

PERSONNEL POLICIES MANUAL

OF

THE TOWN OF LURAY, VIRGINIA

VERSION:

FEBRUARY 27, 2012

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CHAPTER 1

ORGANIZATION AND ADMINISTRATION

1.1 PURPOSE OF PERSONNEL POLICIES

- A. To provide equitable conditions of employment for Town employees;
- B. To establish and maintain uniform standards of employment and compensation; and
- C. To provide assistance to department heads and supervisors in their administration of personnel matters.

1.2 ADOPTION OF PERSONNEL POLICIES

The personnel policies set forth in this manual supersede all previous personnel policies, and serve as the official personnel policies of the Town of Luray, Virginia.

1.3 ADMINISTRATION

- A. The Town Manager shall be responsible for the administration of the personnel program for all personnel. The Town Manager may delegate responsibility for administering the personnel program to another full-time employee. Decisions made by department heads administering these policies may be appealed by the affected employee to the Town Manager or his/her designee.
- B. This manual is intended to address most personnel situations and actions for which the Town Manager is responsible. However, those situations not specifically covered shall be interpreted and acted upon by the Town Manager in keeping with the intent of these policies and procedures.

1.4 SCOPE

- A. These policies and procedures shall apply to all departments, positions, and employees of the Town except for:
 - 1. Nothing contained herein shall prohibit the Chief of Police, with the approval of the Town Manager, from establishing Policies and Procedures pertaining to the operation of the Police Department; and
 - 2. Certain employees may specifically be exempted by actions of the Town Council.

(Revision Effective 7/1/05)

1.5 COMPLIANCE

Department heads shall take necessary and prompt action to ensure compliance with these policies within their respective departments.

1.6 LIMITATIONS

- A. The policies set forth herein are not intended to create a contract, nor are they to be construed to suggest any express or implied contractual obligations of any kind with the Town. The Town retains the right to amend, cancel or otherwise change any of these policies and procedures at any time as circumstances may warrant with the approval of the Town Council.
- B. Employment with the Town is voluntarily entered into and the employee is free to resign at any time. Similarly, the Town may terminate the employment relationship and such termination or any other form of discipline shall be a judgment reserved to the Town at its sole discretion.

1.7 AVAILABILITY OF PERSONNEL POLICIES

The Town Manager shall be responsible for maintaining a complete and current set of personnel policies and for bringing these policies to the attention of all employees. In addition, a copy shall be maintained in the office of each department director. The Personnel Policy Manual shall be available for review by any employee or the public during regular business hours.

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CHAPTER 2

EMPLOYMENT

2.1 EQUAL EMPLOYMENT OPPORTUNITY

- A. The Town shall provide equal opportunity in employment and career development. Employment decisions shall be based on merit, qualifications, and competence. The Town administers its policies without regard to an applicant's or employee's race, color, sex, national origin, marital status, age, religion, political affiliation, disability which is unrelated to a person's occupational qualifications, or any other non-merit factor. The Town shall provide qualified applicants and employees with disabilities, as defined in Title I of The Americans With Disabilities Act, with reasonable accommodations that do not impose an undue hardship.
- B. The Town shall provide an environment that is free of unlawful harassment of any kind, including that which is sexual, age-related, or ethnic.
- C. The policy of equal opportunity governs all aspects of employment including, but not limited to, the following:
 - 1. Personnel Selection – Advertisement, recruitment, referral, testing, hiring, transfer, and promotion in all job classifications shall be without regard to race, color, sex, national origin, marital status, age, religion, political affiliation, or disability which is unrelated to a person's occupational qualifications, or other non-merit factor which is not a bona fide occupational qualification.
 - 2. Other Personnel Actions – All other aspects of employment with the Town such as compensation, benefits, assignment, demotion, dismissal, layoffs, return from layoffs, training, tuition reimbursement, and social and recreational programs are administered without discrimination.
- D. The successful achievement of equal opportunity throughout the Town can only be achieved with the maximum support and cooperation of all employees. Specific responsibilities are as follows:
 - 1. The Town Manager is designated as the Equal Employment Opportunity Officer and is primarily responsible for ensuring that the Town department heads are aware of this policy and pertinent Federal, Commonwealth of Virginia and local laws, guidelines, executive orders and regulations directing equal employment opportunity and other anti-discrimination programs.

2. Department heads have a responsibility for the observance of this policy. This responsibility includes supporting programs and practices designed to develop understanding acceptance, commitment, and compliance within the intents and purposes of this policy.

2.2 EMPLOYMENT

- A. Authorization from the Town Manager is required prior to initiating any recruitment or appointment.
- B. Procedures may be modified by the Town Manager when deemed necessary to best serve the interests of the Town.
- C. Employment Notice
 1. The Town Manager shall determine the advertising requirements necessary to attract qualified applicants to fill each vacancy. The Town Manager shall maintain an advertising distribution list which shall be used to maximize the application pool.
 2. When it is determined by the Town Manager that a sufficient number of qualified applicants are currently on file from which to select, advertisement of a position vacancy is not required.
- D. Employment Applications
 1. Persons seeking to apply for employment with the Town shall be referred to the Town Manager, except for those groups specified in Section 1.4.
 2. The Town relies upon the completeness and accuracy of information contained in the employment application, as well as the accuracy of other data presented throughout the selection process and during Town employment. Therefore, applicants and employees are hereby notified:
 - a. All employment information shall be current, accurate, and complete.
 - b. Any misrepresentations, falsifications, or material omissions on the Town application may result in the Town's exclusion of the individual from further consideration for employment.
- E. Recruitment and Selection
 1. The Town Manager has the primary responsibility for recruitment. All selection methods shall be approved in advance by the Town Manager.

2. In determining qualified applicants, the Town may use, but shall not be limited to, any one or a combination of the following selection methods in the pre- and post-employment processes: evaluation of training and experience; written and skills tests; performance tests; psychological tests; driving record, reference and background checks; and post-offer medical examinations.
3. An applicant who refuses to participate in any phase of the selection process shall be considered withdrawn from the recruitment and shall not be eligible for further consideration.
4. After department representatives have completed final interviews and given full consideration to the group of qualified candidates, the department head shall make a recommendation for a selection to the Town Manager.
5. In all cases, the offer of employment and discussion of beginning salary, benefits and starting date shall be approved by the Town Manager.
6. Upon completion of the hiring process, all applications, resumes, and any related test materials shall be returned to and maintained by the Town Manager's office.

2.3 HIRING OF RELATIVES

- A. The Virginia State and Local Government Conflict of Interests Act provides that members of an officer's or an employee's immediate family may be employed in the employee's division, department or agency only under the following conditions:
 1. The employee does not participate in the decision to hire the employee's immediate family members.
 2. The employee exercises no control over the employment or the employment activities of his/her immediate family member; or
 3. The employee is not in a position to influence the employment activities of his/her immediate family member.
- B. Based on the above criteria, the Town shall not hire an employee's immediate family member, as defined in Section C of the policy, in a supervisor-subordinate relationship.
- C. For the purposes of this policy, the following definitions apply:
 1. An officer's or an employee's immediate family is defined to include:
Spouse; and

2. Son, daughter, father, mother, brother, sister, grandmother, grandfather, grandson, granddaughter; mother-in-law, father-,son-,daughter-, brother-, and sister-; step-mother; -father-,son-,daughter-,sister-,brother; and half-sister or brother.
- D. If the relative relationship which violates this policy is established after employment, the two employees involved shall decide who is to seek a change in position, if a position is available for which the individual qualifies, or who is to leave Town employment. If a decision is not made within 30 calendar days, the Town Manager shall make the decision.
- E. Department heads shall ensure that this policy is enforced when making recommendations for employment, promotions, transfers, or demotions. Any concerns or questions regarding an applicant's or employee's eligibility under this policy shall be directed to the Town Manager.

2.4 IMMIGRATION LAW COMPLIANCE

The Town complies with the Immigration Reform and Control Act of 1986 and is committed to employing only United States citizen and aliens who are authorized to work in the United States.

2.5 EMPLOYMENT REFERENCE INVESTIGATIONS

To ensure that individuals who are employed by the Town are well qualified and have a strong potential to be productive and successful, reference checks may be conducted for those applicants being seriously considered for employment.

2.6 EMPLOYEE ORIENTATION

A. Completion of Required Personnel Forms

1. Employees who are eligible for fringe benefits must complete enrollment forms relating to certain mandatory and elective benefit programs.
2. Each department shall be responsible for conducting an on-the-job training program for each new employee which shall cover the employee's work environment, position responsibilities and duties, work schedule, safety requirements, and application of departmental policies to the position involved.

2.7 PROBATIONARY PERIOD

The probationary period is intended to give employees the opportunity to demonstrate their ability to achieve a satisfactory level of performance and to determine whether the new position meets their expectations. This period is considered a trial period or

extension of the selection process, which is used to evaluate employee capabilities, work habits, and overall performance.

A. Initial Probationary Period

1. A probationary period of three months is established for all new or re-employed employees appointed to full and part-time permanent positions.
2. Personnel action may be taken against any employee whose performance does not meet the required standards. During the initial probationary period, all employees are subject to personnel action without prior notice or access to the Grievance Procedure.
3. Either the employee or the Town may end the employment relationship at any time during or after the probationary period.

B. Secondary Probation Period

1. An employee who is appointed to another position (through promotion, transfer, or demotion) must complete a secondary probationary period of three months.
2. Each probationary employee who is transferred from one position to a similar position of an equal salary range shall retain the months successfully served in the former position towards earning regular status as well as for the annual merit salary review.
3. Should an employee serve an unsatisfactory probationary period in the newly assigned position, the employee may, with the approval of the Town Manager, be allowed to return to his/her former position or to a comparable position for which the employee is qualified, prior to the end of the probationary period, without prejudice. Such an action is dependent upon the availability of such position and the Town's needs. Where no appropriate vacancy exists, the employee's position with the Town shall be severed.
4. The employee's status as a regular employee is not changed during the secondary probationary period that results from a change in position (promotion, transfer, or demotion) within the Town.

C. Extension of Probationary Period

1. When it is deemed to be in the best interest of the Town, the initial probationary period may be extended up to a maximum of 30 days.

D. Separation During Probationary Period

1. The department head shall provide a probationary employee the opportunity to discuss problems involving his/her position at any time during a probationary period, or extension thereof, if it is determined that a probationary employee's work performance, work attitude, or other related work activities are not at an acceptable level of competence expected for the position.
2. Should the employee's performance fail to improve, the Town may elect to terminate employment.
3. If the employee decides that the particular job is not what he/she desires, the employee may resign without harm to his/her employment record.

2.8 SECONDARY (OUTSIDE) EMPLOYMENT

- A. Town employees shall not engage in secondary (outside) employment during regularly scheduled work hours, while at the Town's facilities, or when using the Town's supplies, equipment, materials or personnel.
- B. Town employees shall not engage in any employment, activity, or enterprise which has been or may be determined to be inconsistent, incompatible, in conflict of interest with, or have the appearance of conflict of interest with the duties, functions, or responsibilities of Town employment.
- C. Town employees shall notify their department head prior to accepting employment outside of their regular Town employment. The request shall be sent to the Town Manager for approval.
- D. Employees found in violation of this policy may be subject to disciplinary action up to and including dismissal.

2.9 ACCESS TO PERSONNEL FILES

- A. The Town Manager's Office shall maintain the official Town personnel files for all employees.
- B. The official personnel file shall be defined as the employment file containing personal and job-related information relevant to the individual's employment with the Town.
- C. Personnel files are the property of the Town, and the information they contain shall not be disclosed or disseminated except as required by law.

- D. Only officials and representatives of the Town who have a legitimate reason to review information in a file are allowed to do so.
- E. Employees are required to provide adequate notice to their department head of their desire to be released from work to review their personnel file (the employee does not have to disclose the reason for the request.) The employee shall make an appointment with the Town Manager's Office to review his/her personnel file.
- F. With reasonable advance notice, employees may review material in their personnel file but only in the presence of the individual appointed by the Town Manager to maintain the file.

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CHAPTER 3

POSITION CLASSIFICATION PLAN

3.1 PREPARATION AND PLAN ADMINISTRATION

The position Classification Plan for the authorized positions in the service of the Town (under the supervision of the Town Manager) provides for the grouping of similar positions in classes based upon the respective duties, typical tasks, and qualifications. The Plan class descriptions are used to assist with the recruitment, training, career planning, assignment to a salary range, and communication of job requirements to employees.

A. Amendments to the Classification Plan

Periodic amendments shall be made to maintain plan accuracy.

B. Official Copy of the Classification Plan

The Town Manager's Office shall maintain and publish a set of descriptions for all classes under the supervision of the Town Manager.

3.2 CLASSIFICATION OF POSITIONS

A. Each position classification shall be classified by the Town Manager and allocated within the Plan according to the appropriate class title, general definition of work, the required knowledge, skills and abilities, desirable training and experience, special licensing or other unique requirements, and additional requirements deemed necessary by the Town Manager. Positions shall be allocated to the same class when their duties are sufficiently similar that:

1. The same descriptive title may be used to designate each position in the class;
2. The same level of education, experience, knowledge, skill, ability, and other qualifications may be required of incumbents;
3. Similar tests of fitness may be used to select incumbents; and
4. The same salary range shall apply.

B. All classes involving the same character of work, but different as to level of difficulty and responsibility, shall be assembled into the same series. All series of classes within the same broad occupational field shall be assembled together.

3.3 INTERPRETATION OF CLASS DESCRIPTIONS

A. Class Title

The term “class title” or “title” shall refer to the official title of the class as stated in the class descriptions, and shall apply to all positions allocated to the class, and shall be used in all personnel and administrative processes. Department heads may assign “informal” titles to such positions if they deem this action necessary.

B. Class Descriptions

The class descriptions shall be considered descriptive rather than restrictive. They shall not be construed as declaring what the duties and responsibilities shall be or as limiting the power of any department head to assign duties to, and to direct and control the work of, employees under his/her supervision. The use of a particular expression or illustration as to duties shall not be held to exclude others not mentioned that are of a similar kind or quality.

3.4 MAINTENANCE OF THE CLASSIFICATION PLAN

A. The Plan shall be kept current by ongoing investigation and review. Position classification studies of individual positions or groups of positions shall be conducted whenever the Town Manager deems it necessary; whenever the duties or responsibilities of existing positions have undergone significant changes; or whenever the Town Manager is notified by a department head that new positions need to be created.

B. It shall be the responsibility of each department head to promptly notify the Town Manager of each change of duties, responsibilities, or work requirements, and furnish detailed information relative to such changes.

C. When a new class title is established, a class description shall be written and incorporated into the existing Plan and the class title added to the schematic list of titles.

D. All class allocations are subject to the approval of the Town Manager.

3.5 RECLASSIFICATION PROCEDURE

A. When significant changes in position content or prevailing economic conditions warrant a review of a class or classes, the department head may submit a written request (outlining all facts supporting the request) to the Town Manager.

- B. If a department head has facts which indicate that a position, or group of positions, is improperly classified, a request for a review may be made to the Town Manager. All pertinent information relative to the request shall be submitted in writing.

3.6 SALARY ADJUSTMENTS FOR RECLASSIFICATIONS

- A. Merit Salary Increase Date

Reclassification shall not change the employee's merit salary increase date.

- B. Downward Reclassification/Reallocation

Upon downward reclassification/reallocation of a position, an employee shall be placed in the pay step in the new range equal to or closest to the current rate of pay. When the employee's rate of pay prior to reclassification exceeds the maximum step of the new, lower range, the employee's rate of pay shall be frozen at that existing rate of pay until the pay of the lower range matches or exceeds the employee's rate of pay from the time of reclassification/reallocation.

- C. Upward Reclassification/Reallocation

Upon upward reclassification/reallocation of a position, an employee shall receive the greater amount of either the minimum rate for the new salary range or the next higher rate of pay in the new pay range as compared to the rate of pay in the lower range.

- D. When, in the opinion of the department head, following this policy results in an inequity, the Town Manager may authorize an adjustment in step(s) to correct the inequity based on the circumstances involved.

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CHAPTER 4

COMPENSATION

4.1 COMPENSATION PLAN

- A. The Town's Compensation Plan shall be designed to achieve the following objectives:
 - 1. Establish and maintain a salary structure which attracts and retains qualified employees;
 - 2. Maintain the salary structure in proper relation to competitive pay practices in the local labor market;
 - 3. Provide a consistent and effective means of recognizing and rewarding valuable employee contributions made through improved and satisfactory or better work performance.
- B. When, in the opinion of the department head, following this policy results in an inequity or problem, the Town Manager may authorize an adjustment in step(s) to correct the inequity based on the individual circumstances involved.
- C. Except as provided in this policy, anniversary dates shall not be affected by the adoption of any revisions to the Compensation Plan.
- D. The Town Council may authorize a periodic cost-of-living adjustment to reflect current market conditions.

4.2 STARTING RATE OF PAY

- A. The normal entry level salary for appointment shall be the minimum rate of pay (first step of the salary range) for the classification assigned.
- B. Compensation may be established beyond the minimum step of the salary range, upon approval of the Town Manager if any of the following conditions exist:
 - 1. The qualifications of the applicant exceed the requirements for the class;
 - 2. The applicant is a former employee in good standing and possesses qualifying experience; or
 - 3. Difficulty of recruitment requires payment of a higher rate.

4.3 PERFORMANCE EVALUATION

A. The Town's performance evaluation program is designed to help ensure quality services through improving performance. Assigned duties and responsibilities of an employee shall be evaluated by the department head.

B. Uses of the Performance Evaluation Program

The formal performance evaluation program shall be used to:

1. Provide both supervisors and employees with the opportunity to discuss job tasks, identify and correct weaknesses encourage and recognize strengths, and discuss positive, purposeful approaches for meeting goals;
2. Motivate employees to improve work performance;
3. Increase employee morale through management recognition;
4. Serve as the basis for salary increase recommendations;
5. Improve communications between supervisors and employees; and
6. Serve as part of the justification for recommendations pertaining to personnel actions (promotion, demotion, or dismissal).

C. Confidentiality

The performance evaluation process is strictly confidential. Every effort shall be made by all parties involved to maintain employee confidentiality. Any employee, other than the employee being evaluated, who is found in breach of this confidentiality shall be subject to disciplinary action.

D. Timing of Performance Evaluations

1. Performance evaluations are conducted at the end of an employee's probationary period in a regular full-time or part-time position where the incumbent regularly works a minimum of 20 hours per week.
2. Additional evaluations shall be authorized as needed by the employee's department head.
3. A non-probationary employee who receives a less than satisfactory performance rating may receive additional time to improve work performance when it is deemed to be in the best interest of the Town and the employee. The department head shall submit a written justification

and recommendation for extending the review period to the Town Manager for approval. The maximum period for an extension shall be 60 days.

A performance evaluation shall accompany the department head's status recommendation to the Town Manager at the conclusion of the extended performance review period.

4.4 MERIT SALARY INCREASE

- A. It is Town policy to provide eligible employees with opportunities for annual merit salary increases based upon receiving a satisfactory performance evaluation provided sufficient Town funds are available. A merit increase is not an entitlement, nor a right of employment, nor an integral part of the pay system to be awarded automatically. Rather, it is an expression of management recognition of the ability, the performance, and the potential worth of the employee to the Town.
- B. Annual merit salary increases are based upon an eligible employee receiving a satisfactory or better performance evaluation, positive recommendation by the department head, and approval by the Town Manager.
- C. Each eligible employee may be advanced through the salary range on the basis of performance to the next higher step(s) in that salary range until the maximum step in the range is reached.
- D. All submissions for merit salary increases shall be accompanied by the completed performance evaluation.
- E. Eligibility
 - 1. The following employees are eligible to be considered for annual merit salary increases based on satisfactory performance in accordance with this policy:
 - a. Regular full-time employees; and
 - b. Regular part-time employees who work a minimum of 20 hours per week.
 - 2. Eligibility for merit salary increases shall not be affected by:
 - a. Salary adjustments due to change in hours of work;
 - b. Revisions made to the Compensation Plan;

- c. Promotion, transfer, and demotion; and
- d. Satisfactory completion of active military service in accordance with the Military Leave Policy.

4.5 PROMOTION

A promotion is the movement of an employee from one class of position to another of a higher salary range in which the employee meets the minimum qualification requirements.

- A. When an employee is promoted, the employee's salary shall be increased to the greater of the minimum salary of the new higher class or at least two but not more than four steps above the employee's salary prior to promotion.
- B. A promotion shall change the employee's anniversary date.
- C. All promoted employees are required to serve a probationary period in accordance with Section 2.7.
- D. Exceptions may be granted by the Town Manager.

4.6 DEMOTION

A demotion is the movement of an employee from one class of position to another of a lower salary range in which the employee meets the minimum qualification requirements.

- A. An employee may be demoted to a position for which he/she qualifies for any of the following reasons, subject to approval of the Town Manager.
 - 1. When an employee would otherwise be laid off because the position is being abolished, lack of work, lack of funds, or other organizational changes;
 - 2. When an employee is unable to meet the satisfactory performance standards over a period of time or when removed during probation following a promotion;
 - 3. When an employee voluntarily requests such demotion; or
 - 4. For the good of the Town service.
- B. When an employee is demoted from a class in which he/she was originally appointed, the salary shall be reduced to the step of the new range of pay that is immediately below his/her salary prior to demotion.

- C. A demotion shall change the employee's anniversary date.
- D. All demoted employees are required to serve a probationary period in accordance with Section 2.7.

4.7 TRANSFER

- A. There shall be no change in salary as the result of a lateral transfer.
- B. When an employee is transferred into any position, other than moving within the same classification and range level, the employee shall be paid at a step within the range based on qualifications in the new position and the anniversary date shall change.
- C. All transferred employees are required to serve a probationary period in accordance with Section 2.7.

4.8 RECLASSIFICATION

- A. Upon an upward reclassification/reallocation of a position, an employee shall receive the greater amount of either the minimum rate for the new salary range or the next higher rate of pay in the new salary range as compared to the rate of pay in the lower range.
- B. Upon a downward reclassification/reallocation of a position, an employee shall be placed in the step in the new range equal to or closest to his/her current rate of pay, so that the employee is not penalized by a reduction in pay. When the employee's rate of pay prior to reclassification exceeds the maximum step of the new, lower range, the employee's rate of pay shall be frozen at the existing rate of pay until the pay of the lower range matches or exceeds the employee's rate of pay from the date of reclassification/reallocation.
- C. Reclassifications shall not change the employee's anniversary date.

4.9 ACTING CAPACITY

- A. When an employee is required to work in the capacity of a higher-level supervisory position due to an anticipated absence over a prolonged period of time, such employee may be paid additionally for assuming the higher-level duties.
- B. Requests for "acting pay" shall be made in writing by the department head and submitted to the Town Manager for approval.

- C. The temporary salary adjustment for the period of assignment to the higher-level position shall be determined by the Town Manager.
- D. Retroactive requests shall not be considered.

4.10 OVERTIME PAY AND COMPENSATORY TIME

A. Policy

It is the policy of the Town to adopt and implement the provisions of the Fair Labor Standards Act (FLSA), as amended, as the fundamental wage and hour policy of the Town. Further, it is the policy of the Town that any overtime work necessary to the continued effective operation of the Town shall be managed in the most efficient and economical manner possible.

No overtime pay or compensatory time provisions shall be in conflict with what is allowed by law under FLSA.

B. Authorization For Overtime

1. Employees may receive compensatory time off in lieu of immediate overtime pay in cash at a rate of not less than one and one-half hours for each hour of overtime worked, but only pursuant to an agreement or understanding arrived at between the employer and employee before performance of the work. Exempt employees are generally encouraged to adjust their work schedule during the 40 hour week so not to accrue compensatory time. Exempt and non-exempt employees are encouraged to use accrued compensatory as soon as possible after the date earned.
2. The maximum compensatory time which may be accrued by an affected employee shall be 480 hours (i.e. not more than 320 hours of actual overtime hours worked) for those engaged in a public safety, emergency response or seasonal activity, and 240 hours (i.e. not more than 160 hours of actual overtime hours worked) for all other employees for hours worked after April 15, 1986. An employee who has accrued the maximum number of hours shall be paid in overtime compensation in cash for any additional overtime hours of work.
3. An employee shall be permitted to use accrued compensatory time within a reasonable period after it is requested if to do so would not unduly disrupt the operations of the employee's department.

(Revision Effective. 7/1/05)

4. Non-exempt employees who receive compensatory time under the provisions of Chapter 4 B 1, as well as exempt and non-exempt employees who accrue compensatory time under the provisions of Chapter 4 C 4 shall use the accrued time within one year from the date the compensatory time was earned. Any accrued compensatory time not used within one year from the date of accrual shall be forfeited. Payment for accrued compensatory time upon termination, or voluntary separation from the Town, of the employee shall be made at the employee's hourly rate at the time the compensatory time was earned.
5. "Compensatory Time" and "Compensatory Time Off" are defined as hours when an employee is not working and which are paid for at the employee's regular rate of pay. These hours are not counted as hours worked in the week in which they are paid.

C. Categories of Jobs

1. Under the FLSA, there are two (2) basic categories of jobs:
 - a. Exempt (E) – Those employees not covered by the act
 - b. Non-Exempt (N) – Those employees covered by the act
2. The exempt category consists of three subordinate categories which are applicable to the Town's classified service:
 - a. Executive
 - b. Administrative
 - c. Professional
3. FLSA requirements apply to positions and employees not to classes. The Town's class descriptions serve as a general guide in determining whether individual positions are exempt or non-exempt from the provision of the FLSA. All Town classes will be identified as follows:
 - a. E – Exempt
 - b. N – Non-exempt
4. Exempt employees are required to take compensatory time at the rate of one and one-half hours per overtime hour, in lieu of overtime pay. Non-exempt employees may elect to earn compensatory time in lieu of

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overtime per each overtime hour. The election to take compensatory time in lieu of overtime must be made by the employee prior to working the overtime; otherwise, overtime will be paid.

5. The Town of Luray reserves the right to require any employee in any category to take time off from work where it appears that the employee will otherwise have more than 40 hours in the current work week, and further reserves the right to direct an employee to use up accumulated compensatory time.
6. In addition, the following personnel are designated as exempt from the provisions of the Fair Labor Standards Act: *(Rev. Effective 7/1/2008)*
 - a. Elected officials of the Town of Luray
 - b. Members of Boards and Commissions who are appointed by the Town Council
 - c. Town Manager and Town Attorney
 - d. Assistant Town Manager
 - e. Superintendent of Public Works
 - f. Assistant Superintendent of Public Works
 - g. Parks and Recreation Director
 - h. Assistant Parks and Recreation Director
 - i. Park Maintenance Supervisor
 - j. Director of Utilities
 - k. Police Chief
 - l. Assistant Chief
 - m. Police Sergeant
 - n. Police Lieutenant
 - o. Police Corporal
 - p. Police Investigator
 - q. Superintendent of WWTP
 - r. Assistant Superintendent of WWTP
 - s. Town Clerk/Treasurer
 - t. Deputy Clerk/Treasurer
 - u. Town Planner

D. Authorization for Overtime (*Rev. Effective 7/1/2008*)

Overtime work shall be authorized only to cover emergencies, necessary seasonal activity, weather conditions, and unusual working requirements, and may be authorized only by department heads or their designees prior to such work being performed. It is the responsibility of each department head to determine that overtime pay is administered in the best interest of the Town. In addition, it is equally important for the department head to control unauthorized overtime. Unauthorized work shall be counted as hours worked if the employer should have stopped it but did not, or if he/she knows or has reason to know of its practice. No employee shall start work before the appointed time, work through lunch nor work past the appointed time without prior authorization from his/her department head or supervisor. All overtime and compensatory leave hours must be carefully documented by the employee on their time sheet. At a minimum, this documentation must include

- Hours of the day worked
- Type of hours earned
- Event/reason for overtime or compensatory time.

E. Eligibility for Overtime and Compensatory Time (*Rev. Effective 7/1/2008*)

1. Those employees eligible for time and one-half overtime:

- a. Billing Clerk
- b. Customer Service Clerk
- c. Police Patrolman
- d. Dispatcher
- e. Meter Reader
- f. Chief Meter Reader
- g. Laborer/Equipment Operator
- h. Senior Laborer/Equipment Operator
- i. Public Works Technical Specialist
- j. Wastewater Plant Operator
- k. Park Attendant
- l. Park Maintenance Worker
- m. Senior Park Maintenance Worker
- n. Utility Operator

2. Those employees eligible for compensatory time:
 - a. Elected officials of the Town of Luray
 - b. Members of Boards and Commissions who are appointed by the Town Council
 - c. Town Manager and Town Attorney
 - d. Assistant Town Manager
 - e. Superintendent of Public Works
 - f. Assistant Superintendent of Public Works
 - g. Parks and Recreation Director
 - h. Assistant Parks and Recreation Director
 - i. Park Maintenance Supervisor
 - j. Director of Utilities
 - k. Police Chief
 - l. Assistant Chief
 - m. Police Sergeant
 - n. Police Lieutenant
 - o. Police Corporal
 - p. Police Investigator
 - q. Superintendent WWTP
 - r. Assistant Superintendent of WWTP
 - s. Town Clerk/Treasurer
 - t. Deputy Clerk/Treasurer
 - u. Town Planner

F. Responsibility of Department Heads

It is the responsibility of department heads to arrange normal working schedules so as to minimize the need for overtime work by given employees and the consequential overtime pay. Supervisors are expected to be aware of the number of hours being accumulated by each employee during a given pay period. Where workload allows such action, the supervisor shall require a subordinate to take time off so that no more than the appropriate number of hours are worked. Where overtime is necessary, the granting of overtime shall be done on a specific case by case basis and not as a general policy. All work hours of exempt and non-exempt employees shall be documented.

The Town recognizes that the position of department head carries responsibilities that often require the department head to work irregular hours. While the Town expects department heads normally to work during the Town's regular business hours, it is the Town's policy to grant department heads a great deal of flexibility in scheduling their own work hours so long as the privilege is not abused. Accordingly, department heads are authorized to arrange their work schedule in such manner that the department head averages at least 40 hours per calendar week, and may take time off during the Town's normal business hours, if necessary, so long as it does not have a detrimental impact on the performance of the department head's duties. Department heads are expected to notify the Town Manager prior to taking time off during the Town's normal business hours to insure that there will not be any interruption in the Town's operations, and should furnish the Town Manager with a record of all hours worked on such regular basis as may be required by the Town Manager.

G. On-Call Personnel

Some employees may be periodically or rotationally assigned to on-call duty during weekends or other off-duty hours. The purpose of having employees on call is to provide prompt service to the Town's customers during irregular hours, where such response can prove instrumental to the success of the services provided by the Town.

An employee assigned to on-call duty for weekend work will be paid 5 overtime hours per day (Sat., Sun. and Holidays), provided the employee remains available and is responsive to duty calls. Should a call necessitate the on-call employee working longer than 5 hours, the employee will be compensated for the additional hours worked at an overtime rate. Calls received and time worked by on-call employees must be reported to the employee's supervisor on the next regular workday. The nature and amount of time worked during on-call duty are subject to verification by supervisors. Where discrepancies occur, on-call employees may be required to justify the details of their reports. Any additional hours or additional employees needed for emergency work will be reviewed and approved by the Town Manager.

(Revision Effective 7/1/05)

H. Special Provisions for Law Enforcement Personnel

The Town of Luray has the right to establish a work period of 28 consecutive days or a less number of consecutive days, but not less than seven (7) consecutive days, in lieu of the work week, for the purpose of paying overtime to law enforcement employees. The Town of Luray has exercised this right and has established initially a 28 day work period for law enforcement employees. However, the Town reserves the right to change said work period in accordance with the Fair Labor Standards Act.

It is the responsibility of the police chief to keep all records of hours worked by each officer and submit said to the Town Treasurer for pay.

I. Overtime Pay May Not Be Waived

The requirement that overtime pay must be paid to non-exempt employees may not be waived by agreement between the Town and the employee.

J. Reimbursement of Meals

The Town Manager is authorized to reimburse employees for meals incurred while working overtime in unusual and extreme circumstances involving situations such as: flood, major water or sewer breaks, snow removal, storm damage, etc.

K. Town's Reservation of the Right to Make Individual Contracts

Nothing contained herein shall be deemed to impair the Town Council's right or ability to make individual employment contracts with any individual employee by which the provisions applicable to that individual employee are altered, so long as said contract does not violate any federal or state statute.

L. Reservation of Rights

The town reserves the right to change these guidelines from time to time.

4.11 PERSONNEL DATA CHANGES AND PAYROLL DEDUCTIONS

A. Personnel Data Changes

It is the responsibility of each employee to promptly notify the Town Manager's Office of any changes in personnel data. Personal mailing addresses, telephone numbers, dependant information, changes in marital status, individuals to be contacted in the event of emergency, educational accomplishments, and other such status reports should be accurate and current at all times.

B. Pay Deductions

The Town is required by law to make certain deductions from every employee's compensation. These mandated deductions include federal and Virginia income taxes, and Social Security taxes. The chapter pertaining to employee benefits provides additional information regarding payroll deductions.

C. Garnishments

1. Garnishments are legal permission of creditors to collect part of an employee's pay from the Town. The Town cannot refuse to honor such levies, as they represent an order from the Court to withhold and pay to the Court a specific amount of an employee's earnings.
2. Upon receipt of an order of garnishment, a written notification of the garnishment shall be sent to the employee. A copy of the garnishment shall be placed in the employee's personnel file.

D. Administrative Pay Corrections

1. The Town takes all reasonable steps to ensure that employees receive the correct amount of pay in each paycheck and that employees are paid promptly on scheduled paydays.
2. In the event that an error in pay is detected, the employee shall promptly notify the department head or Town Manager's Office of the discrepancy. Payroll errors shall be corrected as soon as possible.
3. Both underpayments and overpayments shall be corrected as soon as possible. If an overpayment results in the employee owing a substantial amount, a schedule of repayments may be arranged with the employee to minimize the inconvenience.

E. Time Reporting

1. Accurately recording time worked is the responsibility of every employee. Time sheets are used to meet federal and Virginia record keeping requirements and serve as the basis for calculating employee pay and benefits.
2. Tampering, altering, or falsifying time sheets, or recording time on another employee's time sheet may result in disciplinary action, up to and including dismissal.

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CHAPTER 5

HOURS OF WORK

5.1 ATTENDANCE AND PUNCTUALITY

- A. To maintain a safe and productive work environment, the Town expects employees to be reliable and to be punctual in reporting for scheduled work. Employees are responsible for learning the specific reporting requirements for their department and work unit from their department head or Town Manager.
- B. Poor attendance and excessive tardiness may lead to disciplinary action up to and including dismissal.

5.2 WORK SCHEDULES

- A. The Town Manager shall establish the hours of work for employees. The regular workweek is a seven day period (12:01 a.m. Monday through 12:00 midnight Sunday). When individual work schedules differ from this, compensation shall be made on a proportionate basis.
- B. When a department's normal services necessitate work schedules other than that listed above, work schedules shall be proposed by the department head by submitting such request, in writing, to the Town Manager for approval.
- C. Other workweeks and hours may exist for specific classes of employees as a condition of employment.
- D. With the advance approval of the Town Manager, a department may establish an alternative workweek.
- E. Department heads shall advise employees of their individual work schedules.

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CHAPTER 6

WORK ENVIRONMENT

6.1 PROTECTION OF EMPLOYEE LIABILITY

- A. It is the policy of the Town to protect its employees against lawsuits arising out of the performance of their duties. All public employees and officers of the Town, when acting within the scope of their employment, are protected from financial loss resulting from a lawsuit or action brought against them.
- B. This policy requires that certain “conditions for protection” must be met to provide an effective defense, namely:
 - 1. The employee must deliver to the Town Manager the original or a copy of any summons, complaint, process, notice, demand, or pleading as soon as possible after being served with such document;
 - 2. The employee must provide the Town full cooperation in the defense of such action or proceeding; and
 - 3. The acts complained of against the employee must not have been malicious or a result of gross negligence, fraud, other willful acts, or where an employee has been found to have violated Town policy.

6.2 SEXUAL AND OTHER UNLAWFUL HARASSMENT

- A. Policy
 - 1. It is the Town policy that sexual and other unlawful harassment of its employees in any form is prohibited and that all employees shall be treated with respect. Actions, words, jokes, or comments based on an individual’s sex, race, ethnicity, age, disability, religion, or any other legally-protected characteristic shall not be tolerated.
 - 2. Any employee who engages in or who perpetuates or condones sexual and other unlawful harassment shall be subject to disciplinary action, including dismissal.
- B. Definition
 - 1. Sexual Harassment: Behavior that constitutes sexual harassment, as currently defined in guidelines published by the U.S. Equal Employment Opportunity Commission (EEOC), includes sexual advances, requests for

sexual favors, and other verbal or physical conduct of a sexual nature when:

- a. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment.
- b. Submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting such individual; and
- c. Such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

2. Sexual Discrimination: The EEOC has determined that sexual harassment is a form of sexual discrimination.

3. Employee: An individual employed by the Town on a full-time, part-time, regular, grant, term, or temporary basis is considered to be an employee for the purpose of this policy.

C. Persons Covered

Employees, as defined in Chapter 6.2B-3, are covered by the provisions of this policy.

D. Prohibited Conduct

1. The following types of conduct are examples of sexual or other unlawful harassment and we prohibited. These examples do not necessarily represent all the ways in which sexual harassment may occur and are not intended to limit the definition of sexual harassment.

a. *Verbal comments and gestures of a sexual nature.* This includes any type of sexually suggestive remarks, pictures, jokes, and catcalls.

b. *Explicit or implicit promises of career advancement or preferential treatment in return for sexual favors.* Such promises or preferential treatment may include, but are not limited to, hiring, promotion, training opportunities, work scheduling and

leave approval, acceptance of a lower standard of performance, providing higher performance evaluations, and lax timekeeping.

c. *Explicit or implicit threats that an employee shall be adversely affected if sexual demands are rejected.* Such threats include, but

are not limited to, lower performance evaluations, denial of promotions, punitive transfers, terminations, and altered or increased work assignments.

- d. *Unsolicited and repeated touching of any kind.* This includes the touching, patting, or pinching of another person, and repeated brushing against another person's body.

E. Investigation of Complaints

1. Employees who experience sexual or other unlawful harassment shall notify the Town Manager, in writing, within two working days of the incident.
2. Upon receipt of the written complaint the Town Manager shall order an investigation into the matter.

F. Confidentiality

1. Any complaint shall be handled in a confidential manner. Every effort shall be made, by all parties involved, to protect the confidentiality and privacy of all information and documents pertaining to a claim.
2. Persons conducting investigations shall not communicate the fact that an investigation is pending nor shall they communicate the contents and findings of such investigation except to appropriate parties.
3. Breach of confidentiality may result in disciplinary action, including dismissal.

G. Policy Against Retaliation

Reprisal or retaliation is strictly prohibited. This includes both direct retaliation or reprisal, or the encouragement of others to engage in retaliation or reprisal against any person who:

1. Opposes any conduct prohibited by this policy;
2. Complies or encourages others to comply with any provision of this policy;
3. Files a complaint concerning a violation of this policy;

4. Testifies, assists, or participates in any investigation or hearing resulting from a complaint under this policy; and
5. Exercises or attempts to exercise any right conferred under this policy.

H. Discipline

Any employee found to have engaged in sexual or other unlawful harassment, who is found to have knowingly condoned, encouraged, or perpetuated an act or acts of sexual or other unlawful harassment, or who is found to have in some way participated in retaliation or reprisal, shall be subject to disciplinary action including dismissal.

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WORKER SAFETY

7.1 SAFETY PROGRAM

A. Safety Policy

1. It shall be the policy of the Town of Luray that every employee is entitled to work under the safest conditions possible. To this end, every reasonable effort shall be made to promote accident prevention.
2. Safety is a fundamental responsibility of employees and management. To this end, the primary responsibility for safety in all work activities rests equally between employees and management.

B. Managerial and Employee Responsibility

1. Department Heads: Department heads shall:
 - a. Assume responsibility for safe work areas for their employees;
 - b. Be accountable for preventable injuries, collisions, and liabilities caused by their employees. These items shall be taken into consideration during their performance evaluations;
 - c. Ensure that each employee is trained for the job assigned and is familiar with all published work and safety procedures.
 - d. Take the initiative in recommending correction of deficiencies noted in facilities, work procedures, employee job knowledge, or attitudes that adversely affect safety efforts;
 - e. Take appropriate disciplinary action against those who fail to follow safety policy and procedures, and be prompt to give recognition to those who perform well;
 - f. Ensure advance planning for new work activities to anticipate requirements for needed safeguards and controls;
 - g. Report all accidents and injuries involving Town employees, vehicles, or property in accordance with Town reporting procedures (using the *Investigation Report – Pages 127/128*); and

- h. Provide safety instructions and equipment to assigned employees and provide on-the-job supervision to ensure safe working conditions.
2. Employees: Employees shall:
- a. Comply with the Town's safety program policies and procedures and directions from their supervisors;
 - b. Report all accidents and safety hazards to the department head as soon as practical after an accident occurs or a hazard is observed. Complete the *Investigation Report – Pages 127/128* promptly;
 - c. Keep work areas clean, neat and orderly;
 - d. Avoid engaging in horseplay, and avoid distracting others;
 - e. Learn to lift and handle materials properly, and ask for assistance when needed;
 - f. Be familiar with the worker's compensation policy; and
 - g. Operate assigned vehicles, equipment, and machinery in a safe and responsible manner.

7.2 SAFE OPERATION OF TOWN VEHICLES & EQUIPMENT

- A. Employees who use a Town vehicle, whether occasionally or on a daily basis, are expected to follow Town and Virginia safety procedures and traffic laws. In addition, for the protection and safety of Town employees and the public, every employee is required to follow these safety steps:
- 1. Any operator of a Town vehicle must possess a valid Virginia driver's license. For employees required to operate a Town vehicle the invalidation, revocation, or suspension of the driver's license or any restrictions must be reported to the department head within one workday of the occurrence. Employees who do not report these changes as required shall be subject to disciplinary action including dismissal;
 - 2. Safety belts must be properly used by the vehicle operator and any passengers of Town vehicles at all time; the vehicle operator shall be responsible for ensuring that passengers use their safety belts;
 - 3. Employees are responsible at all times for the proper care of Town vehicles and to be alert to any apparent defects or mechanical problems.

Any operational problems shall be reported to the employee's department head as soon as possible.

4. Employees assigned a Town vehicle are responsible at all times for the proper care, periodic inspection, and maintenance of their vehicle; and
 5. Employees observed operating a Town vehicle in an unsafe manner shall be reported to the appropriate department head and may be subject to disciplinary action.
- B. The personal use of Town vehicles by Town employees is prohibited.
- C. Cell phones, blackberries, smart phones, GPS, or other electrical devices must be operated via a hands-free device or while the vehicle (or equipment) is in park. Any other use such as text messaging or e-mailing is prohibited while the vehicle (or equipment) is in drive and/or in motion. Use of two-way radios and related mission-essential equipment or emergency response vehicles shall be governed by agency policy. (*Revision Effective February 13, 2012*)

7.3 UNIFORMS, PROTECTIVE CLOTHING, AND SAFETY EQUIPMENT

Uniforms, protective clothing (except safety shoes or boots), and safety equipment shall be provided to employees for their safety. Those positions requiring uniforms and safety equipment shall be identified by department heads. The loss or excessive wear does not relieve the employee of the responsibility to wear uniforms and safety equipment. The loss or destruction of uniforms or safety equipment due to the employee's negligence shall be the responsibility of the employee.

- A. Uniforms and Protective Clothing
1. Uniforms and protective clothing shall be provided to each employee whose position precludes wearing personal clothing for reasons of safety or prospective damage to normal personal work attire.
 2. Town uniforms shall never be worn for any jobs, or at any time, other than Town employment.
 3. Uniforms and protective clothing shall be replaced when the employee's department head determines the uniforms or protective clothing to be non-useable.
 4. Employees shall wear Town uniforms during work hours (as provided).

B. Safety Equipment: Shoes

Safety shoes shall be worn by each Town employee whose position requires protective footwear.

C. Safety Equipment: Hard Hats

Hard hats shall be provided to each Town employee whose position requires protective headwear. Hard hats shall be worn by Town employees when working conditions could result in head trauma.

D. Safety Equipment: Gloves

1. Protective gloves shall be provided to each Town employee whose position requires protective gloves. Employees shall wear the proper type of protective gloves during work situations requiring hand protection (e. g. handling sharp objects, chemicals, etc.).

2. Protective gloves shall be replaced as they become non-useable. An employee's department head shall determine when the gloves need to be replaced.

E. Safety Equipment: Safety Eyeglasses, Goggles, Full Face Shields

Protective eye equipment (e.g., safety eyeglasses, goggles, hoods, shields, etc.) shall be provided to each employee whose position requires protective eye equipment. Protective eye equipment (eyeglasses or goggles) shall be worn by Town employees during work situations where eye trauma or impairment could occur (clear or tinted). Full face shields shall be worn when the employee is engaged in grinding metal (clear), using a cutting torch (tinted), or completing other similar tasks. A welding shield shall be worn when the employee is using a welder.

F. Safety Equipment: Hearing Protection

Proper hearing protection, e.g. ear plugs shall be provided to each employee whose position requires hearing protection. Hearing protection shall be worn by Town employees during work situations where hearing damage or impairment could occur.

G. Safety Equipment: Use and Accessibility

Employees shall use provided safety equipment any time the use is necessary. Safety equipment shall be kept readily accessible by the employee during the work day. Proper safety gear shall be worn by the employee prior to the beginning of any task that requires such safety gear.

H. Safety Equipment: Additional or Replacement Gear

Any employee who needs additional, or replacement, safety gear shall immediately notify their supervisor or department head.

I. Hazardous Duty Procedure

Employees shall work with at least one other employee when engaging in any potentially dangerous job (e.g. operating a chain saw, mowing on banks, or working in confined spaces [list not inclusive]).

J. Safe Behavior: General

All employees shall engage in safe behavior and practices at all times. Seat belts shall be worn when available on any equipment, and within any motor vehicle, when the equipment or vehicle is in operation. Only the operator is allowed to ride on any equipment or vehicle, unless the equipment or vehicle is designed to handle one (or more) additional riders.

K. Safety Equipment: Sun and Dehydration Protection

Proper sun protection gear shall be worn by all employees when working outdoors. Such gear shall include, but not be limited to, wide brim hats and appropriate sunscreen. Employees shall make every effort to avoid sunburn, sunstroke, heat exhaustion, or other sun/heat related illnesses by the use of proper gear and safe working precautions. Employees shall remain well hydrated when working in adverse conditions.

L. Safe Behavior: Repetitive Motion

Town employees shall take proper precautions when completing tasks that contain, or result in, repetitive motions.

M. Safety Equipment: Respiratory Protection

Town employees shall wear provided proper respiratory protection when working in dusty conditions, or when working at tasks that produce noxious fumes, vapors, or gases. (e. g. welding, using a cutting torch, etc.). The Department Head is responsible to ensure that the appropriate masks are available for each employee whose job function requires one.

N. Safety Policy and Programs

Additional safety policies and procedures that are to be adhered to by all Town employees can be found in the Town of Luray Safety Policy and Programs Manual (December 2002). All Town employees are required to comply.

O. Fire Protection: Training

Employees shall be trained by their supervisor or department head in the use of portable fire extinguishers for use on incipient stage fires.

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CHAPTER 8

LEAVE

8.1 LEAVE DEFINED

Leave is any approved absence during regularly scheduled work hours that has been authorized by the proper authority. Leave may be authorized with or without pay. Absence without leave is considered unauthorized leave (AWOL) and is subject to disciplinary action.

8.2 TYPES OF LEAVE

- A. Holiday Leave
- B. Annual Leave
- C. Sick Leave
- D. Bereavement Leave
- E. Civil Leave
- F. Military Leave
- G. Leave Without Pay
- H. Emergency Closings Policy
- I. Administrative Leave
- J. Unauthorized Absence (AWOL)

8.3 GENERAL LEAVE PROVISIONS

- A. Employees are responsible for obtaining approval from their department head before beginning any absence from work. Leave shall be requested and approved in advance in writing on the appropriate form. When circumstances allow (i.e., scheduling doctor appointments, elective surgery), sick leave shall also be requested and approved in advance. Otherwise, a sick leave request shall be completed and submitted for approval immediately upon the employee's return to work.
- B. To receive paid annual or sick leave for unscheduled absences, employees must notify their department head within two hours of their regular starting time. In cases where the department head is unavailable, employees should contact the Town Manager's Office. All departments are required to advise employees of their notification procedures.

- C. The calculation of annual and sick leave accrual is based on a standard pay period.
- D. Charges for authorized leave shall be made on an actual usage basis and rounded up to the nearest one-half hour.
- E. No employee shall use leave that has not been earned. If an employee is off and does not have sufficient leave to cover the balance of the pay period, leave without pay shall be reflected on the employee's time sheet, for approved absence, and unauthorized leave, military leave without pay, or leave without pay as specified within this policy.
- F. All employees, including temporary employees, are eligible for leave without pay.
- G. Leave shall accrue while an employee is on approved paid leave. Leave shall not accrue if an employee is on unauthorized leave, military leave without pay, or leave without pay as specified within this policy.
- H. False or fraudulent use of leave, or failure to follow this policy, may be cause for disciplinary action, including dismissal.

8.4 HOLIDAY LEAVE

- A. The Town observes the following holidays:

<u>Holiday</u>	<u>Observed</u>
New Year's Day	January 1
Martin Luther King Day	3 rd Monday in January
President's Day	3 rd Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	1 st Monday in September
Columbus Day	October 12
Veteran's Day	November 11
Thanksgiving	4 th Thursday and 4 th Friday in November
Christmas	December 24 – Christmas Eve
	December 25 – Christmas Day
	December 26 – Day after Christmas

If a holiday falls on a Saturday, it will be observed on Friday. If it falls on Sunday, it will be observed on Monday.

Employees who work irregular shifts and whose schedule requires them to be off on a holiday will receive eight (8) hours of compensatory leave. Employees who work irregular shifts and whose schedule requires them to work a full shift on a holiday shall receive their regular pay plus have the option of receiving eight (8) hours of compensatory leave or (8) hours of overtime pay. All compensatory leave earned must be taken within twelve (12) months of the earned date. *(Rev. Eff. 2/9/09)*

Additional holidays may be designated by the Town Council.

B. Appointment or Separation on a Holiday

The appointment or separation of an employee shall not be effected on a holiday unless the employee worked all that day.

8.5 ANNUAL LEAVE

A. Annual Leave

(Employed Prior to July 1, 1981)

All permanent employees hired prior to July 1, 1981 are eligible for paid vacation.

1. Hourly employees: The Town provides annual leave. Annual leave can be used for vacations as well as for other personal reasons. Employees can accumulate annual leave at the rate of one (1) day per month or twelve (12) days per year, if the employee has been employed with the Town for as long as five (5) years. An employee is entitled to fifteen (15) days annual leave, which is accumulated at the rate of one and one quarter (1¼) days per month, if he/she has been employed with the Town as long as six (6) years. When an employee has been employed with the Town for ten (10) years or longer, he/she is entitled to eighteen (18) days annual leave, which is accumulated at the rate of one and a half (1½) days per month.

1 year through 5 years	12 days
5 years through 10 years	15 days
10 years or more	18 days

2. Salary employees: The Town provides annual leave. Annual leave can be used for vacations as well as for other personal reasons. Employees can accumulate annual leave at the rate of one (1) day per month or twelve (12) days per year if an employee has been employed with the Town less

than five (5) years. If an employee has been employed with the Town for as long as five (5) years, he/she is entitled to eighteen days annual leave, which is accumulated at the rate of one and one half (1½) days per month. When an employee has been employed with the Town for 10 years or longer, he/she may take twenty-four (24) days annual leave, which is accumulated at the rate of two (2) days per month.

1 year through 5 years	12 days
5 years through 10 years	18 days
10 years or more	24 days

3. Employees on annual leave shall be paid their prevailing wage based on the prevailing scheduled workweek. Annual leave is earned only upon completion of each full calendar month of employment.
4. Annual leave accrued in one year must be taken by the end of the following year or it will be lost.
5. Annual leave may be taken in a manner mutually agreeable to the employee and his/her immediate supervisor. Employees having seniority status must exercise that status by March 30th. After March 30th annual leave will be scheduled on a first come first served basis. The Town recognizes that there will be times an employee will have to re-schedule a vacation due to unforeseen circumstances.

Except in cases of illness or emergency, annual leave must be approved in advance.

Upon separation or retirement a full-time employee shall be paid for all accrued annual leave, up to the maximum allowed.

An employee will not be permitted to take annual leave until the employee has completed three (3) months of service. Until such time, any annual leave accumulated shall not be considered vested and will not be paid if the employee separates from the Town within such time.

B. Annual Leave

(Employed After June 30, 1981)

All permanent employees hired after June 30, 1981 are eligible for paid annual leave.

1. Hourly and salary employees: The Town provides annual leave. Annual leave can be used for vacations as well as for other personal reasons. Employees can accumulate annual leave at the rate of one and one-fourth (1¼) days every third month or five (5) days per year, if an employee has

been with the Town less than two (2) years. If an employee has been employed with the Town two (2) through six (6) years, he/she is entitled to ten (10) days annual leave, which is accumulated at the rate of three-fourths ($\frac{3}{4}$) day per month and one and three-fourth ($1\frac{3}{4}$) day on the twelfth month. When an employee has been employed with the Town for seven (7) years or longer, he/she is entitled to take fifteen (15) days annual leave, which is accumulated at the rate of one and a fourth ($1\frac{1}{4}$) days per month.

1 year through 2 years	5 days
2 years through 7 years	10 days
7 years or more	15 days

2. Employees on annual leave shall be paid their prevailing wage based on the prevailing scheduled work week. Annual leave is earned only upon completion of each full calendar month of employment.
3. Annual leave accrued in one year must be taken by the end of the following year or it will be lost.
4. Annual leave may be taken in a manner mutually agreeable to the employee and his/her immediate supervisor. Employees having seniority status must exercise that status by March 30th. After March 30th annual leave will be scheduled on a first come first served basis. The Town recognizes that there will be times an employee will have to reschedule a vacation due to unforeseen circumstances.

Except in cases of illness or emergency, annual leave must be approved in advance.

Upon separation or retirement a full-time employee shall be paid for all accrued annual leave, up to the maximum allowed.

An employee will not be permitted to take annual leave until the employee has completed three (3) months of service. Until such time, any annual leave accumulated shall not be considered vested and will not be paid if the employee separates from the Town within such time.

C. Payment of Annual Leave Upon Separation

1. Upon separation an employee shall receive payment for annual leave up to the maximum accrual rate. Payment shall be calculated using the employee's base hourly rate of pay at the time of separation.

2. In the case of the death of an employee, the unused annual leave credit shall be paid to the employee's estate.

8.6 SICK LEAVE

A. Sick Leave Accrual

Regular full-time employees shall accrue one day of sick leave for each completed calendar month of service. No employee may accrue more than 120 days of sick leave.

B. Sick Leave Policy

Sick leave shall not be considered a right which may be used at the employee's discretion, but is a privilege. Sick leave shall be provided to aid employees in time of need and shall only be used when necessary, and as outlined in this policy.

1. Sick leave shall be granted, in accordance with this policy, to eligible employees for the following:
 - a. Sickness or physical incapacity;
 - b. Medical, dental, or optical diagnosis or treatment;
 - c. When an employee is unable to perform regular duties, as certified by a licensed physician, during pregnancy, childbirth, or related medical conditions associated with birth;
 - d. Exposure to a contagious disease when the employee's presence at work jeopardizes the health of others; and
 - e. The necessary care and attendance of an employee's spouse, dependent(s), and parents due to sickness or incapacity up to three (3) days per occurrence. *(Revision Effective April 26, 2011)*
2. Maternity/Pregnancy Related Absences
 - a. Employees who are absent because of pregnancy shall have their leave requests handled in the same manner as any other temporary disability and shall be governed by the provisions of this section.
 - b. Requests for time off associated with pregnancy and childbirth, once the employee has been medically released to return to work by the employee's physician shall be considered in the same manner as any other request for personal leave.

3. Written Certificate of Sickness or Physical Incapacity

- a. An employee may be required by the department head to submit a certificate by a licensed physician confirming the employee's incapacity and his/her inability to report for work.
- b. An employee who is away from work for medical conditions which require absence in excess of three consecutive work days may be required to submit to the department head a certificate from a licensed physician outlining the general nature of the medical condition, stating the earliest approximate date of return to duty, and advising on the ability of the employee to perform his/her regular duties.
- c. Sick leave shall not be approved if the employee does not present the necessary physician's certificate(s) when required by the department head, or his/her appointed designee.

4. Medical Examination

The Town Manager may require an employee to undergo a medical examination to be performed by a Town authorized, licensed, physician and at Town expense under any of the following conditions:

- a. When there is evidence to support that an employee is having problems related to job performance or safety;
- b. To verify fitness for duty of employees assigned to physically demanding jobs;
- c. When in the judgment of the department head, an employee absent on sick leave is falsely or fraudulently using sick leave; or
- d. Upon an employee's return to work after an absence due to sickness or physical incapacity.

5. Confidentiality of Medical Information

All medical information obtained shall be treated as confidential medical records to be maintained by the Town Manager's Office.

6. Modified Work Assignment

When an employee is found, either through certification from a licensed physician or Town medical examination, to be unable to perform all

regular duties and the medical condition appears to be of a temporary, short-term nature, a temporary transfer to modified duty (less strenuous or less hazardous jobs) may be granted. Request must be endorsed by the department head and forwarded to the Town Manager. Employees shall not be assigned modified duty without review and approval by the Town Manager.

7. Extended Sickness or Physical Incapacity

Medical information and the staffing needs of the department shall be considered by the department head in determining the holding of the employee's position or placement in another position for which the employee qualifies.

C. Investigation and Documentation of Sickness

A department head or Town Manager may investigate an employee's alleged sickness and sick leave request. Circumstances which may warrant investigation include, but are not limited to, the following:

1. Sick leave requested before or after a holiday or other scheduled day off;
2. Sick leave requested in excess of five consecutive workdays; or
3. When an employee's sick leave record reflects questionable leave use, repetitious usage of short amounts of sick leave, a pattern of leave use over an extended period of time, or other excessive leave usage.

D. Catastrophic Sick Leave

Under certain circumstances, the nature of an employee's illness or injury may require medical treatment which necessitates leave in excess of the amounts defined by this policy. In the event of a catastrophic illness or injury, a special exception may be requested by the employee in writing and submitted to the Town Manager. The department head and Town Manager shall review the case and may grant additional sick leave based on the location and need for the extended treatment. Any leave received in advance must be paid back in full upon return to work by applying all annual and sick leave earned. Should the employee not return to work, or leave Town employment before the leave is repaid, the employee must repay the Town in cash for the unpaid leave balance. If the employee passes away or becomes disabled, this requirement will be waived.

E. Sick Leave at Retirement

Retirement from service with the Town, an employee will be paid for unused sick leave up to a maximum of \$2,500. Exception: 20 years of Town service and more than 600 hours of accrued sick leave, payment will be a maximum of \$5,000.
(Revision Effective April 26, 2011)

F. False or Fraudulent Use of Sick Leave

Sick leave shall be denied to an employee who is found guilty of making a false statement of sickness or otherwise abuses the sick leave privilege. False or fraudulent use of sick leave shall be cause for disciplinary action, up to and including dismissal.

8.7 BEREAVEMENT LEAVE

Regular full-time employees may be granted up to three consecutive workdays of bereavement leave in the event of the death of an immediate family member as defined in Section 2.3 C 1 and 2. This leave is granted with pay and is not charged against an employee's other leave accruals.

8.8 CIVIL LEAVE

A. Eligibility

1. Regular full-time employees shall be granted leave with pay (without charge against other leave accruals) for any absence necessary when they are required to serve as a juror, or are subpoenaed as a witness to appear before a court or duly authorized public body or commission.
2. If an employee is summoned to court to appear as a witness for Town-related business or to appear as a witness in a case in which the employee is not a party, civil leave is applicable. If, however, the case is one in which the employee is a party and the court decision affects the employee (positively or negatively), the time off from the job is of a personal nature and the employee shall request leave as appropriate. Civil leave shall not be granted when a court appearance is of a personal nature.

B. Amount of Compensation

Any fees received by an employee while on civil leave may be retained by the employee.

C. Requesting Civil Leave

1. The employee shall provide a copy of the court summons or subpoena along with a leave request form to his/her department head as soon as possible to allow arrangements to be made to accommodate the employee's absence.
2. Civil leave shall not extend beyond the actual time required. Any additional time off on the same day shall be requested as annual or compensatory leave, or leave without pay, as appropriate.

8.9 MILITARY LEAVE

A. Eligibility

Regular full-time employees, including those serving a probationary period, are eligible for military leave with or without pay. Temporary and part-time employees are not eligible for military leave.

B. Military Leave With Pay

1. Employees who are former members of the armed services or members of the organized reserve forces of any of the armed services of the United States, National Guard, or naval militia shall be entitled to a military leave of absence, with pay, for the purpose of federally funded military duty to include training duty. This leave shall not exceed 15 workdays, equivalent to 120 hours, for FLSA non-exempt employees (whether the time is fragmented or continuous) each federal fiscal year, October 1 – September 30.
2. FLSA non-exempt employees requiring more than 15 workdays shall be granted the time off for the performance of such duty. Such absences shall be without pay or, at the option of the employee, may be charged to annual or compensatory leave balances.
3. Employees who are called forth by the Governor pursuant to the Code of Virginia, shall be entitled to leave with pay for the period of the ordered absence.
4. Employees returning from military leave with pay are required to return to work the first regularly scheduled workday after the end of duty, allowing reasonable travel time.

C. Military Leave Without Pay

1. Any eligible employee who leaves Town service as a result of volunteering for active duty or being drafted into the armed services of the United States during time of war or other national emergency, as determined by the Town Council, or when reservists and National Guard members are voluntarily or involuntarily called to active duty, shall be placed on military leave without pay.
2. Leave shall only be granted for active military service for those dates stated on the employee's military orders. Such leave shall extend 90 days after the employee is released from Town service.

3. Status of Benefits for Employees on Leave Without Pay for Active Military Service

- a. *Service Credit* – An employee on extended leave without pay due to active military service shall be treated as though he/she was continuously employed for purposes of determining benefits based on length of service such as the annual leave accrual.
- b. *Compensatory Leave* – Any compensatory leave balance shall be paid in accordance with chapter 4 at the time the employee is placed on military leave without pay.

4. Reinstatement from Active Military Service

Conditions – Upon satisfactory completion of active military service, the employee is entitled to reinstatement to his/her former position or to a position of like status and pay, provided that:

- 1) The employee makes application to the Town Manager within the proper time frames established under the Federal Veterans Reemployment Rights statute;
- 2) The employee presents a certificate showing satisfactory completion of military service; and
- 3) The employee is still physically and mentally qualified to perform the duties of his/her position.

D. Employee Notification Requirements

- 1. Requests for military leave shall be made in writing and submitted with copies of the employee's official military orders to the department head. The employee shall notify his/her department head of the military obligation as far in advance as possible. A minimum of two weeks advance notice is required except for an emergency call-up. In the case of emergency call-up, the employee shall notify the department head as soon as possible.
- 2. The leave request and supporting military orders shall be forwarded to the Town Manager.

8.10 LEAVE WITHOUT PAY

- A. A department head may grant leave without pay for an excused absence when the employee does not have sufficient leave credit to cover an absence during a given pay period. The Town Manager shall be notified of all occasions an employee is

in a non-pay status in excess of five workdays. The Town Manager may grant leave without pay to employees for periods beyond five consecutive work days, subject to the following conditions;

1. Leave without pay shall be granted only when it is in the interests of the Town to do so.
 2. All annual, sick and compensatory leave balances must be exhausted before leave without pay can be approved.
- B. At the expiration of leave without pay, the employee shall be reinstated in the position vacated or in any other vacant position in the same class, if possible.
- C. Annual and sick leave credit shall not accrue during leave without pay.
- D. An employee who anticipates being on approved leave without pay for five consecutive days or more shall consult the Town Manager, in advance of the absence when possible.
- E. Failure on the part of the employee to report to work at the expiration of leave without pay may be cause for disciplinary action, up to and including dismissal.

8.11 EMERGENCY CLOSINGS POLICY

It is the intent of the Town to provide maximum services to the public by maintaining normal business hours at all Town facilities. Under normal and safe conditions, employees are expected to arrive at work on time.

Adverse weather conditions (generally the result of snow or ice) and conditions which make it unsafe or unsanitary for employees to remain at work are recognized as conditions which could jeopardize the safety of employees and could therefore warrant the closing of Town facilities. The Town Manager shall determine when to announce the closing or delayed opening of Town facilities. Employees shall report to their work station unless otherwise advised by the Town Manager, or his/her designee, under this policy.

A. Essential and On-Call Personnel and Operations/Job Sites

For the purposes of this policy, employees who report to an essential job site or occupy an essential position may be regularly scheduled to work regardless of weather conditions. Additionally, certain Town employees are considered on-call for the purpose of responding to emergency situations. The Town Manager shall determine the essential positions.

B. Employee Responsibility

Employees shall be responsible for checking with the Town Manager to determine for the purposes of this policy, whether or not they would be considered nonessential.

C. Public Service Announcements

Public service announcements shall be announced over several local radio stations when the Town Manager, changes the normal business hours of Town facilities (delayed openings, closing of facilities partially or all day).

8.12 ADMINISTRATIVE LEAVE

A. Administrative leave shall be other paid leave as authorized by the Town Manager. Any paid leave specifically authorized by the Town Council, not otherwise classified by these rules, shall be classified as administrative leave.

B. Illustrative examples of administrative leave include leave authorized by the Town Manager due to severe weather conditions, conditions which make it unsanitary or unsafe for employees to remain at work, suspension of an employee due to investigation of a complaint, breakdown of equipment making it impossible to perform assigned duties, or attendance at meetings.

C. Administrative leave shall not be substituted for any other prior approved leave.

8.13 UNAUTHORIZED ABSENCE (AWOL)

A. An employee who is absent from duty without approval shall:

1. Receive no pay for the duration of the absence; and
2. Be subject to disciplinary action up to and including dismissal.

B. It is recognized that there may be extenuating circumstances for unauthorized absences and due consideration shall be given each case.

C. An employee who fails to report to work at the expiration of an authorized leave of absence or who has not requested and received approval for an extension of such leave, shall be considered and charged as unauthorized absence or absent without leave (AWOL).

8.14 FAMILY AND MEDICAL LEAVE ACT OF 1993

A. Under the Family and Medical Leave Act (FMLA) of 1993, an employee may be entitled to 12 weeks of paid or unpaid leave in a 12 month period. The 12 month period will coincide with the calendar year – January 1 to December 31.

B. Reasons for Leave

Leave may be taken:

1. to care for a child following birth, adoption or state placement of a child with the employee for foster care;
2. to care for a spouse, child or parent who has a serious health condition; or
3. for a serious health condition that makes the employee unable to perform the essential functions of the job.

C. Qualification for Leave

To qualify, an employee must have been employed by the Town for at least 12 months (need not be continuous) and must have worked at least 1,250 hours in the previous 12 months.

D. Notice Requirement

An employee is required to provide thirty (30) days notice to his/her department head if the absence is foreseeable. If the leave of absence is not reasonably foreseeable; this notification must be made as soon as practicable before the leave is to begin. Failure to give timely notice may cause leave to be delayed.

E. Medical Certification

An employee may be required to provide to the department head certification from a health care provider of the serious health condition, which requires the employee to use leave. If required, the employee must provide the certification within 15 days of the leave request or the leave may be delayed or denied. Should the Town disagree with the opinion given by your health care provider, the Town reserves the right to solicit opinions from a second or third health care provider at its expense. Additionally, an employee may be required to furnish to the department head reports on the status, intent to return and recertification of the serious health condition at no greater than 30-day intervals.

F. Use of Accrued Paid Leave

Employees are required to use all available and applicable accrued leave, before leave without pay will be granted, as part of the 12 week FMLA Leave. Usage of accrued leave will be consistent with established leave policies. Under FMLA Leave, earned annual and compensatory leave may be used without restriction; earned sick leave may be used only for the qualified leave necessitated by the serious health condition of the employee, his/her spouse, child or parent.

G. Health Insurance Continuation

During FMLA Leave, the Town will continue paying for health insurance coverage, as provided during active employment status. However, if an employee fails to return from FMLA Leave, the town may recover the premium(s) paid during the leave period of “leave without pay” status.

H. Return from FMLA Leave

Employees will be returned to their original position or to a position with equivalent pay and benefits after FMLA Leave. The Town may require a return to work medical certification and prior notification before the employee may return to work.

I. Fraudulent Leave Requests

An employee who fraudulently obtains FMLA Leave is not protected by the Act’s restoration or maintenance of health benefits provisions and will be subject to appropriate disciplinary action including dismissal.

J. Record Keeping

Department heads are responsible for keeping records designating FMLA usage and must retain these records for at least three (3) years. All medical certifications and other medical records must be forwarded to the Town Manager, and maintained in a separate file.

K. FMLA Regulations

It is the intent that this policy comply with the Family and Medical Leave Act of 1993, effective August 5, 1993. Any issue not specifically addressed herein or requiring greater definition will be reviewed with respect to the FMLA Regulations and Guidelines.

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CHAPTER 9

BENEFITS

The Town offers a comprehensive benefits program. Employees are encouraged to contact their department head or the Town Manager's Office with any questions about the benefits program.

It is important that employees advise the Town Manager's Office of any personal status changes (i.e., marriage, divorce, change in dependents or beneficiaries) which could affect their benefits. The following benefits are offered by the Town.

9.1 HEALTH INSURANCE

Permanent employees are eligible to enroll in the Town's health insurance program after a three (3) month probationary period. The Town pays the total cost of the individual premium plus 2/3 of the premium for any additional coverage.

It is the responsibility of the employee to submit claims for payment. Participating providers will submit claims automatically, claim forms may be obtained from the Town Manager's Office for the employee to fill out and submit for services by non-participating providers.

9.2 RETIREMENT

A. The Town is a member of the Virginia Retirement System. All regular full-time employees are required to enroll in VRS. The Town will pay the employer's and the employee's share of the required contribution.

B. Amount of Benefit

1. VRS offers several alternative methods of receiving retirement benefit payments (these options are outlined in the Handbook for Members).
2. The amount of the retirement benefit is based on three factors: the employee's average final compensation (average of highest 36 consecutive months of salary), years of service credit, and age.

C. Notice of Retirement

Employees planning retirement should contact the Town Manager's Office four months prior to retirement to ensure sufficient time for application of all retirement benefits.

D. Disability Retirement

1. Employees may apply for disability benefits if they become mentally or physically unable to perform their present duties, and the disability is likely to be permanent.
2. Regular disability retirement (for conditions that are not work-related) may be granted if medical conditions warrant and all other qualifications established under the retirement program are met.
3. A work-related disability results from a cause compensable under the Virginia Workers' Compensation Act. The amount of compensation provided by the retirement program is coordinated with any benefits received under Workers' Compensation and Social Security disability benefits.

9.3 GROUP LIFE INSURANCE

The Town is covered under the group life insurance program administered by the Virginia Retirement System. All full-time permanent employees are covered. The basic amount of life insurance coverage for each employee is equal to the employee's salary rounded to the next highest thousand, then doubled. The Town pays 100% of the premium for the basic coverage.

9.4 TUITION ASSISTANCE

Employees wishing to take job related courses on employee's own time will be reimbursed for books and tuition upon completion of the course with a grade of B or better.

The Town will pay for the employee to take a water or sewer license test the first time. If the employee fails to pass the first test, he or she will be responsible for the cost of any additional tests.

The Town will pay for the cost of the CDL DMV license, when required by the Town for the performance of the employee's duties.

9.5 WORKERS' COMPENSATION

A. Coverage

1. The Town provides workers' compensation insurance coverage at no cost to employees. This insurance program covers an injury (by accident) or illness (occupational disease) which arises out of and in the course of employment that requires medical, surgical, or hospital treatment. Workers' compensation coverage is provided to all regular and temporary employees, both full and part-time.

2. There are several types of benefits provided by the Virginia Workers' Compensation Act which generally include time-loss benefits after seven (7) calendar days for temporary or permanent partial disability, death benefits, paid medical expenses, and rehabilitation services.

B. Program Administration

1. Notification to the Town Manager's Office shall be within two hours of the first business day following any injury or illness which occurred during emergency or other hours outside the regular business day. The Town Manager shall be notified immediately (at home if after hours) in the event of a fatality.
2. Each department shall establish procedures for notification of appropriate personnel for emergency and after-hours situations, including notification of injury or illness of employees during such times. Departmental procedures shall be communicated to all employees affected.

3. Employee Responsibility

a. *Immediate Notification Of Injury/Illness*

It is mandatory that every work-related injury or illness regardless of severity, be reported immediately by the employee to his/her immediate supervisor. In addition when circumstances allow, the employee is to complete the written incident report at the time of supervisor notification. Failure to report an injury/illness promptly may result in loss of compensation and payment of medical expenses.

b. *Completion of Required Report(s)*

Within the first 2 hours following injury, the employee shall be responsible for completing a report of the incident using forms provided for this purpose. Upon completion, the employee shall give the report to his/her department head to review the report. (Pages 127 and 128 of this Manual)

4. Immediate Supervisor Responsibility

a. *Town Manager Notification*

The department head shall contact, or designate someone within the department to contact, the Town Manager's Office to advise of the following:

- 1) An injury/accident immediately upon receipt of employee notification; and

2) An employee's return to work or change in work status.

b. *Completion of Required Report(s)*

1) The department head shall review the incident report to ensure that it is complete. The department head shall assist the employee, when necessary, to complete all required information. In addition, the department head shall complete the report if the seriousness of the injury/illness precludes the employee from doing so, and shall later, when able, get a written statement from the incapacitated employee.

2) The incident report shall be forwarded to the Town Manger's Office within three hours of an incident.

C. Amount of Compensation During Incapacity

An employee receiving workers' compensation salary continuation may use accumulated sick leave in order to maintain his/her regular income. Compensatory leave and then annual leave may be used if the employee's sick leave balance is exhausted. However, in no case shall the total wages received be greater than what the employee's base pay would be if he/she were not incapacitated.

D. Use of Leave Pending Claim for Workers' Compensation

If a workers' compensation claim is initially denied by the VWCC and later, after a VWCC hearing, the claim is subsequently determined to be compensable under the Act, a leave adjustment shall be made to credit the employee's leave balance(s) for the portion of workers' compensation awarded.

E. Modified Work Assignments

1. The Town actively supports a selective return-to-work program. For claims deemed compensable by the workers' compensation insurance carrier, every effort shall be made within the employee's department to find a suitable modified work assignment for an employee unable to perform his/her regular duties. Any return to work action taken by the Town shall be in accordance with Virginia compensation laws.

2. The modified work assignment shall be based upon the treating physician's medical evaluation (including information on required medical treatments, recovery prognosis, work restrictions, and time frames). The department head and Town Manager shall carefully consider the medical report(s) and the availability of suitable modified duty prior to initiating a modified work assignment.

3. An injured employee who refuses any suitable employment, shall not be entitled to any compensation at any time during the continuance of such refusal, unless in the opinion of the VWCC the refusal was justified.

9.6 SOCIAL SECURITY

- A. All Town employees are covered under the Federal Old Age, Survivors, and Disability Insurance Program, commonly referred to as Social Security. Federal Insurance Contribution Act (FICA) taxes are paid both by the Town and employee in equal amounts to fund Social Security.

9.7 UNEMPLOYMENT COMPENSATION

All employees are covered under the Virginia Unemployment Compensation Act. Employees who are laid off, dismissed, or otherwise terminated by the Town for reasons other than gross misconduct or improper acts shall be entitled to apply for unemployment compensation under the rules and regulations of the Virginia Employment Commission (VEC). Application eligibility is determined by the VEC on an individual case-by-case basis.

9.8 AFFECT OF EMPLOYMENT STATUS CHANGE OF BENEFITS

- A. Termination of Employment

1. Health Insurance

- a. The Federal Consolidated Omnibus Budget Reconciliation Act (COBRA) gives employees and their qualified beneficiaries the opportunity to continue health insurance coverage under the Town's health plan when a "qualifying event" would normally result in the loss of eligibility. Some common qualifying events are: termination of employment (i.e., resignation, retirement); death of an employee; a reduction in an employee's hours from full-time to part-time; an employee's divorce or legal separation; or when a dependent child no longer meets eligibility requirements.
- b. Under COBRA, the employee or beneficiary pays the full cost of coverage at the Town's group rates plus an administration fee.
- c. Employees shall notify the Town Manager's Office of any qualifying events.

9.9 AMENDMENTS OF BENEFITS

Current benefits may be amended, modified, added, or eliminated by the Town Council at any time.

9.10 QUESTIONS CONCERNING BENEFITS

All questions concerning eligibility for various benefits or the proper procedures to be followed to qualify for any benefits discussed in this section should be referred to the Town Manager's Office.

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CHAPTER 10

EMPLOYEE TRAINING

10.1 TRAINING POLICY

A. Policy

1. It is Town policy to encourage employees to increase their technical and professional skills in order that they may perform their duties to the best of their abilities.
2. Training opportunities shall be made equitably without regard to race, sex, age, marital status, religion, disability, or national origin. In addition, efforts shall be maintained to distribute training assignments to provide maximum benefits to all eligible employees.
3. Approval of any training activity outlined in this policy is dependent upon appropriate budgeted funds being available.

B. Eligibility

Regular full and part-time employees (including probationary employees unless otherwise specified) shall be eligible to participate in any training activity outlined in this policy.

- ##### C.
- Employees may be required to successfully complete special training courses as a condition of employment.

D. Criteria

Approval of any training activity shall meet the following criteria:

1. Be of necessary and direct value to the Town and relevant to the employee's general field of work;
2. Be limited to knowledge and skills which cannot be acquired through available in-service training; and
3. Cover subject matter not sufficiently or recently encompassed in the employee's previous education and experience, or which the employee normally would not be expected to know prior to appointment to his/her present position.

E. Procedures

1. Participation in training activities outlined in this policy shall meet the following conditions and requirements.
 - a. A department head may assign an employee, and consider for approval an employee's request for training, in accordance with this policy and the administrative regulations of the Town;
 - b. All assignments, provisions for reimbursement, and direct payment of registrations and related expenses shall be subject to budget constraints. All approved training-related expenditures shall be charged to the appropriate account within the departmental budget;
 - c. Training assignments shall be subject to authorization by the Town Manager prior to enrollment; and
 - d. Each employee on approved training assignment, as outlined in this policy, shall maintain continuous satisfactory performance in the prescribed course of study.

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CHAPTER 11

CONDUCT

11.1 CONDUCT STANDARDS

- A. To ensure orderly operation and provide the best possible work environment, the Town expects employees to follow the conduct standards which are designed to protect the interests and safety of all employees and the Town.
- B. It is not possible to list all the forms of behavior that are considered unacceptable in the workplace. Examples of infractions of the conduct standards which may result in disciplinary action up to and including suspension or dismissal are listed under Causes for Disciplinary Action.
- C. Employment with the Town is the mutual consent of the Town and the employee, and either party may terminate this relationship at any time.

11.2 GIFTS AND GRATUITIES TO TOWN EMPLOYEES

- A. Employees shall not solicit or accept any money, loan, gift or gratuity, favor, or service from a contractor, firm, consultant, individual, or others which may relate to Town business or services provided, or that reasonably tends to influence the officer or employee in the performance of official duties.
- B. No one seeking employment or promotion to a Town position or appointed office shall directly or indirectly give any money, service, or other item to any person in connection with their appointment or proposed appointment.
- C. Employees are not prohibited from accepting occasional social courtesies which promote good public relations for the Town, nor to exclude gifts of food which can be shared by all employees or those within a given work area.

11.3 SOLICITATION ON TOWN PROPERTY

Persons not employed by the Town shall not solicit or distribute literature in the workplace at any time for any purpose, unless specifically authorized by the Town Manager.

11.4 CONFLICT OF INTERESTS

Employees shall comply with the Virginia State and Local Government Conflict of Interests Act. An employee with questions concerning interpretation or the application of the Act shall contact the Office of the Commonwealth's Attorney or the employee may request, through his/her department head, an opinion from the Town Manager.

11.5 POLITICAL ACTIVITY

All Town employees are encouraged to exercise their right to vote and to express private opinions of candidates and issues. To ensure and to maintain employee's individual rights free from interference or solicitation by fellow employees, supervisors, or officials, political activities during working hours or when officially representing the Town are prohibited.

11.6 CONFIDENTIALITY OF RECORDS

- A. Many Town employees work in capacities where confidential data is handled. Employees shall not discuss such information with persons not authorized to have access to it.
- B. An employee who has worked with confidential information during Town employment shall honor such confidentiality even after separation from Town service.
- C. If there is a question as to whether or not the information should be released, the inquirer shall be referred to the appropriate department head or Town Manager.

11.7 ADMINISTRATIVE INVESTIGATIONS

Employees are required to cooperate with and participate in administrative investigations involving themselves and others. Failure to do so may result in disciplinary action, including dismissal.

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CHAPTER 12

SEPARATIONS AND DISCIPLINE

12.1 SEPARATIONS

- A. An employee may be separated from Town service by any one of the following methods:

Resignation – Voluntary separation initiated by an employee who chooses to leave Town service.

Layoff – A temporary or indefinite reduction in the workforce due to economic conditions, lack of work or funds, Town or department reorganization, or other appropriate reasons, initiated by the Town.

Dismissal - Involuntary separation initiated by the Town as a result of an employee's unsatisfactory work performance or misconduct.

- B. Regular full-time employees may be eligible to apply for:

Retirement – The provisions of the Virginia Retirement System shall apply.

Disability Retirement – Separation initiated by the employee or by the Town when an employee is unable, for health reasons, to continue to work. Depending on the circumstances, the employee may be eligible for disability retirement in accordance with the provisions of the Virginia Retirement System.

12.2 RESIGNATION

- A. An employee desiring to resign in good standing shall submit a signed written notice, to include the reason for resignation, the effective date and signed by the employee to the employee's supervisor at least 14 calendar days prior to the effective date of resignation. Certain employees may be required to give a 30-day notice. The department head and the employee resigning by mutual consent, may waive or modify the advance notice requirements.
- B. An employee who has submitted his/her resignation may be continued in his/her position as though the resignation had not be filed, on his/her written request for authorization to withdraw the resignation, filed before the effective date thereof, with the approval of the Town Manager, unless the position has been filled in the meantime.
- C. Failure to comply with Section 12.1.A of this policy may be entered on the employee's personnel records and may be grounds for refusal to re-employ the employee.

12.3 RETIREMENT

Eligible employees who are planning to retire from Town service shall submit written notification to their department head at least four months prior to the retirement effective date. The written notice shall be forwarded to the Town Manager's Office.

Retirement benefits are stipulated in the Town's retirement plan.

12.4 LAYOFF

The Town Manager has the right and obligation to manage the workforce to best serve the interests of the Town and may require implementation of this reduction in workforce procedure. Unless specific instruction is received from the Town Manager, the following shall serve as the general procedure for a reduction in workforce for positions under the control of the Town Manager.

- A. When a reduction in the workforce necessitates the actual removal of personnel because of reduced appropriations, lack of sufficient work or funds, or Town-wide or departmental reorganization, layoffs may be ordered by the Town Manager in the following order:
 - 1. The order of the layoffs shall be inverse to the relative value of the employees to the Town as determined by the Town Manager.
 - 2. No regular full-time employee shall be laid off from any position while any temporary employee's employment is continued in the same position classification.
 - 3. No regular part-time employee shall be laid off from any position while any temporary part-time employee's employment is continued in the same position classification.
- B. The Town Manager's Office is responsible for executing the necessary written notices and notifying employees of layoff decisions and correspondence. Department heads shall immediately advise the Town Manager's Office of any personnel problems arising from a layoff.
- C. Notice of Layoff
 - 1. Insofar as practical, all employees to be laid off shall be provided a minimum written notice of 14 calendar days.
 - 2. Department heads shall personally meet with each affected employee to inform the employee of the layoff decision.

D. Recall Lists

1. All employees who are laid off as a result of this policy shall be placed on a Recall List for their position classification and within their department until a job offer is made or for one year from the date of separation, whichever comes first. Once a job offer is made, whether accepted or refused, the laid off employee shall be removed from the Recall List.
2. Individuals recalled to fill the same position from which they were originally removed shall be restored to regular employment status and not serve a probationary period.

E. Employee Responsibility

Any employee laid off and placed on a Recall List is responsible for notifying the Town Manager of any change in address or telephone number. Employees shall be notified to return to work by registered mail. Any individual who fails to report to work as directed within five workdays following receipt of notification to return to work shall be removed from the Recall List and no additional efforts shall be made to contact the individual.

F. Aid to Employees

Employees who are laid off under a reduction in force directive are eligible to apply to the Virginia Employment Commission for unemployment compensation. Laid off employees shall be paid for accrued annual and compensatory leave.

12.5 SEPARATION DATE

- A. When an employee separates from Town service, the effective date must be the last day that such employee is physically on the job. The Town will not be liable for matters affecting the employee following his/her physical absence from the job. It is not permissible to delay the effective date of separation by any amount of accumulated annual or compensatory leave due the separated employee. Pay for any annual and compensatory leave balances due to eligible employees shall be paid in a lump sum basis.
- B. If an employee is on approved sick leave, workers' compensation leave, or leave without pay when separated, the effective date of separation shall be the actual date of separation as given by the employee and approved by the Town Manager.
- C. When the effective separation date immediately precedes a holiday, the employee shall not be paid for the holiday.

12.6 RETURN OF TOWN PROPERTY

- A. Employees are responsible for all property, materials, and written information issued to them or in their possession or control. Employees must return all Town property that is in their possession or control in the event of separation from employment, or immediately upon request to the department head or other Town authorized designee.
- B. The Town may withhold from the employee's final paycheck the cost of any items that are not returned in proper condition. The Town may also take all action deemed appropriate to recover or protect its property.

12.7 DISCIPLINE

- A. Disciplinary action may take the form of an informal counseling session or formal written notice, or other disciplinary action as set forth herein depending upon the severity of the situation. Counseling is not mandatory prior to taking formal disciplinary action, depending on the circumstances.
- B. The department head shall consult with the Town Manager when considering disciplinary action beyond verbal reprimand.
- C. All disciplinary actions beyond verbal reprimand are initiated by the Town Manager based upon the justification(s) and recommendation(s) of the department head.
- D. All disciplinary actions beyond verbal reprimand shall be documented in writing to the employee with a copy to the employee's personnel file.
- E. Disciplinary action includes:
 - 1. Verbal Reprimand: A discussion between the department head and the employee where the employee is advised and cautioned with reference to unsatisfactory work performance or misconduct.

The department head shall maintain departmental records to document that such discussion took place, when it took place, what was discussed and who was present; depending on the severity of the offense, such documentation may be placed in the employee's personnel file.
 - 2. Written Reprimand: A reprimand reduced to writing which documents the unsatisfactory work performance or misconduct and recommends specific guidance for corrective action.

3. Suspension: A temporary removal from duty of an employee for cause where the situation is not sufficiently grave to merit dismissal. The length of time shall depend on the seriousness of the offense.
 - a. An employee may be suspended without pay; or
 - b. An employee may be suspended with pay for the purpose of completing investigatory and administrative processes concerning allegations against the employee.
 - c. For any suspension without pay in excess of seven calendar days, the department head shall provide the employee with an explanation of the reason for the Town's action and an opportunity to present his/her side of the story.
 - d. Where an employee is charged with a criminal act, the outcome of the criminal case shall not necessarily affect the outcome of the administrative investigation. The fact that a person is acquitted of the charge does not necessarily mean the suspension or other disciplinary action will be revoked.
4. Withholding of Merit Salary Increase: The denial or postponement of a merit increase within the pay range of a class which is normally awarded upon the employee's completion of a prescribed period of successful job performance.
5. Administrative Decrease: A reduction within the pay range of a class as a disciplinary action resulting from unsatisfactory job performance or misconduct.
6. Disciplinary Demotion: Demotion of an employee, for disciplinary reasons, may occur when it is determined that the employee's work has not been satisfactory after providing the opportunity and guidance for improvement, and the Town wishes to retain the employee. The employee shall meet the qualification requirements of the new, lower pay range, position prior to appointment. If the demotion is specified as temporary, the length of the demotion shall be so stated.
7. Dismissal: An employee may be dismissed from Town service upon the recommendation of the department head, subject to the review and approval of the Town Manager.

Before any employee may be dismissed, the department head shall provide the employee with an explanation of the reason for the Town's action and an opportunity to present his/her side of the story. If the employee is dismissed, such dismissal shall take effect immediately.

F. Causes for Disciplinary Action

The following are examples of unsatisfactory work performance and misconduct which may result in disciplinary action up to and including suspension or dismissal.

1. Excessive absenteeism or excessive tardiness;
2. Abuse of leave;
3. Absent without approved leave;
4. Insubordination;
5. Possession, distribution, sale, transfer, or use of alcohol or illegal drugs in the workplace, during hours, or while operating Town-owned vehicles or equipment.
6. Deliberate or grossly negligent or improper conduct endangering the safety of self or others, or which leads to damage of Town-owned or public property;
7. Theft, unauthorized use, unauthorized removal, possession of or vandalism of Town records or property, or employees' property;
8. Falsification of or damage to Town records (i.e., employment application and supporting documents, timekeeping records, safety records and reports, expense reports);
9. Unauthorized disclosure of Town records and information;
10. Participating in a work slowdown, sit down, or strike;
11. Unlawful conduct, on or off duty, when the conduct impairs the efficiency of the Town service or brings it into public disrepute;
12. Willfully violating safety or health rules where there is a threat to life or health;
13. Boisterous or disruptive activity, fighting, or threatening violence in the workplace;
14. Smoking in prohibited areas;
15. Sexual or other unlawful harassment;

16. Possession or use of dangerous or unauthorized materials, such as firearms, weapons, or explosives in the workplace.
17. Unauthorized use of telephones, mail system, or other Town-owned property;
18. Violation of Town rules, policies, ordinances, procedures, or applicable federal/state regulations.
19. Improper use of authority or position; and
20. Use of abusive or threatening language toward employees, supervisor(s), or the public.

Dismissals may be warranted in other circumstances where the employee does not meet the conditions of employment for the position, such as unsatisfactory job performance as evidenced by receiving two consecutive unsatisfactory performance evaluations; failure to maintain valid licenses or other qualifications necessary to perform the job; or inability to perform the work required, with or without reasonable accommodation.

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CHAPTER 13

GRIEVANCE PROCEDURE

13.1 GRIEVANCE PROCEDURE

A. Purpose

The purpose of the Town of Luray Grievance Procedure is to afford an immediate and impartial method for the resolution of disputes which may arise between the Town government and Town employees.

B. Coverage *(Revised January 14, 2008)*

All regular full-time Town employees, excluding probationary employees, are eligible to file grievances as provided in this policy with the following exceptions:

1. Town Manager
2. Town Clerk/Treasurer
3. Town Attorney
4. Any current and/or future employee appointed by the Town Council to serve at its pleasure.

C. Definition of Grievance

A grievance shall be a complaint or dispute by a covered employee relating to his/her employment, including but not necessarily limited to:

1. Disciplinary actions – including dismissals, disciplinary demotions and suspensions. Dismissals shall be grievable whenever resulting from formal discipline or unsatisfactory job performance.
2. The application or interpretation of personnel policies, procedures, or rules and regulations.
3. Acts of reprisal as the result of utilization of the Grievance Procedure, or of participation in the grievance of another Town employee.
4. Complaints of discrimination on the basis of race, color, creed, political affiliation, age, marital status, religion, handicap, disability, national origin or sex.
5. Acts of retaliation because the employee has complied with any law of the United States or of the Commonwealth, has reported any violation of such

law to a governmental authority, or has sought any change in law before the Congress of the United States or the General Assembly.

D. Management Responsibilities

Management reserves the exclusive right to manage the affairs and operations of the Town government. Accordingly, complaints regarding the following are not grievable:

1. The establishment and revision of wages or salaries, including annual performance evaluations and periodic pay adjustments, position classifications or general benefits.
2. Work activity accepted by the employee as a condition of employment or work activity which may reasonably be expected to be a part of the job content.
3. The contents of ordinances, statutes or established personnel policies, procedures, rules and regulations.
4. Failure to promote except where the employee can show the Town Manager that established promotional policies were not followed or applied fairly.
5. The methods, means and personnel by which such work activities are to be carried on.
6. Termination, layoff, demotion or suspension from duties because of lack of work, reduction in force, or job abolishment.
7. The hiring, promotion, transfer, assignment and retention of employees within the Town service, or a demotion requested by an employee.
8. The relief of employees from duties in emergencies.

E. Standing to Pursue a Grievance

A grievant must be personally and directly affected by an occurrence or condition before he/she shall be permitted to pursue a grievance. No employee may grieve another employee's job performance unless such job performance directly or adversely affects the grievant's own employment. Disputes as to an employee's standing to file a grievance shall be determined as shall any other disputes as to grievability as set forth in Section F.

F. Grievability

1. Decisions regarding whether or not a matter is grievable under this procedure shall be made by the Town Manager as set forth below. Decisions as to grievability shall be made at the request of the grievant or the grievant's department head, within ten days of such request. A copy of the ruling shall be sent to the grievant and to the grievant's department head. Decisions by the Town Manager that an issue is not grievable may be appealed by the grievant to the Circuit Court for a hearing de novo on the issue of grievability as provided in the appropriate sections of the Code of Virginia. Pursuant to those sections proceedings for the review of the decision of the Town Manager shall be instituted by filing notice of appeal with the Town Manager within ten (10) days after the date of his/her decision as to grievability and by giving a copy of such notice to all other parties of the grievance. Within ten (10) days after receiving notice of appeal, the Town Manager shall transmit to the Clerk of the Circuit Court a copy of his/her decision, a copy of the notice of appeal, and any exhibits which may have been provided in connection with the resolution of the issue of grievability. A list of the evidence furnished to the Court shall also be furnished to the grievant. The failure of the Town Manager to transmit the record within the time allowed shall not prejudice the rights of the grievant. The Circuit Court, on motion of the grievant, may issue a writ of certiorari requiring the Town Manager to transmit the record by a certain date. Within 30 days of receipt by the Clerk of such records, the Court, sitting without a jury, shall hear the appeal on the record transmitted, and such additional evidence as the ends of justice require. The court may affirm, reverse or modify the decision of the Town Manager. The Court's decision shall be rendered no later than the fifteenth day from the date of conclusion of the hearing. The decision of the Court is final and is not appealable.
2. All matters from the institution of a request that the Town Manager determine the issue of grievability, through the notation of appeal of an adverse decision by the Town Manager, shall be recorded on forms provided for those purposes.
3. The issue of grievability may be raised at any step of the Grievance Procedure prior to the panel hearing provided in Section L of this procedure; but once raised, the issue must be resolved before further processing of the grievance. In any event, the issue of grievability must be resolved prior to the panel hearing or it shall be deemed to have been waived by all parties. A request that

grievability be determined shall toll the time limits under this procedure. Time limits shall begin to run again the day after the decision that a matter is or is not grievable is made by the Town Manager or the Circuit Court.

4. The classification of a complaint as non-grievable by either the Town Manager or the Circuit Court shall not be construed to restrict any employee's right to seek, or management's right to provide, customary administrative review of complaints outside of the scope of the Grievance Procedure.

G. Policy Generally

1. All stages of the Grievance Procedure beyond the First Step provided in Section I shall be reduced to writing on forms supplied by the Town Manager's Office.
2. The grievant is entitled to representation at the Third Step as provided in Section K. Such representation shall be at the grievant's expense. Nothing in this section shall preclude the presence of witnesses for either party being present at Step Two.
3. Once an employee reduces the grievance to writing, the grievant shall specify on the appropriate form the specific relief he/she expects to obtain through the use of this procedure. When the employee expresses his/her grievance in writing, he/she shall first obtain the required forms from the Town Manager's Office. That office shall thereupon open a file on the grievance, assign it a number, and shall assist the grievant and the department head in ensuring that all papers are transmitted throughout this process in a timely fashion.
4. After the initial filing of a written grievance, failure of either party to comply with all substantial procedural requirements of the Grievance Procedure without just cause shall result in a decision in favor of the other party on any grievable issue, provided the party not in compliance fails to correct the noncompliance within five working days of receipt of written notification by the other party of the compliance violation. Such written notification by the grievant shall be made to the Town Manager. Failure of either party without just cause to comply with all substantial procedural requirements at the grievance panel level shall result in a decision in favor of the other party.
5. The Town Manager may require a clear written explanation of the basis for a just cause extension or exception. The Town Manager

shall determine compliance issues. Compliance determinations made by the Town Manager shall be subject to judicial review by filing petition with the Circuit Court within 30 days of the compliance determination. Any decision made by the Circuit Court is final and is not appealable.

H. Consolidation of Grievances

In the event that an employee files more than one grievance, the Town Manager may, at any time prior to a panel hearing, consolidate those grievances for joint processing. If the grievances are consolidated, the processing of the first grievance shall be suspended until such time as the last filed grievance proceeds to the same point in this procedure. Once consolidated, the grievances shall be processed at the same time.

I. First Step – Immediate Supervisor Level

1. Within 20 calendar days after the occurrence or condition giving rise to the grievance, the employee affected shall identify the grievance verbally to his/her immediate supervisor. Within five days of such presentation, the immediate supervisor shall give his/her response orally to the employee with respect to the particular grievance, or shall advise the employee that additional time is needed, the immediate supervisor must render the decision verbally within three days after notice of the need for additional time is given.
2. If a satisfactory resolution is not reached by this informal process, the employee shall reduce his/her grievance to writing, identifying specifically and in detail the nature of the grievance and the requested remedy, on a form provided for that purpose. Grievants shall be entitled, should they prevail in their grievance, only to the relief specifically requested. Such grievance shall be presented to the immediate supervisor within three days of the supervisor's verbal reply to the oral grievance. The supervisor shall then reply in writing within three days to this written grievance.
3. In the event that an employee's immediate supervisor is the department head, the grievant shall pass the First Step of this procedure and proceed immediately to the Second Step.

J. Second Step – Department Head Level

1. If a satisfactory resolution of the grievance is not reached at the First Step, the employee may so indicate on the grievance form

provided and submit the grievance to his/her department head within five days. Within five days of such submission, a meeting shall be held with the grievant and the department head to review the grievance. This time may be extended by the mutual agreement of the department head and the employee.

2. At the meeting provided for above, the only persons who may be present are the grievant, one person representing the appropriate management level at which the grievance is being heard, and appropriate witnesses for each side. Witnesses shall be present only while actually providing testimony. The meeting may be adjourned to another time or place by agreement of the parties. The department head shall provide the employee with a written reply to the grievance within five days after the meeting.
3. In the event that an employee's department head is the Town Manager, then the grievant shall pass the Third Step of this procedure and proceed immediately to Step Four.

K. Third Step – Town Manager Level

If a satisfactory resolution of the grievance has not been reached at the termination of the Second Step, the employee may submit the grievance to the Town Manager. Submission to the Town Manager must occur within five days following receipt of the response from the department head. The Town Manager shall then meet with the employee within three days or indicate that an extension is necessary. The extension shall not exceed three additional days, except by mutual agreement. The employee, at his/her option, may have a representative of his/her choice at the Third Step meeting. If the employee is represented by legal counsel, the Town Manager likewise has the option of being represented by counsel. The Town Manager shall render a written response to the grievance within five days following the Third Step meeting. The Town Manager shall ensure that a tape recording of such meeting is made and retained in his/her custody for not less than 12 months. The grievant shall be entitled to a copy of the tape recording upon payment of a reasonable fee.

L. Fourth Step – The Grievance Panel

1. If a satisfactory resolution to the grievance is not reached at the Third Step, the grievant may submit the grievance to an impartial grievance panel. The request for a hearing before a grievance panel shall be indicated by the grievant on a form provided for that purpose and submitted to the Town Manager within five days of receipt of the Third Step response.

2. The Town Manager shall schedule the grievance panel hearing. In the event that the Town Manager is a party to the grievance, or in his/her absence, the Assistant to the Town Manager shall make the necessary arrangement.

M. Composition of Grievance Panel

1. The Grievance Panel shall be composed of three impartial members who shall be chosen in the following manner: one member shall be appointed by the grievant, one member shall be appointed by the Town Manager, and the third member shall be appointed by the first two. To ensure an impartial panel, such panel shall not be composed of any person having direct involvement with the grievance being heard by the panel, or with the complaint or dispute giving rise to the grievance. Staff members who are in a direct line of supervision of a grievant and the following relatives of a participant in the grievance process or participant's spouse are prohibited from serving as panel members: Spouse, parent, child, descendants of a child, sibling, niece, nephew, and first cousin. No attorney having direct involvement with the subject matter of the grievance nor a partner, associate, employee or co-employee of such attorney shall serve as a panel member. In the event that an agreement cannot be reached as to the final panel member, the Chief Judge of the Circuit Court shall select the third panel member pursuant to the appropriate section of the Code of Virginia.
2. Both the grievant and the Town Manager shall select the first and second members of the panel within five days after the request for a panel hearing shall have been filed. These members shall, in turn, select the third member within ten days after the request for a panel hearing shall have been filed.
3. In the event that the first two members cannot reach an agreement as to the third member within such ten day period, then the Town Manager shall forward the request for appointment of a third member to the Circuit Court immediately upon notification by the first two members that they are unable to agree.
4. The third member of the grievance panel shall serve as Chairperson, shall set the time for the hearing, and notify the grievant and the Town Manager thereof. The hearing shall be held within 20 days after selection of the third panel member. Any party may have present at this meeting a representative of his/her choice. The Town Manager shall ensure that each panel member

has copies of all written materials and forms submitted in connection with the grievance. The Town Manager shall appoint an impartial employee who is not a party to the grievance or a spouse or a relative to attend the hearing for the purpose of recording the proceedings.

5. The majority decision of the grievance panel shall be final and binding as to any grievance submitted to it and shall be consistent with provisions of law and written policies.
6. The grievance panel is constituted solely for the purpose of determining whether a grievance filed by an employee is merited and what remedy, if any, should be provided. The grievance panel shall not formulate or change policy, rules or procedures. The grievance panel shall determine whether the grievant has demonstrated, by a preponderance of the evidence, that the action complained of was without cause, or done in violation of a law, rule, regulation or other policy. It shall not otherwise substitute its judgment for that of management.

N. Rules for Grievance Panel Hearings

1. The grievance panel shall have the discretion to determine the propriety of attendance at the hearing of persons not having a direct interest in the hearing. However, at the request of either party, the hearing shall be private.
2. The Town Manager shall provide the grievance panel with copies of all documents and records germane to the grievance prior to the hearing and provide the employee with a list of the documents furnished to the grievance panel. The employee and his/her attorney, at least ten days prior to the scheduled panel hearing, shall be allowed access to and copies of all relevant documents intended to be used in the grievance proceeding.
3. The grievance panel has the authority to determine the admissibility of evidence without regard to the burden of proof, or the order of presentation of evidence, so long as a full and equal opportunity is afforded to all parties for the presentation of their evidence.
4. All evidence shall be presented in the presence of the grievance panel and the parties.
5. Documents, exhibits and lists of witnesses shall be exchanged between the parties in advance of the hearing.

O. Conduct of Grievance Panel Hearings

The grievance panel shall conduct the hearing as follows:

1. The grievance panel may at any time ask the parties or their representatives for statements clarifying the issues involved in the grievance.
2. Exhibits, when offered by the grievant or the department head, may be received in evidence by the panel and when so received shall be marked and made a part of the record.
3. The parties may offer evidence and cross examine witnesses and shall produce such additional evidence as the panel may deem necessary to form an understanding and determination of the dispute. There shall be no formal rules of evidence for the panel; however, the panel shall be the judge of relevancy and materiality of any evidence offered. The grievant shall proceed first and shall bear the ultimate burden of persuasion. The Town shall proceed next.
4. The Chairperson shall specifically inquire of all parties whether they have any further proof to offer or witnesses to be heard. Upon receiving negative response, the Chairperson shall permit the parties to summarize their cases and shall then declare the hearing closed.
5. The hearings may be reopened by the panel on its own motion or upon application of a party for good cause shown at any time before a final decision is made.
6. In all matters not otherwise covered by this section, the panel shall determine the procedures to be followed.
7. The Town Manager shall ensure that a tape recording of the hearing is made and retained in his/her custody for not less than 12 months. The grievant shall be entitled to a copy of such tape recording upon payment of a reasonable fee.

P. Decision of Grievance Panel

1. The decision of the grievance panel shall be filed in writing by the panel Chairperson with the Town Mayor, the Town Manager, and the grievant, not later than 15 days after the completion of the hearing. The decision shall summarize the grievance and the

evidence, shall make specific findings of fact, and shall state in full the reasons for the decision and the remedy to be granted. Decision shall be made by majority vote of the entire panel.

2. The grievant shall bear any cost involved in employing representation and in preparing his/her case.
3. If the panel determines that the grievance is meritorious in whole or part it may (as to that portion which is meritorious):
 - a. Order that an employee be reinstated to a former position; award back pay; order expungement of information contained in the employee's personnel files, or other files maintained by the Town; or render opinions as to the application or interpretation of the personnel management system for the Town or rules and regulations adopted thereunder, as they may relate to the specific facts of the case before it.
 - b. If the panel finds that the Town failed to follow established procedures governing promotion, demotion, transfer, hiring or layoff, it shall remand the grievance with the instructions that the action taken by the Town Manager be rescinded, and proper procedures be followed for the matter at issue. In connection with such remand, the panel may make provisional orders governing the case (i.e., a person improperly promoted to a position may continue to serve temporarily in the position to which he/she was promoted, pending compliance with appropriate procedures).
 - c. The panel may affirm or modify any decision reached by any supervisor at any previous stage of the grievance proceedings.

Q. The Implementation of Remedy

1. The Town Manager shall implement any remedy which may be ordered by the panel, provided that such decision is consistent with law and written policies.
2. In the event the Town Manager does not implement the remedies ordered by the panel, the grievant may petition the Circuit court for an order requiring implementation of the decision of the panel.

R. Computation of Time

1. Except where otherwise provided, time periods under these regulations shall be deemed to begin on the day following that on which any action is to be taken or response rendered and to run without regard to weekends or holidays. If a time period herein provided ends on a weekend or holiday, the last day of the time period shall be deemed to be the end of the business day of the first working day following.
2. Time limits established under this procedure are intended to be strictly construed and enforced. Time limits may be extended by mutual agreement of all parties; provided however, that if the Town Manager consolidates grievances under Section H of this procedure, the employee's consent need not be obtained.

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CHAPTER 14

DRUG AND ALCOHOL TESTING POLICY

14.1 PURPOSE

The Town of Luray recognizes that alcohol and drug abuse has become a serious problem across America. It is, therefore, the goal of the Town to establish and maintain a safe and healthy workplace for its employees, free from drug and alcohol abuse, and to protect the safety of its citizens by providing the highest quality of service.

The Town is committed to assisting employees who may be experiencing problems with drugs or alcohol. The Town's desire to assist employees does not relieve the Town of its responsibility to maintain a drug-free workplace. The use of alcohol, illegal drugs, or the misuse of prescription drugs is not acceptable in the Town workplace. Such behavior seriously affects job performance and can create danger to citizens and co-workers. In addition, the use of illegal drugs is not acceptable at any time or place. The policy and regulations pertaining to drug-free workplace must be followed by all employees of the Town.

14.2 POLICY

It is the policy of the Town of Luray that all Town work sites shall be maintained as a drug-free workplace.

No employee shall unlawfully manufacture, distribute, dispense, possess, or use on or in the workplace, any narcotic drug, hallucinogenic drug, amphetamine, barbiturate, marijuana, or any other controlled substance, as defined in Federal Statutes and Federal Regulations.

"Workplace" is defined to mean any site for the performance of work by the employee, including but not limited to any Town building or premise; any Town-owned vehicle or equipment; any building or premise used by the Town for Town business; and any non-Town property during any Town-sponsored or Town-approved activity, event, or function. "Workplace" also includes all Town-owned property such as, but not limited to offices, desks, lockers, safes, file cabinets, toolboxes, etc.

As a condition of employment, each employee shall notify his or her supervisor of his or her conviction of a criminal drug statute (Which includes drug and alcohol convictions) no later than five (5) days after such conviction.

As a condition of employment, each employee shall abide by the terms of this town policy and regulations respecting a drug-free work place.

All Town work sites and all Town-owned property are subject to drug detection inspection at the discretion of the Town.

The possession and/or consumption of illegal drugs or alcoholic beverages in the workplace are prohibited. Violation of this policy and regulations will result in appropriate disciplinary action up to and including termination of employment.

All employees will be required to sign a form indicating that they have received and read a copy of this policy.

14.3 DRUG AND ALCOHOL TESTING

Drug and/or alcohol tests shall be required in the following cases:

1. Where an applicant for any full time Town position has been given a conditional offer of employment, subject to passage of a drug screening.
2. Where an employee in a Town position that is critical to the safety and security of employees or citizens has been selected for a random drug screening by a computer-based program.
3. Where there is reasonable suspicion that any Town employee, regardless of position or employment status, is under the influence of illegal drugs or alcohol.
4. Where a Town employee, regardless of position (or employment status), has been authorized to return to work at the recommendation of the Town's Medical Review Officer (MRO) and the Town Manager (or, if the Town Manager has been tested, the Personnel Committee Chairman) after testing positive for drug or alcohol use and referral to an employee assistance program. Testing may occur on an unannounced basis for 18 months after the employee returns to work.
5. As required by the Omnibus Transportation Employee Testing Act of 1991 and regulations of the Federal Highway Administration, all employees and applicants who hold or are offered a position that requires a Commercial Drivers License (CDL) as a condition of employment and continues employment will be tested for drugs and alcohol under the following conditions:
 - A. Pre-employment
 - B. Random selections
 - C. Post-accident
 - D. Reasonable suspicion

E. Return to work after testing positive and follow-up

A refusal to immediately submit to a drug test when requested under the circumstances above or a verified finding of alcohol or illegal drug use may result in the withdrawal of a conditional offer of employment or disciplinary action up to and including termination.

14.4 TEST PROCEDURES IN GENERAL

The administration of the drug and alcohol testing program will be in accordance with the Department of Transportation Regulations, Federal Highway Administration and the Drug-Free Workplace Act. Detailed provisions are listed in the regulations regarding the collection, labeling, and transporting of the sample. Specific requirements regarding confidentiality are also included. An Evidential Breath Testing device operated by a trained Breath Alcohol Technician (BAT) will be used for the detection of controlled substances. All employees tested will be required to sign an authorization and consent form releasing the information to the employer. The testing of the sample will be performed by a laboratory approved by the National Institute of Drug Abuse (NIDA), including a NIDA panel screening with Gas Chromatography/Mass Spectrometry (GC/MS) confirmation on all positive tests. The panel includes screening for amphetamines, marijuana, cocaine, opium, and phencyclidine (PCP). The cutoff level for each substance tested for, both drugs and alcohol, will be consistent with those currently recommended by the Federal Department of Transportation Guidelines. The cost for all drug/alcohol tests will be borne by the Town.

Any employee subject to testing under this plan will be permitted to provide urine specimens in a manner such that the employee is not observed while actually providing the specimen, unless there is reason to believe that the employee has altered or substituted the urine specimen provided. If it is determined that the employee has altered or substituted the urine specimen provided, the employee may be immediately terminated.

Failure to appear for testing without prior notice acceptable to the Town will be considered refusal to participate in the testing and will subject the employee to the full range of disciplinary action, up to and including termination; or in the case of an applicant, the rescinding of a conditional offer of employment.

When a confirmed positive test result for drugs has been returned by the laboratory, the tested employee will be given an opportunity to provide to the Medical Review Officer appropriate and corroborated information to demonstrate the confirmed positive test result is from legally prescribed medication or other ingestion. Evidence to justify a positive test result may include, but is not limited to:

1. A valid prescription; or
2. A verification from the individual's physician verifying a valid prescription.

If the Medical Review Officer determines there is lack of legitimate reason for the positive result, the result will then be considered a verified positive test result. The Medical Review Officer will timely and confidentially notify the Town Manager (or the Personnel Committee Chairman if the Town Manager has been tested) in writing of the verified positive test result. If the test results are positive the employee must be evaluated by a Substance Abuse Professional (SAP). A return-to-duty test must be conducted prior to returning to the job. The employee will be subject to a minimum of six (6) unannounced follow-up drug tests in the first twelve (12) months following the positive result. The employee may submit a written request for a retest of the original specimen within 72 hours of being notified by the medical review officer. The retest will be at the employee's expense.

The laboratory may disclose laboratory test results only to the Medical Review Officer. A positive result which the Medical Review Officer justifies by acceptable and appropriate medical or scientific documentation to account for the result as other than the intentional ingestion of drugs will be treated as a negative test result and may not be released for purposes of identifying drug use/misuse.

If the results of the employee's alcohol test indicate a blood alcohol concentration of .02% or greater, but less than .04% the employee will be suspended without pay and shall not be permitted to perform the duties of a position that requires a CDL for at least 24 hours and a retest that indicates a blood alcohol level (BAL) of less than .02%. If the blood alcohol concentration is greater than .04% the test is considered a positive result and the employee must be evaluated by a Substance Abuse Professional. Return-to-duty tests must be conducted prior to returning to the job. The employee will be subject to a minimum of six (6) unannounced follow-up alcohol tests in the first twelve (12) months. All positive tests will be confirmed by a second test. The results of these tests will be reported immediately to the Town Manager (or to the Personnel Committee Chairman if the Town Manager has been tested). A positive test result on any return-to-duty test may result in immediate termination.

All drug testing information specifically relating to employees and applicants is confidential and should be treated as such by anyone authorized to review such information. In order to implement this program efficiently and make information readily retrievable, the Town Clerk/Treasurer's Office shall maintain all records relating to reasonable suspicion, suspicion of tampering with evidence, and other authorized documentation necessary to implement and maintain this program.

All records and information of any personnel actions taken on employees with verified positive test results shall be maintained in confidential and secured files in the Town Clerk/Treasurer's Office and disseminated only to authorized individuals on a confirmed "need to know" basis as determined by the Town Manager.

14.5 GUIDELINES FOR REASONABLE SUSPICION TESTING

The following guidelines are provided as an aid in administering and enforcing the Town's drug-free workplace policy. They are not meant to cover every situation; however, they are designed to help avoid allegations of unlawful treatment. These guidelines cannot be used as a substitute for good judgment; each situation must be reviewed on a case-by-case basis. When a supervisor, in his or her judgment, has reason to believe that an employee has used and is under the influence of drugs or alcohol, the supervisor should ask his or her supervisor to corroborate the observations.

The following examples, alone or in combination, may comprise reasonable suspicion. The list is not all-inclusive.

1. Unexplained inability to perform normal job functions.
2. Slurred speech.
3. Smell of alcohol or drugs on breath.
4. Any unusual lack of physical coordination or loss of equilibrium.
5. Unexplained hyperactivity or depression and withdrawal.
6. Unexplained inability to think or reason at the employee's normal level.
7. Bizarre behavior.
8. Possession of alcohol or illegal drugs or the presence of alcohol containers, illegal drug paraphernalia in an area subject to the employee's control.
9. Information provided by a reliable and credible person.

If during normal working hours reasonable suspicion is confirmed, the supervisor shall contact the Town Manager (or the Personnel Committee Chairman if the Town Manager is suspected to be under the influence) to discuss the observations and to determine the appropriate course of action. If the employee is to be tested, the Town Manager (or the Personnel Committee Chairman) shall be notified to make the arrangements with the Town's designated collection center for the necessary drug and/or alcohol tests. The employee will be transported to the testing site (or mobile unit). If the reasonable suspicion is confirmed outside of normal working hours, then the supervisor shall arrange to have the employee transported to the approved collection center. For purposes of these guidelines, normal working hours are considered 0700 to 1700 hours, Monday through Friday.

If the employee refuses to be tested, the employee shall be immediately suspended from duty without pay and transported home. The refusal of an employee to submit to a

reasonable suspicion test shall comprise insubordination and may be the basis for disciplinary action, up to and including termination.

The supervisor who orders a drug and/or alcohol test shall document, in writing within 24 hours of the observed behavior, the conduct giving rise to reasonable belief of drug use. The documentation shall include any statements made and any actions taken by any persons involved in the incident. All records shall immediately be forwarded to the Town Clerk/Treasurer.

For purposes of maintaining a workplace free of drugs and alcohol, the Town of Luray will maintain the right to search the lockers, file cabinets, desks, other Town-owned or provided fixtures, and fixtures owned by employees but used for Town business.

14.6 DISCIPLINARY ACTION AND REHABILITATION

Possession and/or use of illegal controlled substances and the use of or being under the influence of alcohol while on duty are considered extreme misconduct and shall be appropriately disciplined. Anyone observing a violation of this policy must report it to his or her immediate supervisor, and the violations must be reported to the department head.

1. The employee shall not be disciplined until a positive test result is communicated to the Town unless the employee's conduct in connection with the substance/alcohol abuse amounts to conduct for which the Town may take action prior to knowing a positive test result. Also, where the employee is unable to safely perform the job, the employee shall be placed on administrative leave (with or without pay) depending on the outcome of the test.
2. Recommendations for discipline up to and including dismissal may be made for:
 - A. Failure or refusal by an employee to submit to a required examination;
 - B. A positive test for a controlled substance which is confirmed by Gas Chromatography/Mass Spectrometry (GCMS) or other suitable testing procedure; or
 - C. A positive test for alcohol use.
3. When dismissal is not recommended, an employee, at his or her own cost, enter and remain in a rehabilitation program approved by the Town until the approved program administrator is able to state that the employee has been successfully rehabilitated and can remain substance free. While in

the program, an employee may use accrued annual leave, sick leave or request a leave or absence without pay.

4. If the employee fails to complete the program, or fails to be rehabilitated, the employee shall be dismissed from employment with the Town.
5. An employee who resumes use of said substances after the original reinstatement to work shall be dismissed.
6. Employees in high risk positions, or working in high risk situations, public safety employees or employees in jobs requiring the operation of vehicles or other motorized equipment must report the use of medications (either prescribed or over-the-counter), which may impair their ability to safely perform their job, to their immediate supervisors. Violations of this requirement may result in disciplinary action.

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CHAPTER 15

IMPLEMENTATION OF POLICIES

15.1 CONFLICTING POLICIES REPEALED

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

15.2 SEPARABILITY

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

15.3 VIOLATIONS OF POLICY PROVISIONS

An employee violating any of the provisions of this policy shall be subject to suspension and/or dismissal, in addition to any civil or criminal penalty.

15.4 EFFECTIVE DATE

This policy shall become effective upon adoption (the date listed on the cover).

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