief, ethnicity, color, national origin, creed, sex, sexual orientation, gender identity, marital status, natural hair style, genetic information, pregnancy, familial status, disability, veteran or military status, or disabled veteran status.

The speech and conduct prohibited by this policy include, but are not limited to, any offensive and unsolicited speech or conduct based on age, race, religion, religious belief or non-belief, ethnicity, color, national origin, creed, sex, sexual orientation, gender identity, marital status,

natural hair style, genetic information, pregnancy, familial status, disability, veteran or military status, or disabled veteran status (i) that has the purpose or effect of creating a hostile work environment (as defined below), or (ii) submission to which is made, either explicitly or implicitly, a term or condition of a person's (or group of persons') employment or is used as the basis for employment decisions affecting such person (or group of persons).

For purposes of this policy, workplace harassment shall be deemed to create a hostile work environment if the speech or conduct, taking into account all of the relevant circumstances, (i) is objectively severe enough or sufficiently pervasive enough to create a work environment that a reasonable person would find to be hostile or abusive, (ii) is perceived to be hostile or abusive by the complainant(s), and (iii) has the purpose or effect of substantially interfering with an employee's (or group of employees') work performance.

For purposes of this policy, workplace harassment because of a person's sex shall include, but not be limited to, unwelcome sexual advances, requests for sexual favors, and other speech or conduct of a sexual nature when submission to or rejection of such conduct is made either explicitly or implicitly a term or condition of a person's employment, or is used as the basis for employment decisions affecting such person.

Each employee is responsible for creating an atmosphere free of discrimination. Employees are responsible for respecting the rights of their coworkers.

If an employee experiences any job-related discrimination or harassment based on age, race, religion, religious belief or non-belief, ethnicity, color, national origin, creed, sex, sexual orientation, gender identity, marital status, natural hair style, genetic information, pregnancy, familial status, disability, veteran or military status, or disabled veteran status, or if an employee believes to have been treated in an unlawful, discriminatory manner or have been unlawfully harassed, the incident should be promptly reported to the supervisor. If the employee believes it would be inappropriate to discuss the matter with his/her supervisor, the incident should be reported directly to the Department Head or the Human Resources Department. Once made aware of the complaint, the Town is committed to commence an immediate, thorough investigation of the allegations. Complaints will be kept confidential to the maximum extent possible.

If, at the completion of the investigation, the Town determines that an employee is guilty of discriminatory or harassing behavior, appropriate disciplinary action will be taken against the offending employee.

The Town prohibits any form of retaliation against any employee for filing a bona fide complaint under this policy or for assisting in the complaint investigation. However, if, after investigating any complaint of unlawful discrimination, the Town determines that any employee intentionally provided false information regarding the complaint, disciplinary action

may be taken against the one who gave the false information.

Violations of this policy shall constitute detrimental personal conduct pursuant to Article IX of the Town's Personnel Policies, and shall subject violators to disciplinary action, up to and including dismissal.

### **Section 12. Acceptance or Granting of Gifts and Favors**

No employee of the Town shall accept any gift, favor, or thing of value which could appear to influence such employee in the discharge of the employee's duties, or generate the appearance of impropriety. Acceptance of any item regardless of perceived value must be reported to the Department Head with the exception of token gifts and trinkets, acts of generosity with nominal value given to a group of employees in appreciation, and corporate discounts provided to all public safety or Town personnel regardless of position. No preferential treatment or improper favor, service or thing of value may be conveyed or granted in the discharge of duties.

### **Section 13. 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.

Guidelines regarding when and how performance evaluations are to be conducted are maintained by the Human Resources Department.

### **Section 14. 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 shall be subject to disciplinary action up to and including dismissal.

The violation of safety rules may be considered detrimental personal conduct and can result in disciplinary action including suspension, demotion or dismissal. Examples of safety-related detrimental personal conduct include but are not limited to:

- Workplace Violence
- Dangerous use of Vehicle or Equipment (i.e. racing, use as a weapon)
- Horseplay resulting in Injury or Property Damage
- Purposely and Repeatedly not using PPE

- Possession and/or use of Drugs/Alcohol at workplace
- Entering Confined Space without using proper procedures

### **Section 15. Substance Abuse Policy**

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

### **Section 16. Immigration Law Requirements**

All employees are required to furnish proof of citizenship or other required documents indicating a legal right to work in the United States. Completed I-9 forms are maintained separately from the personnel file.

### **Section 17. Workers' Compensation and Return to Work**

All employees of the Town 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.

#### **Filing a Workers' Compensation Claim**

Town of Apex Worker's Compensation claims are handled by Human Resources. All claims are managed in accordance with the NC Workers' Compensation statutes and the North Carolina Industrial Commission. Benefits are determined by law, as provided in General Statutes of NC, Chapter 97. The Human Resources Department will assist employees if unresolved problems arise. To qualify, an employee must immediately report any job-related injury to their supervisor or Department Head who will take actions necessary to attain appropriate help for the employee. Responsibility for claiming compensation under the Workers' Compensation Act falls upon the injured employee, and the employee must file such claims with the North Carolina Industrial Commission within two years from date of injury. Employees must report an on-the-job injury or illness to their supervisor within twenty-four (24) hours, regardless of how minor the injury. The supervisor will assist the employee in filing the claim. Additionally, injury reports must be filed as detailed in the Town of Apex Risk Management Manual.

#### **Medical Treatment for Work-related Injuries**

Under NC Workers' Compensation law, the Town of Apex has the right to direct medical care for employees who suffer work related injuries or illnesses. Town employees shall seek medical treatment for work related injuries from the Town's designated healthcare provider. Employees may not seek medical treatment for work related injuries from other healthcare providers unless emergency treatment is needed. In life-threatening emergencies, 911 should be called and the employee should be transported to the nearest hospital emergency room. If emergency treatment is necessary outside of the business hours of the Town's designated healthcare provider, the employee may go to a hospital emergency room.

After treatment from the health care provider, the employee must return the physician's work limitations or release form or other instructions from an emergency room physician to their supervisor. The injured employee will not be charged sick or vacation leave while receiving initial medical care. Employees are responsible for providing their supervisor with all related physician notes and any updates on their status.

### **Modified Duty Assignments**

The Town encourages early return to work for employees who suffer work related injuries or illnesses. If the healthcare provider determines that the injured employee cannot return to their job without restrictions, a modified work assignment or reassignment to a different job will be considered. In all cases, managers and supervisors are expected to work with employees to identify modified duty opportunities, with the primary focus being the return of the employee to their regular job. If a suitable modified duty position cannot be found Human Resources should be contacted to assist in finding reasonable accommodations, including tasks within the department that may be different than the employee's regular job or reassignment to a different job. Employees who return to a modified duty assignment must perform the work within the restrictions indicated by the healthcare provider.

Employees must report to their next scheduled shift once the healthcare provider releases them to work. Failure to report to a modified duty assignment may result in disciplinary action. Employees are responsible for providing their supervisor with written notice of the healthcare provider's change in restrictions. The modified duty assignment will end when the employee reaches maximum medical improvement. If the employee reaches maximum medical improvement but cannot return to the original job, the Human Resources Department will consider all other options available under the Town's personnel policies.

### **Absence Due to Work-Related Injury**

An employee unable to work due to a work related injury or illness may use accrued sick, vacation, or compensatory leave during the first seven calendar days of the work related disability, which by law are not eligible for Workers' Compensation pay. If the injury results in a disability requiring absence from work totaling 21 calendar days or more, the Workers' Compensation pay shall be retroactive beginning with the first day of absence. All leave time expended during the first seven days of the disability, in excess of the maximum allowed to

supplement the Workers' Compensation payment, may be reinstated to the employee if the employee makes arrangements with the Town of Apex Finance Department to make payment for the hours requested to be reinstated.

Under the Worker's Compensation Act no contributions are made by the employer into an employee's retirement fund during any period an employee receives Workers' Compensation pay.

If the work related disability qualifies, the employee will be placed in Family Medical Leave status in accordance with the Family Medical Leave Act. The town will pay the individual's premium for medical insurance, life insurance, and dental benefits. Premiums for dependent coverage are the employee's responsibility.

If total disability exists, employees may receive additional assistance through a Social Security disability and/or a disability retirement through the NCLGERS, provided the employee has reached maximum medical improvement and has received a permanent total disability rating from the approved healthcare provider. Human Resources can provide more information in these cases.

### **Return to Work**

Employees released by their treating physician or therapist to return to full duty will be required to complete a Fitness for Duty certification. This form shall be completed by the employee and the employee's treating physician prior to the return to work release date.

Employees on Workers' Compensation leave status can expect to return to an equivalent position in the Town if they return to work within 52 weeks from the date of the Workers' Compensation disability absence. If the employee is medically unable to perform previous job duties, they will be placed in a suitable position according to their qualifications, availability of a position, and North Carolina Workers' Compensation Law.

After one year during which an employee is unable to perform full duties and/or a full schedule due to an on-the-job (or other) injury, the employee may be terminated after all options have been considered in accordance with federal and state laws.. Termination of employment at any point may also take place if medical information indicates that the employee is unlikely ever to be able to perform the full duties of the position. Upon termination, the Human Resources Department will assist the employee in obtaining whatever benefits are available through Workers' Compensation, and/or the Local Government Employees' Retirement System.

### **Section 18. Fitness for Duty**

The Town is committed to providing a safe workplace for employees. In order to provide a safe work environment, employees must be able to perform their job duties in a safe, secure, productive, and effective manner for the duration of their work schedule. Employees who are

not fit for duty may present a safety hazard to themselves, their co-workers or the public.

### **Purpose**

The purpose of this policy is to establish procedures and criteria by which the Town can ensure that employees are fit for duty. In addition, this policy will provide guidelines for determining light duty assignments regarding employees that are unable to perform their regular assigned duties as a result of a non-work related injury/illness/psychological condition.

### **Scope**

This policy applies to all Town employees.

### **Definitions**

Fit for duty - means the employee is able to perform their regular assigned duties in a safe, secure, productive, and effective manner.

Light Duty - is a temporary, modified work assignment, different from an employee's regular assignment that may be offered to employees that are unable to perform their regular assigned duties as a result of a non-work related injury/illness/psychological condition.

### **Roles & Responsibilities**

#### **A. Employee Responsibilities**

- 1) Employees must come to work fit for duty, and be able to perform their job responsibilities in a safe, secure, productive, and effective manner during the entire time they are working.
- 2) Employees are responsible for notifying their supervisors when they are not fit for duty.
- 3) Employees must immediately notify their supervisors of any non-work-related illness/injury/condition that may affect their ability to perform their job duties and/or compromise their safety, the safety of their co-workers, or the public.
- 4) Employees must notify their supervisor of any medication they are taking (prescription or over-the-counter) that may affect their ability to perform their job duties.
- 5) Employees must keep their supervisor updated on any subsequent changes to the status of their injury/illness/psychological condition or use of medication.
- 6) While performing their light duty assignment, employees must comply with the temporary work restrictions and recommendations from their personal physician.
- 7) Employees are responsible for notifying their supervisor when they observe a coworker acting in a manner that indicates the coworker may be unfit for duty.
- 8) Employees must comply with all aspects of the Fitness for Duty Policy. Failure to comply may be grounds for disciplinary action up to and including termination.



## B. Supervisor Responsibilities

- 1) Supervisors are responsible for observing the attendance, performance, and behavior of their employees.
- 2) Supervisors must maintain confidentiality of the employee's medical information and records.
- 3) Supervisors should contact Human Resources with any questions concerning the employee's work restrictions.
- 4) Supervisors are responsible for ensuring compliance with all aspects of the Fitness for Duty Policy. Failure to comply may be grounds for disciplinary action up to and including termination.

### **Light Duty Eligibility**

In order for employees to be eligible for a light duty assignment, documentation must be provided from a licensed medical provider authorizing the employee to return to work in a light duty capacity. The medical documentation must clearly define the following information:

- a. Employee's work status
- b. Specific work restrictions
- c. Duration of restrictions
- d. Medication regimen
- e. Prognosis for recovery
- f. Physical therapy schedule (if applicable)

Documentation shall be submitted to the immediate supervisor and forwarded through the chain of command to the Department Head. The Department Head will be responsible for providing Human Resources with a copy of the documentation. The Department Head will consult with Human Resources on the feasibility of light duty within their department or within another Town department.

### **Medical Clearance**

The employee's personal physician will make the initial medical determination whether to clear the employee back to work following a non-work related injury/illness/psychological condition, unless the conditions listed under "Fitness for Duty Examination Procedures" exist. If the conditions exist, the Town's authorized physician will make the medical determination by conducting a fitness for duty exam.

### **Fitness for Duty Examination Procedures**

A fitness for duty medical examination will be required by the Town's authorized physician for a

non-work related injury/illness/psychological condition under the following conditions:

- 1) The employee's personal physician has cleared them to return to work but their supervisor or manager, based on direct observation, reasonably believes that the employee's injury/illness/psychological condition may interfere with their ability to perform their job duties safely, or could pose a direct threat to others.
- 2) The employee is taking medication (prescription or over-the-counter) that could interfere with their ability to perform their job duties safely, or could pose a direct threat to others.

### **Light Duty Criteria**

The Town does not guarantee light duty assignments for employees that have a non-work related injury/illness/psychological condition. Light duty assignments will typically be scheduled during normal business hours, with the employee working their normal number of scheduled hours. Generally, overtime is not permitted. If overtime is being considered, Human Resources must be consulted and the Town Manager or their designee must approve. Accumulated leave may be used in the event that the employee is not able to work their normal work schedule.

Employees must meet the following criteria:

- 1) Employee must be capable of doing productive work for their assigned department or another Town department.
- 2) Light duty assignments shall not exceed 90 days. In certain circumstances this period may be extended based on the treating physician recommendations, the availability of qualifying light duty assignments, and the approval of the Town Manager or their designee.
- 3) Employee must attend regular follow-up medical appointments.

### **Light Duty Assignments**

Guidelines for determining appropriate light duty assignments:

- 1) Light duty assignments must comply with the employee's temporary work restrictions issued by the licensed, treating physician.
- 2) Light duty assignments must involve tasks that are meaningful and valuable to the Town.
- 3) Light duty assignments will always have an ending date. This date may be extended as specified under "Light Duty Criteria" in this policy.

If a light duty assignment meeting the employee's work restrictions isn't available within the employee's department, the Department Head will contact Human Resources for assistance in securing a suitable assignment in another Town Department. The

Department Head, in consultation with Human Resources, will make the final determination regarding the light duty assignment. If a light duty assignment meeting the employee's work restrictions isn't available in another department, the employee must use accrued sick, vacation, or compensatory time in order to be paid for time away from work. In such cases, the Human Resources Department shall be notified so that FMLA eligibility can be assessed.

## **Section 19. Inclement Weather**

The Town of Apex recognizes that severe weather conditions and other rare emergency circumstances may make it difficult to provide a full range of Town services to the citizens. This policy clarifies the designation of service critical personnel and provides direction on how to account for work hours when the Town's normal operating hours are modified.

### **Declaration of an Emergency**

The Town Manager will determine when emergency conditions exist that warrant the alteration of the Town's normal business operating hours of 8:00 am – 5:00 pm.

When the Town Manager alters the Town's normal work hours (late opening, early closing, or closed for the day) this decision will be communicated as soon as possible through the Employee Notification Hotline: 919-249-3405, the Town's email system, and on the Town's intranet. Employees who are not deemed to be Service Critical do not have to report to work during the closing period and may qualify for administrative leave during this period.

### **Designation of Service Critical Personnel**

The Town provides a range of essential services that require personnel to be physically present at work to respond to emergency conditions regardless of the weather conditions. Department Heads are responsible for designating employees as Service Critical Personnel in the event of inclement weather or other emergency conditions. Service Critical personnel are expected to report to work during emergency situations unless specifically directed not to report to work.

Employees should be clear on their designation as "Service Critical" in advance of an emergency event. Service Critical personnel are expected to follow departmental leave request policies, and use accrued leave time (sick, vacation, comp) to cover missed work time during the emergency event.

When severe weather is predicted, the Town may make special arrangements for Service Critical personnel in order to ensure their availability to work. These provisions may include allowing personnel to drive Town vehicles home, arranging for hotel rooms and meals, or setting up sleeping quarters on-site. When submitting time sheets to payroll after an

emergency event, "Service Critical" must be noted on the employee's timesheet to ensure proper processing.

Any overtime earned by a non-exempt employee during emergency situations will be calculated in accordance with the Fair Labor Standard Act.

Exempt employees who are required to work during a designated period of declared disaster or local emergency will receive pay at 1.5 hours of their calculated hourly rate (based on annual salary) for any hours worked over 40 in the week. This provision only applies to exempt employees who are at the Assistant Town Manager level and below.

### **Eligibility for Administrative Leave**

When Town operations are closed for a full day, a fulltime employee whose job is not deemed to be service critical is eligible to receive administrative leave for the day if the employee was scheduled for work and planning to attend work during the closing period. Employees who are out on sick leave immediately before and immediately following an administrative leave period, are assumed to be sick, and must use sick leave to account for the absence during the period of administrative leave. Likewise, employees who are scheduled to be on vacation during the administrative leave period must use vacation leave unless they notify their supervisor that the vacation plans are canceled due to the emergency conditions and they report to work immediately following the administrative leave period. When the administrative leave period is granted for partial days, the following shall apply:

Delayed Opening – Unless the Town Manager sets a specific opening time, employees who work non-standard hours (i.e., 7:00–4:00 or 7:30–4:30) would apply the delay period to their normal work schedule. For example, if Town Hall is on a 2-hour delay, then employees who normally report at 7:30 am will report at 9:30 am unless other arrangements are made with their supervisor. Employees who are not scheduled to be at work during the delay period, do not receive any administrative leave for this period.

Early Closing – If the Town Manager sets a specific closing time for Town offices (i.e., 2:00 p.m.) employees receive administrative leave only from the time of closing. Employees who work non-standard hours are expected to work a normal schedule until the official closing time unless instructed otherwise.

Employees who are unable to report to work during periods of inclement weather when the Town offices are open must use compensatory or vacation leave to account for missed work hours. In the event an employee has exhausted all vacation and comp leave hours, sick leave may be used to account for the missed work time.

### **Compensation for Critical Service Personnel during Administrative Leave Periods**

Non-exempt service critical personnel who work during a period of administrative leave will be granted compensatory leave time equal to the hours actually worked during the period of administrative leave, not to exceed 8 hours per day.

For example, when Town offices are closed all day, service critical personnel receive 8 hours of comp time even if they work a 12-hour shift. If Town offices close at 4 pm, and the service critical personnel would normally be off work at this time, then no additional comp time is granted. Shift employees who work a night shift on the days that Town offices are closed for a full day before the beginning of a night shift, will also receive 8 hours of compensatory leave time for that day. Employees not scheduled to be at work on a day Town offices are closed, do not receive compensatory leave time.

Exempt employees in service critical positions who work during periods when Town offices are closed may be provided with flexible work scheduling options as soon as possible when Town operations allow in order to recognize the work performed during the period of administrative leave.

## **Section 20. Appropriate Dress and Use of Town Logo**

Employees shall represent the Town in a professional manner at all times and dress appropriately for conducting such business.

The same professional standards of behavior also apply when wearing the Town logo, seal, department logo, or "Town of Apex" marked clothing before or after work hours.

Department Heads shall determine the dress policy specific to their department requirements.

All employees are expected to be neat, clean and appropriately dressed according to the following guidelines:

- All clothes should be clean and of proper fit. If uniforms are required, they must be of the established color and style specified for the department.
- Hair must be secured so that it does not interfere with job performance or pose a safety threat.
- Any tattoo, body piercing, or related, that is visible and presents a safety hazard or may be determined to be offensive to members of the public (as determined by the respective Department Head) must be completely covered at all times.
- Athletic shoes may be worn in certain departments if approved by the Department Head, provided they are in good condition and do not pose a safety threat.
- Safety toed shoes and boots may be required in specific departments.

Departments have authority to use discretion to determine what constitutes appropriate dress. Supervisors shall advise employees of the appropriate dress or uniform for certain positions as well as items of clothing or shoes that are prohibited if they present a safety hazard, if they do not promote a professional image, or may be determined to be offensive to members of the public.

## **Section 21. Identification Badges & Access Control**

### **Badge Issue and Use**

- 1) Upon initial employment, identification and electronic access badges will be issued by the Human Resources Department to regular full-time and part-time employees, and temporary/seasonal employees if required by the position.
- 2) Vendors will be issued identification badges when work requires building access during hours the building is not normally open to the public, or upon specific request by the Department employing the vendor.

### **Badge Security and Control**

1. Department Directors will designate the appropriate level of building access for each employee. Typically this access will include exterior door building access, and access to the doors in an employee's department or regular work area.
2. Employees must maintain control of their ID badges at all times. ID badges should not be left unsecure in a vehicle or other areas where they can be accessed by an unauthorized person. ID badges may not be "loaned" to any other person for any reason.
3. An employee who loses an ID badge must report this loss to the supervisor and HR Department immediately so the badge can be deactivated.
4. Replacement badges will be issued for free the first time a badge is lost or damaged. Employees will be charged a \$5.00 fee for subsequent replacement badges requested within a 1 year period. Replacement badges for name and department changes will be issued without a fee.
5. Identification badges must be relinquished upon separation from employment, and will be shredded by HR or the supervisor and immediately deactivated. ID badges will be deactivated during the period of time an employee is on an extended leave of absence

## **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 policy. These benefits are subject to change at the Town's discretion. Temporary/seasonal employees are eligible only for workers' compensation.

### **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 from the Human Resources Office.

### **Section 3. Retiree Health Insurance**

#### **Employees hired prior to July 1, 2020**

An employee who meets the conditions set forth under the provision of the North Carolina Local Government Employee's Retirement System (NCLGERS) may elect to retire and receive all benefits earned under the retirement plan. An employee who retires directly from the Town with 15 years of Town service may elect to continue on the Town's group health insurance plan if requested within 30 days of the retirement date. The retiree may continue dependent coverage (and pay the cost of this coverage) if enrolled in dependent coverage at the time of retirement. The Town will subsidize the cost of the health insurance premiums for the retiree as follows:

- 15\* years of service: 50% subsidy
- 20\* years of service: 75% subsidy
- 25\* years of service: 100% subsidy

When a retiree reaches age 65, the retiree enrolls in Medicare Part A and B and pays the cost. The Town provides Medicare supplement insurance for the retiree and subsidizes the cost of the Medicare supplement (as shown above) not to exceed the Town's monthly premium contribution toward employee health insurance coverage. (*\*Unused sick leave counted by the NCLGRS as creditable service time will count in determining total years of Town service.*)

Employees who were hired prior to July 1, 2020 and separate from Town service will forfeit this benefit unless re-hired with the Town into a benefits eligible position within 2 years of the separation date, at which point previous service years will count towards overall service with the Town for the purpose of this benefit.

Employees who separate from service and are re-employed 2 or more years later will be considered a new hire and will not be eligible for the retiree health insurance benefit.

#### **Employees hired on or after July 1, 2020**

Employees hired on or after July 1, 2020 are not eligible for retiree health insurance.

#### **Section 4. 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 5. 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 6. Retirement**

Town employees who work in a position requiring more than 1,000 hours annually shall join the North Carolina Local Government Employees' Retirement System when eligible as a condition of employment. Participation begins on the first day of employment for all new hires. Guidelines for participating in the NC LGERS can be found in the LGERS Employee Handbook or in Human Resources,

#### **Section 7. Supplemental Retirement Benefits**

The Town contributes to a 401(k) retirement plan for each employee participating in the North



Carolina Local Government Retirement System. Each law enforcement officer shall receive 401(k) benefits as prescribed by North Carolina State Law. General employees also receive a contribution, as established by the Town Council.

### **Section 8. Social Security**

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

### **Section 9. Unemployment Compensation**

Town employees 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**

It is the policy of the Town of Apex to provide tuition assistance to employees who desire to further their education through a degree program in a career field that would benefit the Town and increase their ability and knowledge to pursue promotional opportunities. The amount of educational assistance provided per employee will be determined annually based on the approved budget and maintained in the Human Resources Department. Employees are expected to pursue coursework outside regular work hours, on their own time.

Employees interested in pursuing a degree from an accredited university or college shall submit a Tuition Reimbursement Application form for Town approval. Priority will be given to employees in a degree program for which approval has been given in the prior budget year (assuming the employee continues to meet all policy requirements). Town of Apex will reimburse the costs of registration, fees, tuition, student and lab fees, upon completion of the course and certification by the institution that final grades meet the standards of the Town of a "C" or better up to the maximum allowed for the fiscal year. For classes that are considered "Pass/Fail," a "Pass" for the course will be considered as satisfactory completion. The first and/or last day of the course must be within the fiscal year for which reimbursement is requested. Employees receiving additional reimbursements for coursework from sources outside the Town may not receive total reimbursements in excess of 100 percent of the total tuition cost.

Requests for tuition assistance shall be submitted to the Human Resources Department prior to course registration and are subject to review and approval by Human Resources.

All full-time regular employees who have successfully completed the Town's probationary

period are eligible to receive this benefit. Eligible employees must be employed continuously for the entire academic session in order to qualify for reimbursement. Employees who have been approved for tuition assistance but separate from the Town prior to the ending of the course and/or receiving reimbursement will not be eligible for reimbursement.

Human Resources will notify employees of the process for participation in the Tuition Reimbursement Program and will provide the forms for both application and reimbursement.

### **Section 11. Peak Lifestyle Allowance**

Regular employees who have completed the new hire probationary period will receive a Peak Lifestyle Allowance each fiscal year to use towards expenses related to physical, emotional/mental, and financial well-being. The Peak Lifestyle Allowance is a one-time, taxable lump sum payment and is not built into base pay. The allowance will be paid on a scheduled pay day at the beginning of each fiscal year, at an amount determined each year and approved in the Town's annual budget. Employees must be actively employed on the day that the allowance is paid in order to receive the allowance. New hires will receive their Peak Lifestyle Allowance at the end of the quarter in which they successfully complete their probationary period.

### **Section 12. Longevity Pay**

A program of longevity pay may be provided to recognize and reward the total years of service as a permanent Town employee. The annual payment is made the first week in December to those full-time employees who are employed by the Town as of November 30, and who have completed the required number of years of service as of November 30 of the year the payment is made and who are employed by the Town on the date the payment is made. Longevity pay shall be made in a lump sum that does not build into base pay. Payments may be made in the following amounts:

2 through 4 years	\$100
5 through 9 years	\$300
10 through 14 years	\$500
15 through 19 years	\$700
20 plus years	\$1000

### **Section 13. Employee Assistance Program**

The Town provides an Employee Assistance Program (EAP) to help employees resolve a wide range of personal problems or to help improve their job performance. This confidential counseling service is available to employees and their family members. Employees may choose to go to the EAP on their own, or they may be encouraged to use the EAP by their supervisor when their job performance is unsatisfactory. Employees participating in the EAP are required to

meet existing job performance standards. The employee's use of the EAP does not replace the use of established procedures for managing unsatisfactory job performance.

The Town will not have access to EAP records without written permission from the employee. All individual rights to confidentiality will be assured in the same manner as any other health records.. With approval of the supervisor, employees may use earned sick or vacation leave for a scheduled EAP appointment.

#### **Section 14. Law Enforcement Officers' Special Separation Allowance**

A law enforcement officer who retires under a full service retirement may be entitled to a Special Separation Allowance as provided under G.S. 143-166.42. This allowance will terminate at death or on the last day of the month when the officer attains 62 years of age, or upon the first day of re-employment as a benefits eligible employee in any capacity for a local government in North Carolina.

#### **Section 15. Credit Union**

Membership in the Local Government Federal Credit Union is open to all Town employees and their family members for various loan services, checking, and saving accounts.

#### **Section 16. Section 125 Benefits**

The Town offers pre-tax deductions for benefits premiums, dependent care, flexible medical spending accounts, and other voluntary benefits. Specific information on these plans is available from the Human Resources Office.

## **ARTICLE VII. HOLIDAYS AND LEAVES OF ABSENCE**

### **Section 1. Policy**

The policy of the Town is to provide vacation, sick leave, holiday leave and other leaves of absence, as described below, to all full-time and part-time employees, and to provide proportionately equivalent amounts to employees having average work weeks of different lengths.

Employees must exhaust all accrued paid leave and/or comp-time before going on an unpaid status, except in circumstances where an employee is receiving disability payments or is on a military leave of absence. Employees must use paid leave to cover their regularly scheduled work hours. Once an employee has exhausted all paid leave, they will cease to earn accruals until they are back actively at work.

### **Section 2. Holidays**

The policy of the Town is to recognize the following Holidays as paid holidays for Town employees:

- New Year's Day
- Martin Luther King Jr. Day
- Good Friday
- Memorial Day
- Juneteenth
- Independence Day
- Labor Day
- Veteran's Day
- Thanksgiving (2 days)
- Christmas (3 days)

The Human Resources Director shall prepare a schedule of holidays at the beginning of December for the following calendar year. Departments providing 24-hour operation may adopt a varying holiday schedule that designates the legal holiday as the designated holiday when a legal holiday observance falls on a Saturday or Sunday. Any special holiday schedule shall be approved in advance by the Town Manager or their designee.

### **Section 3. Holidays: Effect on Other Types of Leave**

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

#### **Section 4. Holidays: Compensation When Work is Required**

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

All shift personnel will receive holiday pay for every holiday the Town observes, regardless of whether they work the holiday or not. Shift personnel who work on a holiday will receive time and a half for all hours worked on the holiday, in addition to the holiday pay for that day.

Non-shift employees classified as exempt under the Fair Labor Standards Act are not eligible for holiday premium pay.

#### **Section 5. Peak Paid Time Off**

Regular employees who have completed the new hire probationary period will receive two weeks of Peak Paid Time Off (PPTO) per fiscal year for personal time off. PPTO will be provided at the beginning of each fiscal year and may be used at any time during the year, but will not carry over from one fiscal year to another (unused PPTO hours will be lost). Employee must request and be approved to use PPTO in advance, and in accordance with departmental procedures.

PPTO hours will be based of work schedule, as listed below:

General, 40-hour employees – 80 hours

Police Patrol – 84 hours

Fire Shift – 81 hours

Part-time – pro-rated based on hours worked

Employees serving their new hire probationary period may be granted access PPTO prior to successfully completing their probationary period if use of PPTO was negotiated and approved as part of their job offer or if they have a serious medical condition requiring them to be out of work unexpectedly. Use of PPTO for medical conditions must be accompanied by a doctor's note.

PPTO cannot be rolled over into a new fiscal year, roll into sick leave, or be paid out upon separation. Additionally, it cannot be used in lieu of a two-week notice or on the last day of employment.

#### **Section 6. Vacation Leave**

Vacation leave shall be used for personal time off, and may be used for sick time when sick leave accrual is depleted.

## **Section 7. Vacation Leave: Accrual Rate**

Each full -time employee of the Town shall earn vacation at the following schedule. Leave earning is pro-rated for full-time and part-time employees working more or less than 40 hours per week.

<u>Years of Service</u>	<u>Hours Accrued Per Year</u>
Less than 2	80
2 through 4	96
5 through 9	120
10 through 13	144
Year 14	1,104
15 through 19	168
20 through 23	192
Year 24	1,152
25 plus	192

The accrual rate for part-time employees is prorated by the average number of hours in the workweek. An employee must be at work or on paid leave status to accrue vacation leave. Short-term disability and workers compensation leave are not considered paid leave. The accrual rate for an employee on any type of unpaid leave will be prorated based on the actual hours paid in the pay period.

Vacation leave may not be used prior to accruing it. Only vacation leave hours that display in an employee's vacation leave bank (HR Portal) are eligible to be used on a timesheet. Use of "pending" leave (leave that will accrue in the current pay period, but has not yet been earned) is not allowed.

Vacation leave accrual rates are based on years of service with the Town of Apex and cannot be transferred from other municipalities.

## **Section 8. Vacation Leave: Maximum Accumulation**

Vacation leave may be accumulated without any applicable maximum until December 31 of each year. Effective the last payroll in the calendar year, any employee with more than this maximum of accumulated leave shall have the excess accumulation removed so that days equal to only thirty (30) days are carried forward to January 1 of the next calendar year. Any vacation time in excess of 30 days will be converted to sick leave.

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.

### **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 thirty (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 or their designee when deemed to be in the best interest of the Town. Employees who are involuntarily separated shall receive payment for accumulated vacation subject to the thirty 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, but not to exceed thirty (30) days.

### **Section 12. Sick Leave**

Sick leave may be granted to probationary and regular employees absent from work for any of the following reasons: sickness, bodily injury, required medical/physical or dental examinations or treatment, EAP visits, childbirth during the documented period of disability (generally 6 weeks), for the first 6 weeks following the adoption of a child, or exposure to a contagious disease when continuing work might jeopardize the health of others.

Sick leave may be used when an employee must care for a member of his or her immediate family who is ill but may not be used to care for healthy children when the regular caregiver is sick. Sick leave beyond 10 days will only be approved for a family member's serious health condition as defined by the FMLA and with appropriate FMLA medical documentation.

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-net salary amount

after all current payroll deductions (as of the date of the injury) are made.

“Immediate family” shall be defined to include spouses, children, parents, siblings, grandparents, grandchildren (regardless of whether such family members are related by blood, adoption or marriage) and guardians.

Notification of the desire to take sick leave shall be submitted to the employee's supervisor prior to the leave or not later than thirty minutes after the beginning of the scheduled work day.

Sick leave is not paid out upon separation of employment.

### **Section 13. Sick Leave: Accrual Rate and Accumulation**

Sick leave shall accrue at a rate of 8 hours per month of service or 96 hours per year. Sick leave for full-time and part-time employees working other than the basic work schedule during any pay period 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.

Sick leave may not be used prior to accruing it. Only sick leave hours that display in an employee's sick leave bank (HR Portal) are eligible to be used on a timesheet. Use of “pending” leave (leave that will accrue in the current pay period but has not yet been earned) is not allowed.

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.

Rehired employees who return to work for the Town within one year of separation may have their sick leave balance reinstated if they have not already transferred their balance to another government agency. Employees who have been separated from the Town for more than one year will not be allowed to reinstate their former sick leave balance. Special considerations may be made if the employee separated for military service or support (contract service).

### **Section 14. Sick Leave Transfer from Other Organizations**

An employee who has credible service in the State or Local Employee's Retirement System may transfer his or her sick leave balance from the organization(s) in which the retirement service was gained, as long as the employee has not been separated from the organization for longer than 12 months. This sick leave balance is to be used as described above in section 12.



## **Section 15. Sick Leave: Medical Certification**

The employee's supervisor or Department Head may require a physician's certificate stating the nature of the employee's or family member's illness and the employee's capacity to resume duties, for each occasion on which an employee uses sick leave or whenever the supervisor observes a "pattern of absenteeism." 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. Calculation for Pro-rated Leave**

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.

## **Section 17. Unpaid Leave (Leave without Pay)**

Any use of Leave without Pay (LWOP) must be approved by the Department Director. Prior to the use of Leave without Pay, employees must have exhausted all applicable paid leave, except in circumstances where an employee is receiving disability payments or is on a military leave.

## **Section 18. Family and Medical Leave**

The Family Medical Leave Act (FMLA) policy is followed in accordance with federal regulations (29 U.S.C. § 2619). Employees who have at least 12 months of service and have worked at least 1,250 hours in the last consecutive 12 months are eligible. Employees who have questions concerning eligibility should contact the Human Resources Department.

FMLA provides for up to 12 weeks of unpaid leave under the following circumstances:

- a) For the birth of a child and to bond with the newborn child

- b) For the placement of a child with the employee for adoption or foster care, and to bond with that child
- c) To care for an immediate family member with a serious health condition.  
“Immediate family member” shall be defined as spouses, children (regardless of age), parents, siblings, grandparents, grandchildren (regardless of whether such family members are related by blood, adoption or marriage) and guardians.
- d) The employee's own serious health condition makes the employee unable to perform the functions of his or her job
- e) For qualifying exigency arising out of the fact that the spouse, child, or parent of the employee is on active duty or called to active duty status in the National Guard or Reserves during the deployment of the member with the Armed Forces to a foreign country under a Federal call or order to active duty in support of a contingency operation, or Regular Armed Forces during deployment to a foreign country..

The FMLA also provides for up to 26 weeks of unpaid leave for eligible employees to care for a covered service member during a single 12-month period.

Depending on circumstances, it may be permissible to use FMLA leave intermittently. The Town reserves the right to consider individual circumstances and needs in conjunction with business demands and federal/state requirements.

**Certification and Eligibility Requirements:**

- 1) Employees may request FMLA leave by submitting a FMLA Employee Request Form to their Supervisor or Human Resources. Employees must provide 30 days advance notice of the need to take FMLA leave when the need is foreseeable. When 30 days’ notice is not possible, the employee must provide notice as soon as practicable and generally must comply with the Town’s normal call-in procedures.
- 2) The Town may require medical certification to assess FMLA eligibility, as well as updates at reasonable intervals for continued certification. If there is reason to doubt the validity of the medical certification, the Town may require the employee to get a second opinion. If the second opinion differs from the original certification provided, the Town may require the employee to get a third opinion, at which time the doctor will be jointly selected by the employee and the Town. The third opinion will be final and binding on both parties. The burden of the cost of the second and third opinions will be at the expense of the Town.
- 3) If the Town requires medical certification for leave the employee must provide sufficient information to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Employees also must inform the Town if the requested leave is for a reason for which FMLA leave was previously taken or certified. Failure to provide adequate information within fifteen calendar days may result in delayed or denied FMLA leave/protection until proper certification can be obtained.
- 4) The Town reserves the right to waive certification and can place the employee on leave upon learning of the employee’s circumstances, even if the employee has not yet requested FMLA

- leave or the request is pending the completion of the FMLA certification forms.
- 5) Generally, FMLA approved leave will begin on the first day of absence, when the leave is foreseeable. In the event of an unplanned leave, individual needs/circumstances, in accordance with federal regulations, will be reviewed to determine the appropriate start date of FMLA leave.
  - 6) An eligible employee is entitled to up to twelve or twenty-six workweeks of leave, depending on circumstances – as identified above, on a rolling 12- month period measured backward from the date of any FMLA leave usage. If the employee returns to work before the twelve or twenty-six weeks is depleted and is able to physically perform his/her duties, the employee will be reinstated to the original, or equivalent position, with equivalent pay, benefits and other employment terms. If the twelve or twenty-six weeks of this leave are exhausted and the employee has not returned to work, the Town will determine if the employee will be reinstated.
  - 7) Employees will be required to deplete their earned compensatory time and vacation leave during FMLA before being granted unpaid leave. If the approved FMLA is for circumstances for which sick leave usage is permissible per Town policy, then sick leave must also be depleted before being granted unpaid leave.
  - 8) All benefits will continue to accrue during a period of paid leave.
  - 9) When an employee is on leave under FMLA, 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.
  - 10) Employees who are out of work under the provisions of FMLA are prohibited from engaging in any secondary employment during what would be their normal scheduled workday. Employees on leave as a result of their own serious health condition are NEVER approved for secondary employment. Employees who work secondary employment while on FMLA during what would have been normal work hours are considered to have voluntarily terminated their employment with the Town. Police employees may work extra-duty assignments while on FMLA with prior approval from the Chief of Police, in consultation with HR. Each request will be reviewed on a case by case basis.
  - 11) Short-term disability, workers' compensation and approved medical leave of absence will run concurrently with FMLA leave.
  - 12) An employee who is approved for FMLA for a personal illness or injury will not be allowed to return to work without a completed Fit for Duty Form, unless the employee was out to care for a family member or for birth of a child (Police sworn personnel who have given birth to a child must still complete the Fit for Duty form). An employee who does not return to work within three working days after their FMLA expires will be considered to have voluntarily terminated their employment with the Town.

It is the responsibility of the immediate supervisor to begin the process of placing the employee on leave. If a supervisor observes that an employee is out sick more than three consecutive days, the supervisor is to notify the Human Resources Department. If a supervisor is told by an employee that the employee will need to be out for an extended period of time for reasons other than a normal vacation, the supervisor is to notify Human Resources and instruct the

employee to do the same.

### **Section 19. Military Leave**

Military leave is provided for employees who are members of an Armed Forces Reserve organization or National Guard, or any other duty that falls within the “uniformed services” as defined and covered under the Uniformed Service Employment Reemployment Rights Act (USERRA). Military service is defined as any performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority and includes active duty, active duty for training, initial active duty, inactive duty training (such as drills), and funeral honors duty performed by National Guard and reserve members, as well as the period for which an employee is absent from a position of employment for the purpose of an examination to determine the fitness of the person to perform any such duty. Employees who are eligible for military leave have all job rights specified by the Uniformed Service Employment and Reemployment Act.

Employees on Military Leave may choose to take their leave on a paid or unpaid status. An employee on military leave will continue to accrue vacation and sick leave, regardless of whether or not paid leave was used.

#### **Differential Pay**

Military differential pay is partial compensation for the difference between the base pay salary that the employee earned while on military leave and the salary that would have been earned during the same period as a Town employee. Differential pay is not available for employees using paid leave or switching shifts to cover absences. Employees may switch shifts with other employees to attend drill, if approved by their supervisor/manager.

Employees will be granted two calendar weeks of military differential pay, per year. The effect will be to maintain the employee's salary at the normal level during the period of leave.

In addition to the 2 weeks above, when employees are called to active duty for state or national emergency, the Town will provide military differential pay during the first 180 days of active duty.

The employee must provide a Leave and Earnings Statement (LES) to payroll as soon as it is available to verify military pay. The Town will make normal deductions and/or contributions based on this difference in pay for taxes, FICA and other applicable benefits.

Job Benefits: Health premiums for employees who are performing services in the uniformed services for less than 31 days will remain in effect. Employees who are performing services in the uniformed services for 31 or more days may choose from the following two options:

- Option One: The employee and their dependents may elect to continue health coverage and /or dental benefits through the Town of Apex’s group policy at full cost to the employee for a period of up to 24 months. See Human Resources for more details.
- Option Two: The employee may elect to cancel health and/or dental coverage through the Town of Apex, as coverage is provided to all military personnel and their families. Employee’s health coverage will be reinstated with no waiting period when the employee returns to active employment with the Town.

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. The Town’s contributions to the NC 401(k) retirement will continue and be based on the employee’s regular salary, regardless of whether or not paid leave is being used. Life and Disability insurance benefits will be handled in accordance with vendor policies.

### **Reinstatement Following Military Service**

An employee returning from military service shall be reinstated with full benefits provided the employee:

- 1) Applies for reinstatement within the applicable timeframe established under USERRA; and Is able to perform the duties of the former position or similar position; or
- 2) 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 20. Personal Leave of Absence**

The Town Manager or their designee may grant a personal leave of absence for unique or extraordinary reasons that may not apply to other types of leave. The leave shall be used for reasons of personal disability, sickness or disability of immediate family members, time with a newborn or adopted child, 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 justifiable by the Town Manager or their designee. The Town Manager, or their designee, will consider the nature of the position, the impact on the Town, and the employee’s tenure when reviewing a request for personal leave. The maximum amount of time that can be granted for a personal leave is six weeks in any 12-month period (calculated by using the rolling method). Vacation requests that exceed 31 calendar days will be considered a personal leave of absence.

Personal Leave will not be granted to allow an employee time off to seek employment elsewhere or to work for another employer. Employees who begin employment elsewhere while personal

leave are considered to have voluntarily terminated their employment.

**Job Benefits:** Benefits will be handled in accordance with State & Federal laws and vendor policies. For more information, contact Human Resources.

**Return to Work:** The employee is obligated to return to duty within or at the end of the time determined appropriate by the Town Manager or their designee. Upon returning to duty after being on personal leave, the employee shall be entitled to return to the same position held at the time leave was granted or to one of like classification and pay. If the employee decides not to return to work, the supervisor shall be notified immediately. Failure to report at the expiration of personal leave shall be considered a voluntary resignation.

### **Section 21. 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 22. Educational Leave with Pay**

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

Educational leave at full or partial pay for a period not to exceed twelve calendar months may be granted to an employee to take one or more courses that will better equip the employee to perform assigned duties upon the recommendation of the Department Head and the Town Manager or their designee and with the approval of the Town Council. An employee granted such extended educational leave with pay shall agree to return to the service of the Town upon completion of training and remain in the employ of the Town for a period of twice the educational leave received, or the employee shall reimburse the Town for all compensation received while on educational leave.

An employee on educational leave with full pay shall continue to earn leave credits and other benefits to which Town employees are entitled. An employee on educational leave with partial pay shall earn proportional leave credits.

## Section 23. Shared Leave

An employee may donate vacation leave to another employee who meets the criteria to participate in the Town's shared leave program. An employee is eligible to receive shared leave when the employee:

- has been a full-time employee of the Town of Apex for one year\*;
- has a serious medical condition or has an immediate family member with a serious health condition, as qualified under FMLA, that requires the employee to miss 20 consecutive workdays, or experience excessive intermittent absences due to the same or another serious health condition;
- has exhausted all sick, vacation and compensatory leave time;
- produces medical documentation to support the need for leave beyond the available accumulated leave;
- applies for, or is nominated by a co-worker to receive shared leave.

*\* This requirement may be waived by the Town Manager or their designee if the full-time employee can provide medical documentation to support the need for leave in advance of meeting the one-year requirement. In most cases, this will be for very serious health conditions or medical procedures of an emergent nature.*

Employees out of work on workers' compensation leave or employees receiving short-term disability benefits are not eligible for shared leave.

All applications or nominations for shared leave should be made to the Human Resources Department who will administer the shared leave policy. Leave may be made available for use on a current basis and is not retroactive beyond the current pay period. All leave donations are strictly voluntary and are kept confidential. Leave donations must be a minimum of 4 hours and are credited to the sick leave account of the shared leave recipient. Any unused donated leave shall be returned to the donor(s) on a pro-rata basis and credited to the leave account from which it was donated.

It is the responsibility of the employee requesting leave to monitor their leave usage and notify Human Resources/Payroll of the amount of leave they need for each pay period. Once the donations have run out, the employee may request for HR to send another announcement requesting donations; however, HR announcements for shared leave requests will be made no more than every 4 weeks. Requests for shared leave will be active for a period of 3 months from the date the leave is requested, assuming the leave is still needed for the same condition. After 3 months, the shared leave request is considered void and a new request must be made, documenting the reasons for need of continued shared leave.

## **Section 24. Bereavement Leave**

Employees will be granted up to 3 days (24 hours) of paid bereavement leave as needed in the event of the death of an immediate family member. "Immediate family" shall be defined to include spouses, children, parents, siblings, grandparents, grandchildren (regardless of whether such family members are related by blood, adoption or marriage) and guardians.

Sick leave, as approved by the Department Head, may be used for any additional time, if needed, for this purpose.

## **Section 25. Paid Parental Leave**

Employees who have completed their initial probationary period (or successfully completed six months of their probationary period for Police and Fire) are eligible for Paid Parental Leave. Paid parental leave is in addition to an employee's accrued vacation or sick leave. Qualifying events for parental leave include the following:

- Birth of a child of the employee;
- The legal placement of a child with the employee for adoption, foster care or guardianship; or
- The placement of a child with the employee for whom the employee permanently assumes and discharges parental responsibilities (in loco parentis).

An employee may receive paid parental leave for one qualifying event within a rolling twelve-month period. The amount of paid parental leave for any one person shall not exceed eight weeks in a twelve-month period.

If both parents are employed by the Town and have one qualifying event, each parent is eligible for the eight weeks of paid parental leave. Each parent can use their allocated eight weeks of paid parental leave.

Employees shall provide advance notice to their supervisor of paid parental leave dates. The total amount of paid parental leave shall not exceed 320 hours for employees who work a 40-hour week schedule and is pro-rated for employees who work more or less than 40 hours per week.

An employee out of work and receiving paid parental leave may not work a secondary job during the same hours an employee would normally be at work, or work any off duty assignments during the parental leave period.

All Town-provided benefits will continue to be paid by the Town during the time the employee is out of work on Parental Leave. Sick and vacation leave will continue to accrue while the employee is in a paid parental leave status.



An employee who wishes to use parental leave shall follow the Town's procedures for requesting paid parental leave. Paid parental leave is approved through the HR Department, and no individual supervisor may deny an employee's request for paid parental leave. Employees will be required to submit supporting documentation to satisfy eligibility requirements for paid parental leave.

An employee must return to work after the duration of any approved parental leave. An employee who does not return and at least provide and work the 2 weeks' notice requirement will be required to pay the Town back for any paid parental leave received and their last day physically worked will be considered their last day of employment.

### **Section 26. Paid Caregiver Leave**

Employees who have completed their initial probationary period (or successfully completed six months of their probationary period for Police and Fire) with the Town of Apex are eligible for up to three (3) weeks of Paid Caregiver Leave. Paid Caregiver leave is in addition to an employee's accrued vacation or sick leave. Qualifying events for Caregiver leave include the following:

- To care for an immediate family member with a serious health condition. "Immediate family member" shall be defined as spouses, children (regardless of age), parents, siblings, grandparents, grandchildren (regardless of whether such family members are related by blood, adoption or marriage) and guardians.

An employee may receive paid Caregiver leave for all qualifying events within a rolling twelve-month period. The amount of paid Caregiver leave for any one person shall not exceed three weeks in a twelve-month period.

Employees shall provide advance notice to their supervisor of paid Caregiver leave dates. The total amount of paid Caregiver leave shall not exceed 120 hours for employees who work a 40-hour week schedule and is pro-rated for employees who work more or less than 40 hours per week.

An employee out of work and receiving paid Caregiver leave may not work a secondary job during the same hours an employee would normally be at work, or work any off duty assignments during the Caregiver leave period.

All Town-provided benefits will continue to be paid by the Town during the time the employee is out of work on Caregiver Leave. Sick and vacation leave will continue to accrue while the employee is in a paid Caregiver leave status.

An employee who wishes to use Caregiver leave shall follow the Town's procedures for

requesting Paid Caregiver leave. Paid Caregiver leave is approved through the HR Department, and no individual supervisor may deny an employee's request for Paid Caregiver leave. Employees will be required to submit supporting documentation to satisfy eligibility requirements for Paid Caregiver leave.

An employee must return to work after the duration of any approved Caregiver leave. An employee who does not return and at least provide and work the 2 weeks' notice requirement will be required to pay the Town back for any paid caregiver leave received and their last day physically worked will be considered their last day of employment.

## 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. The effective date of a resignation shall be the last day worked. Vacation leave and compensatory time cannot be used during the two-week notice period. Sick leave will only be approved during the final two weeks of a notice with a physician's certification or comparable documentation. Failure to provide minimum notice shall result in forfeit of payment for accumulated vacation unless the notice is waived upon recommendation of the Department Head and approval by the Town Manager or their designee.

Three consecutive days of absence without contacting the immediate supervisor or Department Head may be considered to be a voluntary resignation.

### Section 3. Reduction in Force

In the event that a reduction in force becomes necessary due to economic circumstances, program elimination, or privatization of existing programs the Town will attempt to accomplish a reduction in force without layoffs if at all possible, and if not possible, aid the transition of employees into other employment outside the organization.

#### Procedures

Determinations of reductions: The determination of positions to be eliminated or employees subjected to layoff will be based (in priority order) on (1) the need for the employee's services; (2) the quality of the employee's past performance; and (3) seniority. The individual(s) selected for layoff may or may not be the incumbent of the position(s) to be eliminated. Based on the above criteria, the Department Head will develop a rationale for the proposed reductions and changes in positions and personnel, and present it to the Human Resources Director and Town Manager or their designee. All reductions in force require the approval of the Town Manager.

**Layoff Avoidance:** Prior to a layoff, the Town will take the following steps to assist employees who are targeted to lose their current position to locate other employment within the

organization.

1. The Town will attempt to locate alternate Town employment for affected employees whose past performance has met performance requirements. Employees may be required to accept a transfer to another Town position for which they meet the basic qualifications. Employees not occupying affected positions may be re-assigned to another position at the same salary grade in order to create a better match of experience and skills with existing Town positions and to prevent a layoff from occurring within the Town. Such movement will be the prerogative of the Department Head or Town Manager. Pay decisions regarding transfers will be in accordance with the Town's pay policies.
2. If the reason for potential reduction is driven by economic reasons, management may offer employees in full-time positions the option of reducing their work schedule to less than 40 hours a week (but no less than 20 hours). Benefits would be pro-rated in accordance with Town policy. The reduced schedule must be agreed to for a minimum of one year and may be renewed with the mutual consent of the employee and Department Head on an annual basis.

### **Transition Assistance**

**Negotiated Employment.** In any privatization effort, the Town will negotiate to the fullest extent possible, for the continued employment of all who are involved in a Town function with the new private contractor.

**Outplacement Services.** The Town will provide standard outplacement services either internally or through a contracted party. The services will include (1) career counseling, (2) resume application preparation, (3) allowances for reasonable time off for interviews and employment follow-up as approved by the employee's supervisor, (4) reasonable office support and telephone access as approved by the employee's supervisor to use for the job search.

**Retirement.** Employees whose positions have been designated for elimination may be eligible for a full or reduced retirement through the North Carolina Local Government Employees' Retirement System. As allowed under G.S. 128-27(a2) The Town Council may approve a discontinued service retirement allowance for employees who are at least 55 years of age and have 20 years of creditable service, or a reduced discontinued service allowance for employees who are 50-54 years of age and have 20 years of creditable service. Employees granted a discontinued service retirement are not eligible for severance pay.

**Severance Pay.** Employees whose positions are being eliminated under a reduction in force will be eligible for seniority-based severance pay as outlined below if all of the following conditions are met as of their last day of employment with the Town:

1. The employee has not elected one of the above-referenced retirement options;
2. The employee has not refused alternate full time employment with the Town; and
3. The employee has not refused reasonable employment offers with a contractor (in the event of negotiated privatization). A reasonable employment offer shall be defined as one in which the employment offer does not result in a permanent reduction in the rate of pay of more than 15%.
4. The employee executes and returns the Town's standard waiver and release form.

Severance pay is based on total years of service with the Town of Apex. Severance pay is the equivalent of two weeks base pay for employees with less than one year of service, with an additional week of pay granted for each additional full year of Town service. Severance pay will be paid out on a bi-weekly basis and is not subject to employee or employer retirement contributions, and as a result, will not be included in computing the average final compensation for retirement purposes. Any period covered by severance pay will not be counted as an active employment period for the purposes of earning retirement service credit or for qualifying for employer-paid insurance coverage.

### **Benefits**

Employees who receive severance pay will be eligible for continuation of insurance coverage under the Consolidated Omnibus Budget Reconciliation Act of 1985 as amended (COBRA), at the employee's expense. Employees who retire with full, early or discontinued service retirement may be eligible for retiree health benefits under the "Voluntary Retirement" policy of the Apex Personnel Policies. No other benefits will apply after termination of employment.

### **Notice Requirements**

Employees who are laid off due to a reduction in force will be given as much notice as possible and at least two weeks' notice of anticipated layoff. If this is not possible, employees will receive two weeks compensation in addition to the severance pay noted above.

### **Reinstatement**

An employee in good standing who is separated because of a reduction in force will be given the first opportunity to be reinstated in the same or similar position within one year of separation. All sick leave will be reinstated as long as the employee has remained an active member of the North Carolina Local Government Retirement System, and other seniority-based benefits will be calculated based on total Town service.

### **Section 4. Disability**

An employee who cannot perform the required 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 by Human Resources. 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 (NCLGERS) 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 or their designee. 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 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. Coverage**

Article IX applies to all Town employees. While the Town will generally follow a progressive disciplinary process, employees may be separated from service at any time if the employee's job performance or conduct fails to meet the expectations of the supervisor and Department Head or if funding for the position is no longer available.

### **Section 2. Employee Legal Representation**

The Town prohibits the participation or presence of an attorney or any form of legal representation in any informal or formal employer/employee meetings or conferences.

### **Section 3. Disciplinary Actions**

When an employee fails to meet the job responsibilities of his or her position, the supervisor is responsible for correcting the failure and initiating disciplinary action when appropriate. Disciplinary action, when imposed, is for the purpose of improving employee and Town performance. Disciplinary action may be based on unsatisfactory job performance or detrimental personal conduct when the employee is not meeting the job performance requirements or personal conduct standards set for the position. The type of disciplinary action taken depends on the facts and circumstances of the situation, but may include a written warning, final written warning, suspension, demotion or dismissal.

### **Section 4. Unsatisfactory Job Performance Defined**

Disciplinary Action may be taken for unsatisfactory job performance. Unsatisfactory job performance includes any aspect of the employee's job that is not performed as required to meet the standards set by the supervisor. Examples of unsatisfactory job performance include, but are not limited to, the following:

- 1) Demonstrated inefficiency, negligence, incompetence, or lack of prudent judgment in the performance of duties.
- 2) Careless, negligent or improper use of Town property or equipment.
- 3) Physical or mental inability to perform duties after reasonable accommodation.
- 4) Discourteous treatment of the public or other employees.
- 5) Disruption of work environment – displaying unproductive behaviors such as promoting rumors, bad-mouthing others and other demeaning behaviors distracting from a positive working environment.
- 6) Excessive absences, late reporting, absence without approved leave, or repeated improper use of leave privileges.
- 7) Failure to meet work standards established in work plan.

- 8) Failure to follow established departmental or Town policies and procedures.
- 9) Failure to carry out supervisor's assignments or instructions.
- 10) Failure to maintain credentials or license required for position.

## **Section 5. Detrimental Personal Conduct Defined**

Detrimental personal conduct includes behavior, whether on-duty or off-duty, intentional or unintentional, 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; the laws of any government may be or have been violated or public confidence in Town government is likely to be undermined. Examples of detrimental personal conduct include, but are not limited to, the following:

- 1) Fraud, theft or dishonesty
- 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) Misusing or directing the misuse of Town work time, funds, equipment or property.
- 5) Careless, negligent, reckless, willful or wanton damage to or destruction of Town property.
- 6) Careless, negligent, reckless, willful or wanton acts that endanger the lives or property of others.
- 7) Possession of unauthorized firearms or other lethal weapons on the job.
- 8) Communication of a threat or engaging in threatening behavior;
- 9) Brutality in the performance of duties.
- 10) Any violation of the Town's Drug and Alcohol Policy.
- 11) Engaging in incompatible employment or serving a conflicting interest.
- 12) Request or acceptance of gifts in exchange for favors or influence.
- 13) Engaging in political activity prohibited by the Town's Personnel Policies.
- 14) Engaging in acts during or outside duty hours that negatively affect the image of the Town and which interfere with the working relationship between the employee and co-workers or between the employee and the public that employee serves.
- 15) Harassment of an employee or the public with threatening, obscene or derogatory language or gestures.
- 16) Stated refusal to perform assigned duties (insubordination) or flagrant violation of work rules and regulations.
- 17) Flagrant behavior or repeated rude or uncivil behavior directed toward citizens or co-workers.
- 18) Workplace Violence or workplace harassment.



## **Section 6. Disciplinary Action Process for Unsatisfactory Job Performance**

An employee whose job performance is unsatisfactory or grossly inefficient will normally receive progressive warnings before disciplinary action resulting in suspension, demotion or dismissal is taken by the Department Head or the Town Manager; however, the Town reserves the right to administer any disciplinary action, up to and including dismissal, at any time under employment at-will. When appropriate, progressive warnings should include the following steps:

1. 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.
2. An employee whose job performance remains unsatisfactory over a period of time normally would receive at least one written warning in addition to a final written warning from the supervisor before suspension, demotion or dismissal are initiated. The first written warning would include the dates of discussions with the employee, the performance deficiencies discussed, the corrective actions recommended, and the time frames set for improvement. A copy of each written warning should be submitted to Human Resources for placement in the employee's personnel file.
3. If the employee's performance continues to be unsatisfactory after one or more written warnings, then the supervisor should give the employee a final written warning serving notice that corrected performance must take place immediately in order to avoid disciplinary suspension, demotion or dismissal. A copy of the final written warning should be submitted to Human Resources for placement in the employee's personnel file.
4. In the event that the employee's performance fails to improve after the final written warning, or if the employee's performance deficiency is the result of one incident severe enough that it negatively impacts on the image of the Town or compromises the safety of persons or property, or creates significant financial liability for the Town, then the supervisor may recommend disciplinary demotion, suspension or dismissal by following the process outlined in Section 7 of this policy.

## **Section 7. 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 due to personal conduct detrimental to town service in order to avoid undue disruption of work, to protect the safety of persons or property, or for other serious reasons. When an employee is suspended or dismissed immediately, the employee may be told to leave town property at once and either to report to a supervisor at a specific time or to remain away until further notice.

## **Section 8. Notification of disciplinary action**

Supervisors are encouraged to meet with employees to inform them of proposed disciplinary actions for suspensions, demotions, and dismissals. The intent of the meeting is to notify the employee of the proposed disciplinary action and provide an opportunity for the employee to provide further information, if any, for the supervisor to consider in making a final decision. While this meeting is encouraged, it does not prevent the Town from taking disciplinary action, up to and including dismissal, without prior notice, when necessary.

## **Section 9. Disciplinary actions relating to special job requirements**

An employee may be placed on disciplinary suspension, demoted or dismissed for failing to obtain or maintain a required license, certificate, registration or similar document, or for failing to maintain a satisfactory driving record when driving town equipment or vehicles is a job requirement.

## **Section 10. Non-Disciplinary Suspension**

The Department Head may suspend an employee with pay for the following reasons. Any suspension without pay requires approval of the Human Resources Director.

1. To investigate the circumstances surrounding any alleged violation of any Federal, State or Town laws, statutes, ordinances, rules, regulations or policies.
2. To investigate any alleged act or omission in the scope and course of employment which might constitute a criminal offense.
3. To investigate when an employee is charged with a criminal offense or becomes a party to a civil action or other non-criminal proceeding not arising out of the scope or course of employment to determine if the circumstances of the case cast substantial doubt on the employee's ability to satisfactorily perform their normal duties, or result in a lack of public confidence in the delivery of Town services if the employee were to remain employed.

Following an investigation of an employee's actions which involve possible criminal charges or civil actions, the Department Head may take disciplinary action even if criminal or civil proceedings are pending. After conclusion of the criminal or civil proceedings, the Department Head may review the initial disciplinary decision to determine if additional disciplinary action is necessary.

If an employee is placed on an unpaid non-disciplinary suspension and is reinstated following the suspension, the employee shall not lose any compensation or benefits to which the employee would have been entitled had the suspension not occurred. All health, dental and life insurance benefits are maintained during the period of non-disciplinary suspension.

### **Section 11. Disciplinary Suspension and Deductions**

Deductions from pay of exempt employees may be made for unpaid disciplinary suspensions imposed in good faith for infractions of workplace conduct rules and/or workplace safety violations, in accordance with Federal and State regulations.

## ARTICLE X. COMPLAINT RESOLUTION PROCESS

### Section 1. Purpose

The Town recognizes that there are times when the need arises for employees to express concerns or complaints in a formal manner. The following procedures will ensure that employees receive a fair and unbiased review of workplace concerns.

The timelines that are listed below (both for the employee and supervisor/Town Manager) are intended to provide a quick and prompt response to concerns/complaints; however, these timelines may be modified, if needed, upon mutual agreement of the employee and supervisor/Town Manager. Any agreed upon changes to the timeline should be documented in writing by both parties.

### Section 2. Procedures

#### *Step 1: Informal discussion with supervisor*

Employee concerns should first be discussed with the employee's immediate supervisor. Many concerns can be resolved informally when an employee and supervisor take time to review the concern and discuss options to address the issue.

#### *Step 2: Written complaint to supervisor*

If the employee is not satisfied with the results of the informal discussion in Step 1, the employee may submit a written complaint within fifteen calendar days of the event or within fifteen calendar days of learning of the event to his or her appropriate supervisor (the person who took the action which created the concern - could be immediate supervisor, division head, Department Head, etc.) to include:

- The nature of the complaint.
- Detailed information including evidence of the issue, witnesses, related policies, etc.
- The remedy or outcome desired.

The supervisor will have ten calendar days to respond to the employee in writing.

If the employee complaint is regarding illegal harassment, discrimination or retaliation, the employee should submit the written complaint directly to Human Resources.

#### *Step 3: Written complaint to next level supervisor*

If the employee is not satisfied with the response from the supervisor, the employee may submit a written complaint to next level supervisor (Division Head, Department Head, Town

Manager, etc.) for review within ten calendar days after received of the response from Step 2. A copy should also be sent to Human Resources. The request for review should include:

- An explanation of the complaint and details of all previous efforts to resolve the issue.
- A copy of the written complaint submitted to the immediate supervisor.
- A copy of the immediate supervisor's written response to the employee's complaint.
- Detailed information regarding the employee's dissatisfaction with the immediate supervisor's response.

The next level supervisor will have ten calendar days to respond to the employee in writing.

#### *Step 4: Written complaint to the Town Manager*

If the employee is not satisfied with the response in Step 3, the employee may submit a written complaint to the Town Manager for review. A copy should also be sent to Human Resources. The request for review should include:

- An explanation of the complaint and details of all previous efforts to resolve the issue.
- A copy of the written complaint submitted to all previous supervisors.
- A copy of the previous supervisors' written responses to the employee's complaint.
- Detailed information regarding the employee's dissatisfaction with the previous supervisor's response.

The Town Manager will consult with the employee's immediate supervisor, Human Resources and any other relevant parties to evaluate the complaint and provide a written response to the employee within ten calendar days after receipt of the written concern. The outcome of the review by the Town Manager will be final unless new evidence or other circumstances warrant additional review of the complaint. The Town Manager would notify the Town Council of any impending legal action.

### **Section 3. Recordkeeping**

Human resources will maintain records of the complaint resolution process confidentially and securely.

## **ARTICLE XI. RECORDS AND REPORTS**

### **Section 1. Public Information**

In compliance with GS 160A-168(b), the following information with respect to each Town employee is a matter of public record: name; age; date of original employment or appointment to the service; current position title; current salary; date and amount of each increase or decrease in salary; date and type of each promotion, demotion, transfer, suspension, separation, or other change in position classification; date and general description of the reasons for each promotion; date and type of each dismissal, suspension or demotion for disciplinary reasons. If the disciplinary action was a dismissal, a copy of the written notice of the final decision setting forth the specific acts or omissions that are the basis of the dismissal; and 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.

### **Section 2. Access to Confidential Records**

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

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.

### **Section 3. Personnel Actions**

The Human Resources Director, 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. The official personnel files are those which are maintained in the Human Resources Department. These files shall contain documents such as employment applications and related materials, records of personnel actions, documentation of employee warnings, disciplinary actions, performance evaluations, retirement and insurance records, letters of recommendation, and other personnel-related documents.

### **Section 4. Records of Former Employees**

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

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

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

### **Section 6. 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 7. Examining and/or Copying Confidential Material without Authorization**

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

#### **Section 8. 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 Policy 132.3 of the General Statutes.



## **PART XII. IMPLEMENTATION OF POLICIES**

### **Section 1. Conflicting Policies Repealed**

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

### **Section 2. Separability**

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

### **Section 3. Amendments**

The Town Council has the authority to amend, revise, or repeal all or any portion of this policy as it sees fit.

### **Section 4. Effective Date**

These policies shall become effective on August 6, 2019.