



TOWN OF BLACK MOUNTAIN BOARD OF ALDERMEN
SPECIAL CALL PERSONNEL POLICY MEETING MINUTES
May 9, 2019 **PERSONNEL POLICY**

THE BLACK MOUNTAIN BOARD OF ALDERMEN held a special call meeting on Thursday May 9, 2019 at 5:30 p.m. in the board room of Town Hall, 160 Midland Avenue, Black Mountain, NC. The purpose of the meeting was to discuss the Town proposed personnel policy.

1. CALL TO ORDER

Mayor Collins called the meeting to order at 5:37 p.m. with the following members present:

Mayor Don Collins
Vice Mayor Maggie Tuttle - absent
Alderman Larry Harris
Alderman Tim Raines
Alderman Carlos Showers
Alderman Ryan Stone – absent

The following staff members were present:

Josh Harrold, Town Manager
Dean Luebbe, Assistant Town Manager/Financial Services Director
Angela L. Reece, Town Clerk
Ronald E. Sneed, Attorney
Susan Russo Klein, Attorney
Shawn Freeman, Police Chief
Scottie Harris, Fire Chief
Jessica Trotman, Planning Director
Jamey Matthews, Public Services Director
Joshua Henderson, Recreation Services Director

Mayor Don Collins called the meeting to order and opened the floor for discussion.

Town Manager Harrold began the discussion of the revised Town Personnel Policy (*draft*) which is made part of and included in these minutes. Manager Harrold stated the policy was updated to reflect current human resources law and policy and procedures with the assistance of Attorney Susan Russo Klein and was also reviewed by Attorney Ron Sneed. Attorney Klein discussed the policy with the Board of Aldermen stating this document governs any employee of the Town of Black Mountain. Alderman Larry B. Harris inquired regarding the employee pay schedule as it is referred to within the policy. Attorney Klein stated the personnel policy is a mechanism for the Town Manager to conduct surveys and make recommendations to the Board of Aldermen regarding the pay schedule. Alderman Larry B. Harris directed Town Manager Harrold to review the pay schedule and bring back any recommendations at a later date. Alderman Harris discussed the option of having a whistleblower hotline made available to employees and directed Town

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Manager Harrold to contact Buncombe County and make inquiries regarding the service they are using to see if it will be cost effective for the Town. Board members agreed this was beneficial to the employees and Attorney Klein stated a hotline provided employees additional avenues to report legal or ethical concerns regarding other employees. Attorney Sneed agreed.

Mayor Don Collins inquired regarding procedures for drug testing of employees. Attorney Klein stated every employee is subject to an initial drug test but said additional drug testing can only happen in certain circumstances. Mayor Collins inquired regarding random drug testing of every employee and Attorney Klein stated random drug testing only applies to safety sensitive positions due to case law prohibiting public employers from randomly drug testing employees unless they are in safety sensitive positions. Attorney Klein stated this does not apply to reasonable suspicion. Alderman Tim Raines inquired regarding drug testing in the event of an accident. Attorney Klein stated this falls under the reasonable suspicion and said any accident that causes offsite medical care, substantial property damage or any workers comp injury is subject to drug testing.

Attorney Klein discussed the significance of being a public employer with the Board of Aldermen and staff stating the policy governs hiring, disciplining, firing, and promotion and said it is very important for any employment action to be thoroughly documented. Attorney Klein stated it was also vital that information documented be kept in a confidential file and reminded everyone that certain elements regarding public employee's files are a matter of public record as defined in NC GS 160A-168. Attorney Klein and Attorney Sneed discussed staff evaluations and procedures with the Board. Alderman Larry B. Harris stated the Board has included a provision in the budget ordinance requiring the Town Manager to make the Board aware of any pay raise outside of the initial pay raise for new employees. Attorney Klein advised the amount of the raise and reasons for it are public record but stated any other discussion regarding a raise must be discussed in closed session.

Attorney Klein suggested implementing additional staff training such as annual anti-discrimination and harassment training.

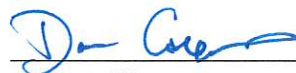
Alderman Larry B. Harris moved to adopt the Town of Black Mountain Personnel Policy as amended. The motion passed by a vote 3-0.

There was no further discussion.

There being no further business, on a motion by Alderman Larry B. Harris, with a vote of 3-0 Mayor Don Collins adjourned the meeting at 6:08 p.m.

ATTEST:


Angela L. Reece, Town Clerk


Don Collins, Mayor

Josh Harrold Town Manager



PERSONNEL POLICY RESOLUTION OF THE TOWN OF BLACK MOUNTAIN

WHEREAS, the Mayor and Town Aldermen of the Town of Black Mountain recognizes the importance of its municipal employees in meeting the service needs of Town residents; and

WHEREAS, it is the desire of the Mayor and Town Aldermen to maintain a municipal work force composed of qualified, competent, dedicated employees; and

WHEREAS, the Mayor and Town Aldermen recognize the necessity of equitable rates of pay and reasonable conditions of employment in the maintenance of such a work force; and

WHEREAS, it is the desire of the Mayor and Town Aldermen to establish a system of personnel administration that will assure equity of compensation and fair and reasonable employee treatment consistent with the needs of the Town and the circumstances of the situation which may be faced from time to time;

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND TOWN ALDERMEN OF THE TOWN OF BLACK MOUNTAIN that the following rules and regulations shall govern the appointment, classification, salary, promotion, demotion, and employment conditions of the employees of the Town of Black Mountain, North Carolina, replacing, where appropriate, the existing articles and sections on personnel, pay plans, class specifications, and benefits.

ADOPTED:

REISSUED:

Black Mountain Personnel Policy Manual

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Article I. Policy

Section 1.

The employment relationship between the Town and the employee is terminable at the will of either party at any time, with or without cause and with or without notice. No employee, officer, agent or representative of the Town has any authority to enter into any agreement or representation, verbally or in writing, which alters, amends, or contradicts this provision or other provisions in these policies. Any exception to this policy of "at will" employment must be expressly authorized in writing, approved by the Aldermen, and executed by the officers designated by the Town Aldermen.

Section 2.

None of the benefits or policies set forth herein is intended because of their publication to confer any rights or privileges upon employees or to entitle them to be or remain employed by the Town. The contents of this document and procedure herein are presented as a matter of information. They are not conditions of employment.

Section 3.

These personnel policies are not a binding contract, but merely a set of guidelines for the implementation of personnel policies. No policy can address every situation that might arise, and this Personnel Policy contains only general statements of the Town's personnel policies. The Town explicitly reserves the right to modify any of the provisions of these policies at any time and without any notice to employees. Notwithstanding any of the provisions within these policies, employment may be terminated at any time, either by the employee or by the Town, with or without cause and with or without advance notice.

Article II. General Provisions

Section 1. Purpose

The purpose of these policies is to establish a personnel system which will recruit, select, develop and maintain an effective and responsible work force. These policies are established under the authority of the General Statutes of North Carolina.

Section 2. Coverage

This policy shall cover all regular and introductory or probationary employees except as specifically exempted. The Town Manager, Town Attorney, members of the Town Aldermen, members of advisory boards and councils, and part-time employees will be excluded except in sections where specifically included.

Section 3. Definitions

- (a) *Introductory Employee* A person appointed to a budgeted position who has not yet completed the introductory or probationary period.
- (b) *Part-time Employee* An employee, either regular or temporary, who is regularly scheduled less than the number of hours per workweek designated by the Town Aldermen as full-time.

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- (c) *Full-time Employee* An employee, either regular or temporary, who is regularly scheduled to work the number of hours per workweek designated by the Town Aldermen as full-time.
- (d) *Regular Employee* An employee who has successfully completed the prescribed introductory period shall be considered regular. However, all Town positions are subject to budget review and approval each year by the Town Aldermen, and all employees' work and conduct must meet standards of performance and behavior. Therefore, reference to "regular" employees or permanent positions should not be construed as a contract or right to perpetual funding or employment.
- (e) *Temporary Employee* A person appointed to serve in a position for a defined time period, usually less than six months.
- (f) *Grievance* A claim or complaint based upon an event or condition which affects the circumstance under which an employee works, allegedly caused by misinterpretation, unfair application, or lack of established policy pertaining to employment conditions.
- (g) *Adverse Action* A demotion, dismissal, reduction in pay, layoff, suspension, or undesirable transfer.

Section 4. Merit Principle

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

The Town shall embrace the following merit system principles in administering its personnel program:

- (a) Applicants and employees shall be assured of fair treatment in all aspects of personnel administration without regard for political affiliation, race, color, religion, sex (including gender identity, sexual orientation, and pregnancy), national origin, age (40 or older), disability, genetic information or veteran status. Individuals shall likewise be treated with proper regard for their privacy and constitutional rights as citizens.
- (b) Employees shall be recruited, selected, trained, and advanced on the basis of their ability, knowledge, skill, and performance.
- (c) Employees shall be retained on the basis of the adequacy of their performance. They shall be guided in ways to correct inadequate performance and separated when inadequate performance cannot be corrected.
- (d) Employees shall be protected against coercion for partisan political purposes.
- (e) Employees shall receive equitable and adequate pay and benefits and eligible employees may receive merit pay increases based upon their performance subject to the availability of funds.

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Section 5. Responsibility of Town Aldermen

The Town Aldermen will establish personnel policies and rules, including the classification and pay plan.

The Town Aldermen will adopt or provide for rules and regulations, resolutions or ordinances concerning personnel policies and other measures that promote the hiring and retention of capable, diligent, and honest employees under the authority of the North Carolina General Statutes, to be administered by the Town Manager.

Section 6. Responsibility of the Town Manager

The Town Manager shall administer the affairs of the Town within the authority granted by the adoption of the Council-Manager form of government. The Town Manager shall be responsible for assisting in the preparation and maintenance of the position classification plan and the pay plan, and shall perform such other duties in connection with a modern personnel program as are required. The Town Manager will prescribe the office hours, workdays, and holidays to be observed by the various offices and departments of the Town. All matters dealing with personnel shall be routed to the Town Manager, who shall maintain a complete system of personnel files and records. The Town Manager may perform any or all of these duties and responsibilities or assign them to staff employees.

Section 7. Responsibility of Department Heads

The head of each Town department, with the approval of the Town Manager, shall manage operations and supervise employees assigned to the department under such rules, regulations and procedures as may be required by the Town Manager's standard operational procedures manuals or guidelines as appropriate.

Article III. Classification Plan

Section 1. Adoption

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

Section 2. Allocation of Positions

The Town Manager shall allocate each position covered by the classification plan to its appropriate class in the plan.

Section 3. Administration of the Position Classification Plan

The Town Manager shall be responsible for the administration and maintenance of the position classification plan so that it will accurately reflect the duties performed by employees in the classes to which their positions are allocated. Department heads shall be responsible for bringing to the attention of the Town Manager (1) the need for new positions, and (2) material changes in the nature of duties, responsibilities, working conditions or other factors which may affect the classification of any existing position.

When the Town Manager finds that a substantial change has occurred in the nature or level of duties and responsibilities of an existing position, the existing class specification shall be revised

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or reallocated to the appropriate class within the existing classification plan, or the position classification plan shall be amended establishing a new class to which the position may be allocated.

Section 4. Amendment of Position Classification Plan

Classes of positions shall be added and deleted from the position classification plan by the Town Manager.

Article IV. The Pay Plan

Section 1. Adoption

The schedule of pay ranges and class titles assigned to pay ranges, as amended from time to time, is hereby adopted as the pay plan for the Town. Pay ranges shall include a minimum rate, a midpoint rate and a maximum rate for each class.

Section 2. Maintenance of the Pay Plan

The Town Manager shall be responsible for the administration and maintenance of the pay plan. The pay plan is intended to provide equitable compensation for all positions, reflecting differences in duties and responsibilities, the rates of pay for comparable positions in private and public employment in the area, changes in the cost of living, the financial conditions of the Town and other factors. To this end, the Town Manager shall from time to time make comparative studies of all factors affecting the levels of pay ranges and shall recommend to the Town Aldermen such changes in pay ranges as appear to be warranted. Any actual changes to salary or compensation of any employee for any reason (except cost of living increases previously approved by the Town Alderman) shall be approved by the Town Aldermen based on the employee's core personnel information before such change takes effect.

Section 3. Use of Pay Ranges

Pay ranges are intended to furnish administrative flexibility in recognizing individual performance among employees holding positions in the same class by rewarding employees for meritorious service. The following general provisions will govern the granting of increases within the pay range:

- (a) The minimum rate established for the class is the normal hiring rate, except in those cases where unusual circumstances appear to warrant appointment at a higher rate. Appointment above the minimum rate may be made with the approval of the Town Manager when deemed necessary and in the best interest of the Town. Above-the-minimum appointments will be based on such factors as the qualifications of the applicant being higher than the desirable education and experience for the class, a shortage of qualified applicants available at the minimum rate, or other similar factors.
- (b) Rates above the minimum rate are reserved to reward employees for meritorious service. Each year, the Town Manager may require department heads to consider the eligibility of employees to receive salary increases and to recommend such advancement or retention at the same rate. Department heads shall consider all factors affecting employee performance and shall submit their recommendation in writing, giving the reasons to advance or retain the employee at the same rate.

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Section 4. Payment at a Listed Rate

All employees covered by the pay plan shall be paid at a rate within the pay range established for their respective job classes except for employees whose present salaries are above the established maximum rate following transition to a new pay plan.

Section 5. Salary of Trainee

An applicant hired or an employee promoted to a position in a higher class who does not meet all the established requirements of the position be appointed at a rate in the pay plan below the minimum established for the position. In such cases, a plan for training, including a time schedule, will be prepared.

Section 6. Pay Rates in Promotion, Demotion, Transfer, Reclassification, and Completion of Introductory Period

When an employee is promoted, demoted, transferred, or reclassified, the rate of pay for the new position will be established in accordance with the following rules:

- (a) Promotion: An employee who is promoted shall receive no more than a 7.5% award in base salary or an increase to the minimum rate of the new pay range, whichever is higher.
- (b) Demotion: The salary of an employee who is demoted shall be paid within the job classification and pay scale for the new job based on the employee's qualifications and the job itself.
- (c) Transfer: An employee transferring from a position in one class to a position in another class assigned the same pay range shall continue to receive the same salary.
- (d) Reclassification: An employee whose position is reclassified to a class having a higher pay range shall receive a 2.5% award in base salary or an increase to the minimum rate of the new pay range, whichever is higher. If the position is reclassified to a lower pay range and the employee is receiving a salary above the maximum rate established for the new class, the salary of the employee shall be maintained at that level until such time as the employee's pay range is increased above the employee's current salary.
- (e) Introductory Period: An employee who successfully completes the introductory period may receive a pay award. Police officers may receive a pay award after completing their six-month introductory period. All other employees may receive a pay award after completing a twelve-month introductory period.

Section 7. Pay Rates in Salary Range Revisions

When salary ranges are changed, the salaries of employees whose positions are allocated to that class shall be affected as follows:

- (a) When a class of positions is assigned to a higher pay range, employees in that class shall receive a 5% pay increase or an increase to the minimum rate of the new range, whichever is higher.
- (b) When a class of positions is assigned to a lower pay range, the salaries of employees in that class will remain unchanged. If this assignment to a lower pay range results in an employee

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being paid at a rate above the maximum rate established for the new class, the salary of the employee shall be maintained at that level until such time as the employee's pay range is increased above the employee's current salary.

- (c) When an adjustment is made to a pay range to reflect market changes, or as a result of a complete revision to the classification and pay plan by a consulting firm resulting in reclassification, employees in classes within that pay range may or may not receive adjustments, depending on the Town's financial condition or recommendations from the consultants.

Section 8. Pay for Part-Time Work

The pay plan established by this policy is for full-time service. An employee appointed for less than full-time service will be paid an amount determined by using the hourly rate of the position classification assigned.

Section 9. Overtime/Compensatory Time

To the extent that local government jurisdictions are so required, the Town will comply with the Fair Labor Standards Act (FLSA).

The Town Manager, following FLSA regulations, shall determine which jobs are "non-exempt" and are, therefore, subject to the Act in areas such as hours of work and work periods, rates of overtime compensation, and other provisions.

Non-exempt employees in the general work force will be paid at a straight time rate for hours up to the FLSA established limit for their positions (usually 40 hours in a 7-day period). The Town may elect to pay employees overtime pay at one and one-half their regular rate of pay or award one and one half hours of compensatory time for each hour worked over the established limit for their positions in lieu of cash payments, in accordance with the provisions of the Fair Labor Standards Act.

Non-exempt sworn law enforcement officers in the Police Department shall receive one and one half hours of compensation time or overtime pay at one and one-half their regular rate of pay, in the Town's discretion, for all hours in excess of 171 hours in a designated 28-day work period.

Non-exempt employees who qualify as firefighters under the FLSA shall receive one and one half hours of compensatory time or overtime pay at one and one-half their regular rate of pay, in the Town's discretion, for all hours in excess of 212 hours in a designated 28 day work period.

In determining eligibility for overtime in a work period, only hours actually worked shall be considered. Pay for time not worked on sick leave, annual leave, and compensatory leave will not be counted when determining these threshold hours for overtime eligibility. Whenever practical, departments will schedule time off on an hour-for-hour basis within the applicable work period for non-exempt employees. When time off within the work period cannot be granted, overtime worked will be accrued as compensatory time at a time-and-one-half rate, in accordance with FLSA regulations.

A non-exempt law enforcement, firefighter or emergency response employee may not accrue more

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than 480 hours of compensation time. Non-exempt employees in the general work force may not accrue more than 240 hours of compensation time.

Overtime work must be of an unusual, unscheduled, or emergency nature and must be approved by the employee's supervisor. Failure to obtain supervisory approval in advance for overtime may result in disciplinary action. Additional work time must be recorded on an employee's time sheet in order to accrue overtime/compensatory time. The department head is responsible for ensuring that overtime hours are authorized, recorded, and properly documented for compensatory time off or overtime pay in accordance with established policy. Hours are only accumulated after an employee works the maximum designated number of hours as established by the FLSA and set forth hereinabove.

The Town reserves the right to make cash payments for any overtime worked in situations that it deems appropriate. Examples of these situations include but are not limited to:

1. Employee staffing levels demonstrably below that required to perform what is determined to be an essential task;
2. Emergency situations;
3. Call-back situations as approved by the appropriate supervisory personnel;
4. The availability of sufficient funds to pay financial responsibilities incurred by the town; and
5. Other situations that may be authorized by the Town Manager.

Cash payments at a rate of one and one-half the affected employee's regular rate of pay for overtime work shall be made only when authorized, in advance, by the Town Manager.

Employees in positions determined to be "exempt" from FLSA (as Executive, Administrative, or Professional staff) will not receive pay for hours worked in excess of their normal work periods. These employees may be granted occasional compensatory leave by their department heads or the Town Manager where the convenience of the department allows.

Section 10. Use of Compensatory Time

It is the responsibility of the department head to administer the compensatory time policy to ensure that employees do not accrue excessive levels of compensatory time. When possible, department heads shall provide time off, on an hour-for-hour basis, within the same pay period as the additional time expected to be worked.

Employees should be allowed to use part or all of the accrued time within a reasonable period, unless doing so would unduly disrupt the department's operations.

Use of compensatory leave should be approved and taken in the same manner as annual leave. Compensatory leave must be exhausted before annual leave can be taken.

Any unused accrued compensatory time balance will be paid out at termination of employment for non-exempt employees.

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Section 11. Merit Pay Awards

When the quality of an employee's performance is worthy of special recognition, the employee's salary may be advanced within the same assigned pay range. Such merit award shall be done only after recommendation of the department head, with the approval of the Town Manager, and based on the quality of the individual's work performance. Any such increases in wages and salaries are subject to availability of funding.

Merit awards shall not be granted automatically. When an employee's productivity, behavior, attendance or work quality need to be improved, the department head shall deny a merit award with the approval of the Town Manager, and the employee shall be told where improvement needs to be made.

A merit award within the applicable pay range may be granted to deserving full-time employees in accordance with the following provisions:

- (a) When a new employee has completed a year of continuous service, including the initial introductory period, and annually thereafter following a year of continuous service.
- (b) A promoted employee shall be eligible for a merit award after a year of continuous service from the date of promotion.
- (c) When such an award will not exceed the maximum salary rate for the class of the position. In those cases where receipt of a merit award would move an employee's salary beyond the maximum rate of pay for their pay range, the employee's salary will be moved to the maximum rate of pay and he/she will receive the remainder of the increase as a bonus.
- (d) When the work of the employee is determined to be within the requirements contained in the Town of Black Mountain's Performance Evaluation guidelines, as documented on the employee's performance evaluation. All employee awards are subject to availability of funding.
- (e) An employee's annual merit award shall not exceed five percent (5%).

Section 12. Merit Bonus Awards

The purpose of the merit bonus is to provide an alternative reward system to employees who have reached the maximum salary rate in their pay range or who have exhibited performance worthy of special recognition.

In lieu of merit pay awards as provided for in Section 11, a merit bonus may be awarded to an employee who has reached the maximum rate of pay for the range in which his or her position is classified. The merit bonus payment (if any) shall be awarded based on the performance of the employee as reflected on the annual performance evaluation. Merit bonuses to employees who have reached their maximum rate of pay may not exceed 2.5% of their annual gross pay rate.

In circumstances where an employee has performed in a manner that is worthy of special recognition, and except as provided above, the department head may recommend a merit bonus of

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up to 5% of the employee's annual gross pay rate. Any combination of merit pay award and merit bonus may be recommended to reward employees who have not reached the maximum rate for the pay range in which their position is classified for performance deserving of special recognition; however, in no circumstance shall the merit pay award and merit bonus, as totaled together on an annual basis, exceed 5% of the employee's annual gross rate of pay.

An employee who has completed his or her initial introductory period and performs the duties and responsibilities of his or her position in an outstanding manner, and whose work generally is above expectations, shall be eligible to be considered for an outstanding performance award. An outstanding performance award shall be recommended by a department head, shall be in writing, shall state the reason for such recommendation and shall be submitted to the Town Manager for approval, subject to approval by the Town Aldermen. Outstanding performance awards may be granted in any dollar amount not to exceed \$750.00. Outstanding performance awards are separate from the maximum merit pay award and merit bonus.

Section 13. Payroll Deductions

Only payroll deductions specifically mandated or authorized by federal, state, or Town act may be deducted at each period from each employee's pay.

Section 14. Pay for Storm Related Snow and Debris Removal

This policy provides compensation to employees who are required or who volunteer to participate in storm related snow and debris removal. (Debris is defined as any material blocking streets or impeding traffic.) The policy will allow the department head to utilize the resources of other departments in long-term operations. The Town Manager or his or her designee will have the authority to implement this policy in the event of inclement weather at such time that the Public Works Department's snow and/or debris operations extends past the first twenty-four (24) hour period. At this time, personnel will be assigned to shifts up to twelve (12) hours. The Public Works Director shall be responsible to appoint shift supervisors for each assigned work period. The policy will be terminated when the twenty-four (24) hour operations ceases. A period of normal operations must exist for a twenty-four (24) hour period before the policy can be implemented again.

This policy will apply only to full and part time employees of the Town who are actively employed by the Town at the time the policy is implemented and to public safety volunteers and auxiliary members who are actively enrolled in the Black Mountain Fire and Police Departments. Employees who are employed by the Public Works Department will be required at the onset of each event to designate in writing (see Form 1, on file with department head) whether they elect to accrue compensatory time or be paid in lieu of compensatory time for overtime hours worked in accordance with Article IV, Section 9, Overtime, in the Black Mountain Personnel Policy. Employees who are assigned to departments other than the Public Works Department may be asked by their department head to assist in the snow and debris removal operation during their regularly scheduled hours of work. These employees will be paid their regular rate of pay while they are working their regular hours of duty. Employees from departments other than the Public Works Department who are off duty and volunteer to assist during the snow/debris removal operation after their regularly scheduled work hours will be required to designate in writing their understanding of this policy (see Form 2, on file with department head) and willingness to accept

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the established flat hourly rate of pay for all hours worked over their regularly scheduled work hours.

The established hourly rate of pay for off-duty employees from department other than the Public Works Department who volunteer to assist in the snow/debris removal operation will be Pay Plan Grade 7, Minimum Rate of Pay of the Salary Schedule, as adopted.

The shift supervisors will be responsible for keeping accurate records of the hours worked by all employees and volunteer/auxiliary members on a time sheet separate from the department's regular time sheet. This time sheet along with the required signed forms will be turned in to the Public Works Director for submission to the Payroll Office. Employees will be paid in accordance with the Town's regular bi-weekly pay schedule.

No employee will be allowed to work more than twelve hours in a work period during the time the policy is implemented.

Article V. Recruitment and Employment

Section 1. Statement of Equal Employment Opportunity Policy

It is the policy of the Town to foster, maintain, and promote equal employment opportunity. The Town shall select employees on the basis of the applicants' qualifications and without regard to political affiliation, race, color, religion, sex (including gender identity, sexual orientation, and pregnancy), national origin, age (40 or older), disability, genetic information or veteran status. Applicants with disabilities shall be given equal consideration with other applicants for positions if such applicants can, with or without reasonable accommodation, perform the essential requirements of the position.

Section 2. Implementation of EEO Policy

All personnel responsible for recruitment and employment shall continue to review regularly the implementation of this Personnel Policy and relevant practices to assure that equal employment opportunity based on reasonable performance-related job requirements is being actively observed to the end that no employee or applicant for employment shall suffer discrimination because of political affiliation, race, color, religion, sex (including gender identity, sexual orientation, and pregnancy), national origin, age (40 or older), disability, genetic information or veteran status, or retaliation for reporting instances of such discrimination. Notices with regard to equal employment matters shall be posted in conspicuous places on Town government premises in places where notices are customarily posted. In addition, the Town will comply with the provisions contained within the Americans With Disabilities Act (ADA) as amended. It is the Town Manager's responsibility to ensure compliance and make recommendations for actions to bring the organization into compliance.

Section 3. Recruitment

All opportunities for employment except those positions that will be filled from within shall be publicized, including applicable salary ranges and employment qualifications. Information on job openings and hiring practices may be provided to recruitment sources including organizations and various media serving the appropriate labor market. In addition, notice of vacancies shall be posted

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at designated conspicuous sites within Town buildings. Individuals shall be recruited from a geographic area as wide as is necessary to ensure that well-qualified applicants are obtained for Town service.

Section 4. Job Announcements

Employment announcements shall contain assurances of equal employment opportunity and shall comply with federal and state statutes regarding discrimination in employment matters.

Section 5. Applications for Employment

All persons expressing interest in employment with the Town shall be given the opportunity to file an application for employment when a position is vacant or when the Town is advertising to fill such positions. Applications will remain active only for that vacant position available.

Section 6. Application Reserve File

Upon inquiring, each potential applicant shall be informed of the current job openings. Applications will be held in reserve file in accordance with the Records Retention Schedule issued by the NC Division of Archives and History.

Section 7. Qualification Standards

- (a) Employees shall meet the employment standards established by the position classification plan and such other reasonable, job-related minimum standards of character, aptitude, knowledge, skills, abilities, and physical condition as may be established by the Town Manager with the advice and recommendation(s) of department heads. These qualifications may also include the requirements that applicants be drug-free prior to entering the workforce.

Some positions mandate pre-employment physicals due to occupational requirements. The costs of these physicals will be borne by the Town. Successful completion of the physical is a precondition to any final offer to a candidate.

- (b) Qualifications shall be reviewed periodically to assure that requirements are fair and conform to the actual job performance requirements.
- (c) The Town may employ an applicant in a trainee capacity who does not meet all minimum qualifications for a particular job if the deficiencies can be eliminated through orientation and on-the-job training within one year.

Section 8. Selection

Department heads shall make such investigations and conduct such examinations as deemed appropriate to assess fairly the aptitude, education and experience, knowledge and skills, character, physical fitness, and other qualifications required for positions in the service of the Town. All selection devices administered by the Town or by persons or agencies for the Town shall be valid measures of job requirements.

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Section 9. Appointments

It is the Town's policy to create career opportunities for its employees when possible. Therefore, when a current employee applying for a vacant position possesses the best qualifications of all applicants, that applicant shall be given priority consideration. However, if other applicants possess comparable qualifications and if the Town would continue any historical discriminatory employment practices by automatically promoting or transferring the current employee without considering other applicants, then the Town must carefully consider the qualifications of other applicants in filling this position.

Section 10. Introductory Period of Employment

An employee appointed to a regular position shall serve an introductory period of six (6) months. New police employees are required to serve a twelve (12) month probationary period as required by the state. This time period is to be considered a continuation of the selection process, and does not change the nature of the employee's at-will status. An employee serving an introductory or probationary period following initial appointment may be dismissed with or without cause and without right of appeal at any time during the introductory or probationary period. A regular employee serving an introductory period following a promotion shall be demoted as provided in this Article if unable to perform assigned duties of the new job satisfactorily.

Following successful completion of an employee's introductory period, the quality of his or her performance shall continue to be reviewed and appropriate instruction and counsel shall be provided in methods for improving job performance.

An introductory employee whose work is unsatisfactory shall receive a written warning before being terminated by the department head. If the employee's work continues to be unsatisfactory during the introductory period, the employee may be terminated.

An employee serving an introductory period following initial employment in a regular position will receive all benefits provided in accordance with this policy, with the following exception or as otherwise provided:

- (a) Employees may accumulate vacation leave but will not be permitted to take vacation leave during the introductory period. Employees may accrue sick leave but will not be permitted to use accrued sick leave during the introductory period.
- (b) Employees serving in an introductory period following promotion will continue to receive all benefits provided in accordance with this policy.

In unusual cases, for specific reasons approved by the Town Manager, the introductory period may be extended for a maximum of an additional six (6) months. In such cases, the employee must be notified of the purpose of the extension, the conditions and performance expectations, and the length of time of the extension. However, sick and vacation leave may be used by the employee in this extended introductory period with prior approval of the department head. Likewise, police personnel serving in the second half of their twelve (12) month probationary period may use accumulated sick and vacation with prior approval of the Police Chief.

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Section 11. Performance Evaluation

A supervisor shall evaluate performance beginning with the employee's first day on the job. Through open communications with his or her supervisor, the employee should obtain a clear understanding of what is expected related to job performance and a periodic assessment of his or her job strengths and weaknesses.

A formal evaluation shall be completed for an employee prior to the completion of his or her introductory period and at least once each year thereafter. The Town's performance evaluation program provides a system for appraising the employee's work.

Section 12. Notification of Disciplinary Action

When an employee is suspended, demoted, or dismissed, the department head shall immediately provide the employee with written notice of the charges against him or her, the action taken, effective date of action, and the recourse(s), if any, available to the employee in accordance with Articles VIII and IX of this Personnel Policy.

Section 13. Promotion

Department heads shall endeavor to anticipate retirements and turnover and to have employees trained to assume positions of greater responsibility. In filling vacancies an effort shall be made to promote qualified employees from within the Town work force before seeking an outside replacement.

When a vacancy occurs, the supervisor and/or department head in whose department the vacancy occurs shall review all applications received, including those from current Town employees wishing to be promoted into the position. If a current Town employee is chosen for promotion, the department head shall forward the employee's name to the Town Manager with recommendations for classification and salary and reasons for selecting the employee over other applicants. After receiving such comments, the Town Manager shall make an appointment, if appropriate, and determine the starting salary.

Candidates for promotion shall be chosen on the basis of existing or anticipated job openings, on their qualifications, and on their work records. Employees being promoted must meet the qualification standards to include education, training, and experience for the classification to which the promotion is being made.

Section 14. Demotion

Any employee who fails to maintain high standards of personal conduct or whose work in his or her present position is unsatisfactory may be demoted provided the employee shows promise of becoming a satisfactory employee in another position. Such a demotion shall be preceded by the warning procedures outlined for cases involving inability to perform duties or failure in performance of duties. An employee who wishes to accept a position with less complex duties and responsibility may be demoted for reasons other than unsatisfactory performance of duties or failures in personal conduct.

In all cases involving demotion the employee shall be provided with written notice citing the recommended effective date, reasons for demotion, and appeal rights available, if any, in

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accordance with Articles VIII and IX of this Personnel Policy.

Section 15. Transfer

An employee who has successfully completed an introductory period may be transferred to the same or similar class in a different department. As vacancies occur in other departments to which an employee would be eligible for transfer, the employee shall notify his or her supervisor of interest in the transfer and submit notice of a desire for transfer to the various department head(s) for consideration. If a department head wishes to hire that employee, the employee must request a transfer to that specific department and have the transfer approved by the Town Manager. The Town Manager, in his or her sole discretion, may waive the requirement that an employee have successfully completed an introductory period prior to transfer.

Section 16. Reduction in Force

In the event that a reduction in force becomes necessary the quality of each employee's past performance and the needs of the Town as well as seniority shall be considered in determining those employees to be retained. Regular employees who are to be terminated due to reduction in force shall normally be given at least 10 working days' notice of the anticipated layoff.

Section 17. Transference of Accumulated Sick Leave

The Town of Black Mountain will allow new employees who are vested members of the North Carolina State and Local Government Retirement Program to transfer up to 120 hours of accumulated sick leave at the employee's request. The employee must provide documentation from his or her former agency within 30 days as to the exact amount of sick leave that has been accumulated.

Section 18. Criminal Background Check Policy

CRIMINAL BACKGROUND/DMV RECORDS CHECK POLICY AND PROCEDURES FOR APPLICANTS; CRIMINAL CHARGES AND CONVICTIONS REPORTING PROCEDURES FOR EMPLOYEES

Purpose of Policy: The purpose of this policy is to safeguard Town assets, employees, and the Town of Black Mountain citizens. This policy will assure that employees and prospective employees are an asset to the Town and citizens rather than a liability.

Responsibilities: It shall be the responsibility of the Human Resources Coordinator, under the direction and final authority of the Town Manager, to evaluate criminal background checks within the guidelines as described in this policy. This policy shall provide for fair and unbiased treatment regardless of political affiliation, race, color, religion, sex (including gender identity, sexual orientation, and pregnancy), national origin, age (40 or older), disability, genetic information or veteran status of a candidate. This policy shall comply with the Fair Credit Reporting Act, Americans with Disabilities Act, Equal Employment Opportunity Commission guidance, and other federal and state laws.

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APPLICANT CRIMINAL BACKGROUND CHECK PROCEDURES:

Communication: The criminal background requirement will be announced on all vacancy announcements through all means of advertisement.

Procedures for Conducting Applicant Criminal Background Checks: All positions (full-time, part-time, and temporary) within the Town of Black Mountain shall require a criminal background check. Applicants shall complete a Criminal Background Check Consent Form prior to the check being conducted. Refusal to sign disclosure authorization statement will constitute grounds to discontinue any employment consideration for that candidate. All background checks will be discussed with management on an as-needed basis. It shall be the management staff's responsibility to maintain background check results in a highly confidential manner. The highest level of management or department head shall review and approve the background checks in relation to the essential functions of the job. It shall be the responsibility of the Human Resources Coordinator, under the direction of the Town Manager, to qualify or disqualify applicants for hire in all Town departments. Should there be a disagreement between the Human Resources Coordinator and the department head on the results of the check, the Town Manager shall be the final authority.

BACKGROUND CHECK PROCEDURES FOR EMPLOYEES:

All employees will be required to report any criminal convictions and/or charges to Human Resources and the department head in writing by the end of the following business day, not to exceed 48 hours. If verbal notice is given, the employee shall provide a written statement within 48 hours of the convictions/charges. Convictions/charges to be reported include, but are not limited to: detention, criminal summons, civil summons, expired driver's license, warrant for arrest, order for arrest, traffic violations, etc. Minor citations such as expired inspection stickers, expired license plates, warning tickets, parking tickets, improper equipment, or any other non-moving violations shall be excluded from reporting procedures.

Employees who are promoted, demoted, or transferred to other positions within Town employment shall be required to have a criminal background check conducted prior to moving into the position. The Town of Black Mountain shall have the right to perform criminal background checks on any current employee for reasonable cause. Based on the severity of convictions/charges, offenses seven years or older may be alleviated from the disqualification criteria.

Disciplinary Action: Employees failing to report convictions/charges shall be subject to disciplinary action up to and including termination. Convictions/charges reported shall be evaluated in terms of the nature of the essential job functions versus convictions/charges to determine continued employment or disciplinary action.

GENERAL INFORMATION:

Description of Criminal Background Check: A criminal background check shall consist of a review of national criminal records to include convictions and/or charges, felonies, misdemeanors,

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and traffic violations that appear. In addition, a United States National Sex Offender Registry search shall be conducted. Maiden names shall also be checked.

Interpretation of Criminal Background Checks: The final determination to qualify/disqualify a background check shall be made by the Human Resources Coordinator, and in consultation with the department head if necessary, under the direction of the Town Manager. Disqualifying information is identified based upon the nature of convictions/charges versus the essential functions in the job and the associated risks, dates of convictions/charges, and the candidate's record since the date of the conviction.

Professional discretion and consistent application must be used to ensure that only job-related disqualifications occur. **Examples of disqualifying criteria include, but are not limited to:** embezzlement or fraud conviction of an accountant applicant, sexual harassment judgment against a management applicant, or drunk-driving conviction against an individual whose essential job functions require the operation of a motor vehicle. Based on the severity of convictions/charges, offenses seven years or older may be alleviated from the disqualification criteria. The Board of Aldermen shall be the final decision maker for the Town Manager, and the Town Manager and Human Resources Coordinator shall be the final decision makers for the department heads.

Notification of Disqualification and Appeal Procedures: In the event that disqualifying information is revealed during the background check process, applicants shall be notified in writing that the conditional offer of employment is being withdrawn. Applicants shall have the right to appeal the disqualifying decision to the Town Manager in writing within five business days from the date of receipt of the rejection notification letter. Applicants applying for the position of Town Manager shall appeal to the Board of Aldermen.

Employees will be notified in writing of the criminal convictions/charges. They shall have the right to appeal any disciplinary action or employment decisions related to convictions/charges by using the guidelines set forth in the Town of Black Mountain's Personnel Policy, Article IX, Grievance Procedure.

Recordkeeping: Evidence that a background check was conducted, date and type of background check, and a sufficient record of a disqualifying outcome must be maintained. A copy of the disqualification notification to the applicant and the background check record must be retained in the position vacancy file.

Evidence of a background check that results in an employee being approved for hire and employee checks should be filed separately from their personnel files. However, background information that includes infractions, and other personal information will not be retained beyond its usefulness in approving the individual for employment, even if such information is favorable to the employee, unless a specific need for such records exists.

Section 19. Disability Accommodation

The Town is committed to complying fully with the Americans with Disabilities Act (ADA). The Town is also committed to ensuring equal opportunity in employment for qualified persons with

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disabilities. The Town conducts all its employment practices and activities on a non-discriminatory basis.

The Town's hiring procedures are intended to provide meaningful employment opportunities for persons with disabilities. Upon request by an applicant with a disability, the Town will make reasonable accommodations to allow the applicant to submit an application for a position. The Town only makes pre-employment inquiries regarding an applicant's ability to perform the duties of the job.

Reasonable accommodation is available to an employee with a disability when the disability affects the performance of job functions. The Town makes its employment decisions based on the merits of the situation in accordance with defined criteria, not the disability of the individual. It is the employee's responsibility to let the employer know of any disability that affects his or her ability to perform required job functions. Once the employee has informed his or her supervisor, department head, or the Human Resources Coordinator, the designated Town employee will work with the employee to identify reasonable accommodations that permit the employee to perform his or her job duties within any limitations caused by his or her disability, so long as the reasonable accommodation does not cause the Town undue hardship.

Qualified individuals with disabilities are entitled to equal pay and other forms of compensation (or changes in compensation) as well as job assignments, classifications, organizational structures, position descriptions, lines of progressions, and seniority lists.

Article VI. Work Conditions and Expectations

Section 1. Work Period

The work period is defined as seven consecutive days. Full-time, non-exempt, employees (other than public safety shift employees) normally work 40 hours per work period and are subject to the overtime provisions set forth within these policies. Police officers' and firefighters' work schedules will be established and maintained in accordance with FLSA, and work periods will be set as 28 consecutive days. Non-exempt police officers, regardless of rank, receive overtime or comp time, in the Town's discretion, after 171 hours of work over 28 consecutive days. Non-exempt firefighters, regardless of rank, receive overtime or comp time, in the Town's discretion, after 212 hours of work over 28 consecutive days.

Exempt employees in administrative, professional or managerial positions shall work the number of hours necessary to assure the satisfactory performance of their duties.

When the activities of a particular department require some other schedule to meet work needs, the Town Manager may authorize department heads to create deviations from the normal schedule.

Section 2. On Call

The nature of several jobs performed by Town employees require that those employees be on call, that is, be available and ready to work, for emergencies. Such on-call duty is an integral part of the routine duties and responsibilities of some jobs. Employees required to be on call shall serve on call on a weekly (7-day) basis. Employees shall not be awarded additional compensation for

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on-call duty because the pay and classification system already recognizes this duty in the regular base rate of pay.

In the event employees are called back, including those on-call to perform assigned duties outside of normal working hours, they will receive a minimum of two hours of compensation time if these hours called in yield overtime within the work period. Overtime compensation will be made in accordance with the FLSA and the overtime provisions of this Policy.

Those employees who are on call and cannot be located to perform their duties in the event of being called back, will be subject to disciplinary action.

Section 3. Volunteer Service

The Town encourages and shall permit employees to participate as members of a volunteer emergency service to the extent that such volunteer activities do not interfere with the employee's responsibilities in the Town service. Employees are allowed to use vacation leave accruals if they choose to volunteer during the normal scheduled work period. However, no employee will be required or will be allowed to volunteer his or her time to the Town to perform the same or similar work performed as a regular employee.

Section 4. Safety

It is the intent of the Town to provide for an ongoing program that assures a safe, healthy work environment for all employees and complies with all safety laws and regulations. To that end, each supervisor shall be responsible for:

- (a) Providing safe work procedures and environments;
- (b) Implementing safety policies and programs;
- (c) Informing and training employees in safe work habits;
- (d) Detecting and correcting unsafe practices and conditions;
- (e) Investigating accidents and preparing accident reports; and
- (f) Encouraging employees to report unsafe conditions and to submit practical safety suggestions.

Likewise, each Town employee shall be responsible for:

- (a) Developing and maintaining safe work habits;
- (b) Promptly reporting all accidents and injuries;
- (c) Pointing out what are believed to be dangerous practices and working conditions;
- (d) Assisting with investigations of accidents;
- (e) Taking proper care of safety equipment;

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- (f) Wearing proper clothing and avoiding loose sleeves, cuffs, rings, bracelets, and long hair around moving machinery;
- (g) Knowing the location and use of fire extinguishers, the location of fire exits, and the best method for reporting a fire; and
- (h) Abiding by all safety laws and regulations.

In addition to the above provisions, the Town will maintain a safety manual which details safety related procedures and responsibilities. Employees shall be expected to comply with those provisions.

It is important that the Town retains certain personal information about employees. Employees should notify their supervisor as soon as there is a change to the employee's mailing address, telephone numbers, emergency contact information and other related information.

Section 5. Conflict of Interest and Political Activity

Applicability.

This policy is complies with NCGS §14-234 (Public officers or employees benefiting from public contracts) and NCGS §133-32 (prohibits gifts and favors). Nothing in this policy is intended to supplant, nor can it override the provisions of NCGS §14-234 and NCGS §133-32. The provisions of this section shall be applicable to all elected officials and appointed officials of the Town, as well as all Town employees.

Conflicts resulting in Financial Gain

(a) Definitions. For the purposes of this section, the following definitions shall apply:

- (1) *Conflict of interest* means any act in which a public official or employee receives a direct or indirect gain as a result of the exercise of their official responsibilities or as a result of using the position to which they have been elected or appointed. In any case in which a conflict of interest may be present, elected officials, appointed officials and appointed staff should make the circumstances known to the Mayor or Board of Aldermen; and all employees appointed by the Town Manager should make the circumstances known to the Town Manager for a determination as to whether a conflict of interest does exist.
- (2) *Elected officials* mean those individuals elected to a position as Mayor or Alderman.
- (3) *Appointed Officials* mean any person appointed to a Town Board or Commission, as well as Town employees appointed directly by the Board of Aldermen.
- (4) *Employee* means any person hired directly by the Town of Black Mountain, including full-time, part-time and seasonal personnel.
- (5) *Immediate family* is defined as a spouse, children, parents or siblings of an official or employee.

(b) Specific acts creating conflicts. The following acts are deemed to be in conflict with the

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Town's best interest:

- (1) For an elected official, appointed official or employee to solicit, give or receive gifts of more than token value (\$25) which are in any way connected with their employment;
- (2) For an elected official, appointed official or employee or any member of their immediate family to benefit personally from any purchase of goods or services or to derive personal gain from any transaction in which they have an influence;
- (3) For an elected official, appointed official or employee to loan or to borrow from individuals or concerns that do business with the Town, except banks and other financial institutions;
- (4) For an elected official, appointed official or employee to serve as an officer, director, employee or consultant of, or to receive income from, any enterprise doing business with the Town, or to seek to do so, unless the relationship has been fully disclosed and has been approved by the Town Manager, in the case of an employee, and Mayor or Board of Aldermen in the case of an elected official and employees appointed directly by the Board of Aldermen;
- (5) For an elected official to interfere with the performance of duties of the Town Manager or any other employee of the Town;
- (6) For an employee to use or permit others to use Town employees, materials or equipment for personal purposes;
- (7) For an employee to accept compensation from non-Town-related enterprises for services or time for which the employee is being paid by the Town;
- (8) For an elected official, appointed official or employee to disclose to any person any information which may be used by the recipient for personal gain unless such information is in the public domain and generally available to others;
- (9) For an employee to accept any outside employment in accordance with Section 6 of this Article;
- (10) For an employee to engage in any political or partisan activity while on duty;
- (11) For any employee to use official authority or influence for the purpose of interfering with or affecting the result of an election or nomination for office;
- (12) For an employee to be required as a duty of employment or as a condition for employment, promotion, or tenure of office to contribute funds for political or partisan purposes;
- (13) For an employee to coerce, solicit or compel contributions for political or partisan purposes by another employee of the Town;
- (14) For an employee to be a candidate for the Town Board of Aldermen;
- (15) For an employee to acquire a monetary interest in any property, transaction, or enterprise or gain any monetary benefit which may be affected by such information or official action, or to intentionally aid another to do so;
- (16) For an employee who will derive a direct benefit from a contract with the public agency he or she serves to influence any other person who is involved in making or administering the contract;
- (17) For any employee involved in preparing plans, specifications, or estimates for public contracts, awarding or administering public contracts, or inspecting or supervising construction performed pursuant to a public contract, to receive or accept any gift or favor from any contractor, subcontractor or supplier who has a

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contract with the Town, has performed under a contract with the Town or may bid on a contract with the Town in the subsequent year;

(18) To take any other action defined as a conflict of interest under applicable law.

(c) Reporting a violation. Any allegation of violation of state law involving an elected official should be reported to the Board of Aldermen who, if they determine that the complaint of violation has merit, should report the alleged violation to the District Attorney. Any allegation of violation of this policy involving an appointed official who reports directly to the Board of Aldermen should be reported to the Board of Aldermen. Any allegation of violation of this policy involving an appointed official who reports directly to the Town Manager should be reported to the Town Manager. Any allegation of violation of this policy involving an employee should be reported to the Town Manager.

(d) Penalty for violation. Any violation of this section shall be deemed to be a conflict of interest and shall subject such violating employee to dismissal or other disciplinary action or such legal action as permitted by the appropriate laws or ordinances.

Section 6. Outside Employment

The work of the Town will take precedence over other occupational or special interest of employees which may interfere or be perceived as creating a conflict or interference. All outside employment for salaries, wages, or other compensation and all self-employment must be reported to and approved by the employee's department head and the Human Resources Coordinator. If the outside employment is similar to or related to the employee's primary job responsibility, the Town Manager must also approve the outside employment. Outside employment causing or perceived as a conflict of interest shall be disapproved. The Town Manager shall be responsible for the final decision as to whether outside employment constitutes a conflict of interest. Failure to disclose outside employment prior to commencing such work is a violation of this policy and is subject to the penalties set forth in Section 5(d) of this Article.

Section 7. Limitation of Employment of Relatives

(a) The employment of members of an immediate family within the same department at the same time is discouraged, but may occur contingent upon prior approval of the Town Manager. In no case, however, shall two (2) members of an immediate family be employed at the same time if such employment would result in an employee directly or indirectly supervising a member of his or her immediate family. This section shall not apply to part-time, or temporary employees and shall not apply to volunteers.

(b) Approval of the employment of immediate relatives within the same department at the same time shall be based upon the Town Manager's best judgment as to the ability of the departmental supervisory personnel to manage the workplace to which immediate relatives are assigned and the apparent ability of the relatives to work together amicably within the department. The Town Manager shall also consider the proximity in which the individuals will be working, the relation of the two relatives, as well as the number of other personnel employed within the department.

(c) This policy shall not be retroactive, and no action will be taken concerning those members of the same family employed in conflict with Section 7(a) above prior to the adoption of

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this policy.

- (d) Immediate family is defined for the purpose of this section as spouse, mother, father, guardian, children, sisters, brothers, grandparents, grandchildren plus the various combinations of half, step, in-law and adopted relationships that can be derived from those names, or anyone living as a part of the same household.

Section 8. Conformance to Immigration Law Requirements

All employees are required to furnish proof of citizenship or other required documents indicating a legal right to work in the United States.

Section 9. Selective Service Requirements

All male employees and male applicants between the ages of 18 and 25 must furnish proof that they are registered for selective service and a copy of such proof shall be a part of their personnel file.

Section 10. Confidential Information

No elected official, appointed official or employee shall, without the approval of his or her department head or the Town Manager, disclose confidential information concerning the property, government, or affairs of the Town. No elected official, appointed official or employee shall use such information to advance the financial or other private interest of themselves or others.

Section 11. Controlled Substances

No employee shall use intoxicating beverages or non-prescribed controlled drugs of any kind while on duty. For purposes of this Personnel Policy, "illegal drugs" or "controlled substances" refers to illegal drugs that are controlled substances under federal law, which are not being used under the supervision of a licensed health care professional and in accordance with law. No employee shall report for duty while under the influence of an intoxicant or non-prescribed controlled substance. Any employee who uses prescription medication and reasonably suspects it may affect job performance or safety must notify their supervisor. The Town will make reasonable accommodations to permit a disabled employee to perform their job while under the influence of the prescribed medication. The Town's substance abuse, testing, referral and rehabilitation administrative policy contained in Article XII of the Town's Personnel Policy will apply in most other circumstances. The Town Manager is responsible for administration of this program.

Section 12. Use of Town-Owned Equipment

The personal use of any Town-owned equipment or supplies by any employee, elected or appointed official or individual is prohibited.

Use of Town-owned vehicles is governed by the following:

- (a) Vehicles owned by the Town may be provided to one or more employees in connection with Town business and shall be used only on Town business. When the vehicle is not used in the Town's business, it must be kept on the Town's business premises. Pursuant to federal and state law, neither the employee, nor any individual whose use would be taxable to the employee, may use the Town vehicle for personal use.

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- (b) For bona fide non-compensatory business reasons, the Town may require certain employees to commute to and from work in Town vehicles that are not exempted by IRS regulations. In accord with federal and state law, an employee may not use the Town-owned vehicle for personal use other than commuting. Under these conditions the Town will account for commuting use as specified and required in IRS regulations.

Section 13. Travel and Expense Reimbursement

Employees, elected and appointed officials may, from time to time, be involved in out-of-town travel to attend schools, business meetings, conferences, etc. All reasonable expenses (e.g., meals, lodging, etc.) shall be reimbursed at actual costs, while travel in a personal car will be reimbursed at a mileage rate consistent with prevailing IRS limits to the extent authorized by the Town Board of Aldermen for non-taxable reimbursements authorized by the Town Board. A Travel Authorization and Expense Form must be completed for all travel advances and reimbursements.

Advances of travel and expenses must be authorized by the Department Head. The Town Manager shall have the authority to approve or disapprove all requests for travel advances. Such requests shall be made at least ten (10) work days in advance of the actual expenses except in emergency situations.

Transportation If a Town vehicle can be used, the Town will reimburse the employee in the amount of written receipts for gasoline expenditures. When an employee is authorized to travel in a personal car, reimbursement will be made at the current mileage rate consistent with prevailing IRS limits.

Lodging Cost of lodging will be reimbursed. At the end of a trip, lodging will be paid if an employee is unable to return home before 9:00 p.m. Employees attending meetings, conferences, etc., where lodging is offered and available at a government facility, shall be required to use such accommodations.

Meals Reimbursement for meal expenses shall be guided by reasonableness. Meal expenses shall ordinarily be reimbursable only when incurred on out-of-town travel or when the meal itself is the occasion of a business meeting. All travel claims must be supported by detailed documentation, usually in the form of receipts or similar vouchers. The maximum allowable reimbursable expense for meals shall be listed on the Travel Authorization and Expense Form. In lieu of reimbursement of actual expenses, employees may request per diem payment of all three meals rather than submit receipts. The per diem payment allowable shall be listed on the Travel Authorization and Expense Form.

Registration Fees The registration fee for conferences or other authorized events will be reimbursed. A receipt must be submitted for any registration fee paid either by the employee or from a travel allowance.

The Town Manager, upon the recommendation of the Assistant Budget and Finance Officer, may deny reimbursement of any questionable, unsupported, or excessive expense claims submitted by employees.

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Any violation of the provisions in this section shall be deemed improper conduct and may subject the employee to discharge or other disciplinary action.

Section 14. Discrimination and Sexual Harassment

- (a) The Town intends to provide a work environment free of any intimidation, hostility, or harassment based on or motivated by discrimination. The Town prohibits any discrimination and/or harassment based on a person's race, color, religion, sex (including gender identity, sexual orientation, and pregnancy), national origin, age (40 or older), disability, genetic information, veteran status or political affiliation.
- (b) The Town views such conduct as a very serious matter, and no form of such discrimination or harassment will be tolerated.
- (c) Examples of discrimination or harassment include, but are not limited to, the following when they are directed towards a protected class listed in Section 14(a):
 - (1) Physical or mental abuse;
 - (2) Insults, jokes, slurs or comments about a person's body, dress or appearance;
 - (3) Unwelcome sexual advances or requests for sexual favors, or reprisals or threats of reprisal after an employee's negative response to sexual advances;
 - (4) Promises or opportunities for advancement, demotion, pay raises or deductions, favorable or unfavorable changes to schedules, references or other benefits or disadvantages;
 - (5) Visual conduct such as leering, making sexual gestures, or displaying discriminatory or harassing objects, pictures, cartoons, or posters;
 - (6) Physical conduct such as touching, assault or impeding or blocking movement;
 - (7) Retaliation for reporting or threatening to report harassment or discrimination;
 - (8) Any offensive behavior or language that creates a hostile or intimidating work atmosphere because of its discriminatory content.
- (d) If an employee feels he or she has been subjected to any form of harassment and/or discrimination, the employee should firmly and clearly tell the person engaging in the harassing and/or discriminatory conduct that it is unwelcome, offensive, and should stop at once. Additionally, the employee should report immediately any discrimination and/or harassment to his or her immediate supervisor. If the employee is unable or unwilling to report discrimination or harassment to his or her supervisor, she or he may report the behavior to the employee's department head or the Human Resources Coordinator.
- (e) The Town will promptly conduct an investigation into any complaint of discrimination or harassment. While the Town cannot promise confidentiality, it will conduct its investigation in as sensitive and confidential a manner as possible. A timely resolution of each complaint will be reached and communicated to the employee and the other parties involved. Appropriate corrective action, up to and including termination, will be taken promptly against any employee engaging in discrimination and /or harassment. Retaliation against any employee for filing a complaint or participating in an investigation is strictly prohibited. However, any employee who knowingly makes a false claim of harassment and/or discrimination will be subject to corrective action, up to and including termination.

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Section 15. Surrender of Property

An employee who is suspended or separates from employment for any reason shall be required to return all items of equipment and supplies, including uniforms, owned by the Town. Employees agree that the Town may deduct from an employee's final paycheck the reasonable costs of any Town property the employee fails to return promptly upon separation from employment.

Section 16. Credit Check

The Town of Black Mountain will conduct a credit check on applicants to whom a conditional offer of employment is made when the position involves money-handling responsibilities and when promoted to a department requiring the handling of money. Employees subject to this policy are required to sign written authorization for the Town to conduct such a credit check as a precondition of employment. All credit checks will be conducted in accordance with the Fair Credit Reporting Act.

Section 17. Bi-annual Driving Records Check

The Town of Black Mountain will conduct a driving records check on applicants after an offer of employment is made but before the applicant begins work when the job duties involve driving a Town or personal vehicle, and thereafter on a bi-annual basis. Employees subject to this policy are required to sign written authorization for the Town to conduct such a driving records check as a precondition of employment.

Section 18. Searches

The Town may conduct a search of Town property at any time, including as part of an investigation into theft or substance abuse by an employee, theft by an employee, or other circumstances in which the Town may reasonably seek evidence of a crime or violation of Town policy. The Town may search workstations, desks, Town-issued computers and phones, Town voicemail and email, files, Town vehicles or other Town property. The Town may use surveillance equipment at any time in any work or office area, subject to applicable law. The Town may also ask an employee to consent to a search of his or her person or property if it has a reasonable suspicion and legitimate interest in doing so. Searches shall only be conducted by law enforcement personnel and must be approved by the Town Manager or his or her designee in consultation with the ranking law enforcement officer on duty at the time the search is requested by the supervisor. Failure of any employee to comply with this policy may result in disciplinary action, up to and including termination. The Town reserves the right to seize all drugs, paraphernalia, weapons or other contraband found on Town property, and will turn over such contraband to and cooperate with authorities for prosecution of any illegal acts.

Section 19. Professional Appearance

Whenever an employee is working, that employee represents the Town. At work, employees should be clean, well groomed, and wear appropriate clothes for their position. If an employee is required to be in uniform, it is the employee's responsibility to keep his or her uniform neat and clean at all times. If an employee is required to wear a nametag for his or her position, he or she must display a nametags at all times.

If a supervisor finds that an employee's personal appearance is inappropriate, that employee will

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be asked to leave work and return properly dressed and groomed. If an employee is asked to leave, he or she will not be paid for the time away from work. Employees should contact their supervisor with questions about appropriate professional appearance for their department, including requests for accommodations based on disabilities, religious beliefs or other legal rights.

Section 20. Professional Behavior

Employees are expected to behave professionally and conduct themselves ethically in ways that protect the interest and safety of all employees and the Town. While it is impossible to list every action that defines professionalism and ethics, the following lists some examples. Employees who behave unprofessionally or unethically may be subject to disciplinary action, up to and including termination of employment:

- Employees should be aware of and act in accordance with their positions as Town employees, both while at work and while off-duty.
- Employees should behave respectfully towards other employees and the general public. Disrespectful conduct includes rudeness, coercion, intimidation, threats, using vulgarity, and gambling or fighting while working.
- Employees should behave honestly and with integrity.
- Employees should abide by the laws, regulations and ordinances applicable to them.
- Employees are expected to remain in their assigned work area(s) and perform their job duties faithfully during regularly scheduled work hours. Assigned work areas are defined as the area where a manager has asked the employee to perform work related duties and where the employee can be expected to be found by his or her supervisor.
- Employees should cooperate and support each other in conducting Town business.
- Employees should speak civilly to and about one another. Excessive, false or harmful gossip about other employees is unprofessional, whether communicated orally or in writing. This is not intended to prohibit employees from engaging in discussions about work conditions protected by law.
- Employees are expected to accept bona fide job assignments. Willful disobedience of instructions, walking off the job without authorization, or uncooperative or inappropriate conduct is unprofessional.
- Employees are expected to be punctual. Excessive absenteeism or tardiness is unprofessional.

Section 21. Social Media

Employees who publish on any social media in their official capacity should refer to their departmental social media guidelines.

The Town recognizes employees' rights to post on social media in their individual or personal capacities under the First Amendment. Employees should use common sense and discretion when posting. Employees who publish on any social media in their individual or personal capacity should follow these guidelines:

- (a) Employees may list their Town position in their personal social media accounts, but they are not authorized to speak or comment on behalf of the Town.
- (b) Employees may not attribute their personal statements, opinions, or beliefs to the Town. If

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an employee is commenting on personal social media on matters of public concern, the employee must clearly express that he or she is not speaking on behalf of the Town. An example of this disclaimer might be "These views are mine alone and do not necessarily reflect the views of the Town of Black Mountain".

- (c) Employees may not disclose confidential Town information.
- (d) Employees may not use the Town logo or trademarks.
- (e) Employees may not post any material that: (i) infringes upon the rights of any other person, including harassment, hate speech or libel; (ii) constitutes a criminal offense; (iii) violates the privacy rights of fellow employees; or (iv) meaningfully impairs the efficiency of the Town as a workplace.
- (f) Personal use of social media while on duty, including during breaks, must not be excessive such that it interferes with the employee's work or work of others.
- (g) Nothing in this policy is intended to prohibit or infringe upon any communication, speech or expression that is protected by law.

Section 22. Workplace Monitoring

As a public agency, many Town communications are public record. The Town may conduct workplace monitoring to help ensure quality control, employee safety, security, and public satisfaction. No communication while working or using Town property should be offensive, harassing, or abusive.

Email sent for normal business transactions are public records. The Town may review work emails to comply with public records law.

Employees who regularly communicate with the public may have their work telephone conversations monitored or recorded.

All computer equipment, services, or technology that furnished to employees by the Town are the property of the Town. The Town reserves the right to monitor computer activities and data that is stored in its computer systems. The Town also reserves the right to access any Town data that the employee may write, send, or receive by computer, smartphone, or other electronic device, whether such device is the property of the Town or the employee, subject to the requirements of Section 18 of this Article.

The Town may perform other surveillance of non-private workplace areas. Because the Town is sensitive to employees' legitimate privacy rights, the Town will make every effort to guarantee that workplace monitoring is always done ethically and respectfully.

Section 23. Whistleblower Protection

The Town is committed to operating ethically and within the law. Employees who report illegal or unethical conduct are protected against unlawful retaliation and discrimination. Employees who

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observe such conduct should promptly report to 1) the HR Coordinator, 2) the Town Manager, 3) the Board of Aldermen, or 4) the Town Attorney. Reporting should be done to the first person listed above, unless that person is unavailable or is the person believed to be engaged in the wrongful conduct. In such event, the employee should report to the next person on the list above. An employee may submit a report anonymously. An employee may report a crime directly to law enforcement.

The person receiving the report of illegal or unethical conduct is charged with ensuring the report is investigated and referred to the proper authorities. All reports will be taken seriously and addressed promptly, discreetly and professionally. The employee charged with investigating the report will use his or her best efforts to maintain the reporting employee's confidentiality unless the investigation cannot proceed without revealing that information or it is required by applicable law. In such case, the investigating employee should use his or her best efforts to inform the reporting employee prior to or as soon thereafter as is practicable of the release of his or her identity, and take such additional steps as are deemed prudent and necessary to ensure the reporting employee does not suffer any retaliation or discrimination as a result of his or her report.

Retaliation against any employee who reports illegal or unethical conduct under this Personnel Policy is strictly prohibited. Any employee engaged in retaliatory behavior, including an unnecessary release of the reporting employee's identity, will be subject to discipline, up to and including termination of employment. Any employee who knowingly files a misleading or false report, or without a reasonable belief as to its truth or accuracy, is not protected under this policy and may be subject to discipline.

Article VII. Leaves of Absence

Section 1. Holidays

- (a) General Employees The following days, and other days as the Town Aldermen may designate, are holidays with pay for full-time employees and appointed officials of the Town working the regular work week.

New Year's Day	Labor Day
Martin L. King Day	Veteran's Day
Easter Friday	Thanksgiving Day
Memorial Day	Day after Thanksgiving
Independence Day	Christmas - see schedule

When a holiday, other than Christmas Day, falls on Saturday then the prior Friday shall be observed as the holiday. When the holiday, other than Christmas, falls on a Sunday then the following Monday shall be observed as the holiday.

When Christmas Day falls on:



The Town observes:



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

For employees having a work week with more hours than the basic work week, holiday leave shall be granted in the same proportion as their work week is to a forty (40) hour work week.

In order to be eligible for holiday pay, an employee must have been in pay status for a minimum of four (4) hours before and after the holiday, unless excused by the Town Manager or department head with an approved leave with pay.

- (b) Public Safety Employees Public safety employees will observe holidays on the actual holiday and not the designated holiday observed by the Town. The following days, and other days as the Town Aldermen may designate, are holidays with pay for public safety employees:

New Year's Day	Veteran's Day
Martin L. King Day	Thanksgiving Day
Easter Sunday	Day after Thanksgiving
Memorial Day	Christmas Eve
Independence Day	*Christmas Day
Labor Day	

*When Christmas Day falls on Wednesday, Public Safety Departments will observe Monday, Tuesday, and Wednesday.

*When Christmas Day falls on Thursday, Public Safety Departments will observe Wednesday, Thursday, and Friday.

For employees having a work week with more hours than the basic work week, holiday leave shall be granted in the same proportion as their work week is to a forty (40) hour work week.

In order to be eligible for holiday pay, an employee must have been in pay status for a minimum of four (4) hours before and after the holiday, unless excused by the Town Manager or department head with an approved leave with pay.

Section 2. Effect of Holidays on Other Types of Leave

Regular holidays which occur during a vacation, sick or other leave period of any appointed official or employee of the Town shall be paid as holiday pay, and shall not be considered as vacation, sick or other leave.

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Section 3. Holiday - When Work Is Required

Police Department - Employees who are scheduled to work on regularly scheduled holidays shall be granted 8 hours of additional leave time to be taken within the pay period. In cases where the department head cannot schedule the 8 hours of leave within the pay period, the employee will be paid 8 hours of holiday pay (at the employee's regular hourly rate) within the pay period in addition to their regular pay. Employees whose regular day off falls on a scheduled holiday will be scheduled to take a substitution holiday within the work period, or shall be granted 8 hours "holiday compensatory time", in the Department Head's discretion. "Holiday compensatory time" shall be paid as any "overtime compensatory time" and shall be granted in compliance with the Fair Labor Standards Act.

Fire Department - Employees who are scheduled to work on regularly scheduled holidays will be paid 8 hours of holiday pay (at the employee's regular hourly rate) within the pay period in addition to their regular pay.

Section 4. Vacation Leave

Vacation leave shall be used for rest and relaxation and may be used for medical appointments.

(a) Initial Appointment Introductory employees serving a probationary period following initial appointment may accrue vacation leave but shall not be permitted to take vacation leave during the introductory period.

(b) Vacation Leave (Annual Leave) - Manner of Accumulation Any employee working the basic work week of 40 hours shall accrue vacation leave at the following rates:

<u>Years of Completed Aggregate Service</u>	<u>Vacation Leave Hours Earned Per Pay Period</u>
0 but less than 3	3 hours per pay period
3 but less than 10	4 hours per pay period
10 but less than 15	5 hours per pay period
15 but less than 20	6 hours per pay period
20 + years	7 hours per pay period

Vacation leave earned by employees having a work week with more hours than the basic work week shall be determined in accordance with the formula as set forth in the payroll manual.

(c) Vacation Leave - Maximum Accumulation Annual leave may accrue up to 240 hours maximum until the last day of the pay period containing December 31 of each calendar year. When an employee separates from service, payment for accrued annual leave shall not exceed 240 hours. During the last day of the pay period containing December 31, any employee with more than 240 hours shall have the excess accumulation canceled so that no more than 240 accrued hours carries forward to the pay period following in the new calendar year. The accrued leave in excess of 240 hours which is not carried forward will automatically be transferred into that employee's sick leave account.

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

(d) Vacation Leave - Manner of Taking Leave Vacation leave may be taken as earned by a regular employee subject to the approval of the department head.

(e) Vacation Leave - Terminal Pay of Vacation Leave An employee who is separated shall be paid for vacation leave accrued to the date of separation not to exceed a maximum of 240 hours. Except as otherwise provided in this Policy, **employees who do not give adequate notice (2 weeks for most employees, unless otherwise posted in the employee's department) will not be paid for their accrued vacation upon termination.**

(f) Vacation Leave - Payment for Accumulated Vacation upon Death The designated beneficiary of an employee who dies while employed by the Town shall be entitled to payment for all accrued vacation leave credited to the employee's account, not to exceed 240 hours, at the time of death.

Section 5. Sick Leave

Sick leave with pay is not a right which an employee may demand but a privilege granted by the Town Aldermen for the benefit of a full-time employee when sick. Sick leave may be granted to an employee absent from work for any of the following reasons: sickness, bodily injury, required physical or dental examination or treatment, or exposure to a contagious disease when continuing work might jeopardize the health of others. Sick leave may be used when an employee must care for a spouse, child or the employee's mother or father upon prior approval of the department head.

Notification of the desire to take sick leave should be submitted to the employee's supervisor prior to the leave, when possible, or not later than two (2) hours after the beginning of a scheduled work day.

(a) Sick Leave - Manner of Accrual Each full-time regular and introductory employee working the basic work week of 40 hours shall accrue sick leave at a rate of 12 days annually which equates to 3.69 hours per bi-weekly period for regular employees.

(b) Sick Leave - Maximum Accrual Sick leave shall accumulate with no maximum accumulation, and may be used as credit for service under the NC Local Governmental Employee's Retirement System.

(c) Sick Leave - Physician's Certificate The employee's supervisor or department head may require a physician's certificate concerning the nature of the illness and the employee's physical capacity to resume duties for each occasion on which an employee uses sick leave.

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- (d) Sick Leave – No Terminal Pay of Sick Leave An employee who is separated shall not be paid for sick leave accrued prior to separation.
- (e) Sick Leave - No Payment for Accumulated Sick Leave upon Death The designated beneficiary of an employee who dies while employed by the Town shall not be paid for accrued sick leave credited to the employee's account.

Section 6. Voluntary Shared Leave

Regular employees may donate and receive leave earned by others through sharing arrangements. Donations by employees are to be done on a one-on-one arrangement and are required to follow the procedures and rules contained in the Voluntary Shared Leave Program created and administered by the Town Manager.

The Town Manager will account for shared leave on a prorated basis. The Town Manager will create and enforce equitable minimum levels of vacation balances and eligibility requirements for recipients. The Town Manager shall have sole discretion to interpret the eligibility and procedures necessary for employees to use shared leave.

Section 7. Family Medical Leave

The Town will comply with the provisions of the Family Medical Leave Act (FMLA). Except as otherwise provided below, employees are entitled to take leave without pay for up to 12 weeks for reason contained within the Act. If an employee elects to use paid leave for leave authorized within the Family Medical Leave Act, such paid leave will run concurrently with the 12 week FMLA leave. For recordkeeping purposes, the 12-month period for FMLA will be measured by the calendar year. Family Medical Leave is available as follows:

- (a) Eligible employee An employee who has been employed with the Town for at least twelve (12) months and who has worked at least 1,250 hours during the past 12 months is entitled to a total of twelve (12) work weeks of family and medical leave either paid through the election of accrued leave or unpaid during a twelve (12) month period for one or more of the following reasons:
 - 1. For the birth of a son or daughter, or the placement of a son or daughter with the employee for adoption or foster care;
 - 2. To care for the employee's son, daughter, spouse, or parent where that child, spouse or parent has a serious health condition;
 - 3. For a serious health condition that makes the employee unable to perform the essential functions of the employee's position;
 - 4. For any qualifying exigency arising out of the fact that a spouse, son, daughter or parent is a military member on covered active duty or call to covered active duty status; or
 - 5. An eligible employee may also take up to 26 workweeks of leave during a single 12-month period to care for a covered service member with a serious injury or illness, when the employee is the spouse, son, daughter, parent, or next of kin of the service member.
- (b) Definitions applicable. All terms in this Section 7 are defined by FMLA, as amended from time to time. As of the date of publication of this Personnel Policy, FMLA

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defines these terms as follows:

1. *Parent* means a biological, adoptive, step or foster father or mother, or any other individual who was in loco parentis to the employee when the employee was a son or daughter as defined below. This term does not include parents “in law.”
2. *Child* means a son or daughter, including a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is (A) under 18 years of age; or (B) 18 years of age or older and incapable of self-care because of a mental or physical disability.
3. *Spouse* means a husband or wife recognized by State law.
4. *Serious health condition* means an illness, injury, impairment or physical or mental condition that involves inpatient care or continuing treatment by a health care provider.

(c) Employee Responsibility: It is the employee’s responsibility to notify the Town in writing at least thirty days in advance before the date on which the leave is to begin when the need for leave is foreseeable, such as an expected birth or a planned medical treatment. When circumstances prevent the employee from giving thirty days’ notice, the employee is to provide written notice as soon as practicable. When an employee’s need for leave is due to a serious medical condition of the employee or a member of the employee’s family, a certification issued by a health care provider must be furnished as soon as possible. All certificates must contain these statements: (1) the date on which the serious health condition began, (2) the probable duration of the condition, (3) the appropriate medical facts known by the health care provider regarding the condition, and (4) a statement that the employee is unable to perform the functions of his or her position. If the leave request is to care for a family member, the certificate must contain a statement that the employee is needed to provide such care.

(d) The Town Manager shall provide procedures for employees and departments to use in administering this section and shall follow the minimum standards for administration required by FMLA.

Section 8. Leave Without Pay

A regular employee with at least two (2) years of service may be granted a leave of absence without pay for up to one (1) year by the Town Manager. The employee shall apply in writing to the Town Manager for leave, stating the reason and the length of time for the leave of absence request. The Town Manager shall have sole discretion in approving or disapproving the leave of absence.

If a leave of absence is approved, the employee is obligated to return to duty no later than the last date approved by the Town Manager. Upon returning to duty after being on leave without pay, the employee shall return to the same position held at the time leave was granted or to one of like classification, seniority and pay. If the employee decides not to return to work, the supervisor should be notified immediately. Failure to report at the expiration of a leave of absence, unless an extension has been approved by the Town Manager, shall be considered a resignation without notice.

An employee shall retain all unused vacation and sick leave while on leave without pay. An

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employee ceases to earn or accrue leave credits on the date leave without pay begins. The employee may continue to be eligible for benefits under the Town's group insurance plans. If the leave without pay, including workers' compensation leave as described below, will continue beyond 30 consecutive days, employees may continue in the various insurance plans as allowed by the rules and regulations of the insurance carriers by paying for both employee and dependent premium payments for the duration of such leave without pay. These arrangements require prior acknowledgment and agreement by both Town and employee affected. Any other benefits continuation issues should also be resolved prior to the commencement of the unpaid leave.

Section 9. Workers' Compensation Leave

An employee absent from duty because of sickness or disability covered by the North Carolina Workers' Compensation Act may elect to use accumulated vacation and sick leave to supplement Workers' Compensation Leave pay up to the total amount of the employee's regular wages. Once all leave has been exhausted, the employee will automatically continue in a Workers' Compensation leave status. Upon reinstatement, an employee's salary will be computed on the basis of the last salary earned plus any increment or other salary increase to which the employee would have been entitled during the disability covered by Workers' Compensation.

Temporary employees will be placed in a leave without pay status and will receive all benefits for which they may be adjudged eligible under the Workers' Compensation Act.

Section 10. Bereavement Leave

An employee may receive up to twenty-four (24) hours' leave at full pay without charge to vacation leave or sick leave when attending the funeral of an immediate family member. (Immediate family member shall be defined as spouse, mother, father, guardian, children, sister, brother, grandparents and grandchildren plus the various combinations of half, step, in-law and adopted relationships that can be derived from those names, or anyone living in the same household.) Additional time to settle affairs of the family may be taken with the approval of the department head and should be charged to vacation leave. Leave to attend funerals of other than the immediate family may be granted by the department head and charged to vacation leave.

Section 11. Temporary Disability Leave

Accumulated sick leave is available to employees for the period of temporary disability in the same manner as for any other illness and subject to FMLA leave.

Leave without pay may be used by the employee prior to, during or after the disability ends as long as a doctor's certification continues to support the disability. The employee may elect to use accumulated vacation leave (1) before going on sick leave, (2) after accumulated sick leave has been exhausted, and/or (3) after the temporary disability has ended. If an employee is temporarily disabled and has exhausted all accumulated sick leave, that employee may be eligible to receive leave without pay for personal disability under the provisions of Section 8 of this article. If an employee wishes to retain all accumulated sick leave and vacation leave, leave without pay may be taken for the entire period.

Reinstatement to the same position or one of like classification, seniority and pay shall be made upon the employee's return to work.

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Section 12. Military Leave

Military leave shall be granted to regular employees of the Town for certain periods of service in the uniformed services in accordance with the Uniformed Services Employment and Reemployment Rights Act of 1994. No agent or employee of the Town shall discriminate against any employee of the Town or applicant for Town employment because of their membership, application for membership, performance of service, application for service or obligation for service in the uniformed services.

The following are definitions of terms used in this policy:

Service in the Uniformed Service – The performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority and includes:

- Active duty (extended active duty; mobilization or call up of reserve components),
- Active duty for training of reserve components (annual training- usually 2 weeks or special schools),
- Initial active duty for training (initial enlistment in reserve or National Guard),
- Inactive duty training (drills - usually on weekends),
- A period for which a person is absent to determine fitness of the person to perform such duty.

Uniformed Services –

- Armed Forces and the Reserve Components (Army, Navy, Air Force, Marine Corps, Coast Guard, Army and Air National Guard),
- Commissioned Corps of the Public Health Services, and
- Any other category of persons designated by the President in time of war or national emergency.

National Guard – A reserve of the U. S. Armed Forces. The N.C. Army and Air National Guard respond to the governor as Commander in Chief and serve as the military arm of state government and respond to the President of the United States in time of war.

Periods Eligible for Leave with Pay - Leave with pay, up to the maximum of 120 hours annually, shall be granted to:

- (1) Members of the Uniformed Services for:
 - Active duty for training (annual training or special schools),
 - Inactive duty training (drills – usually on weekends)If the drill is not scheduled on the employee's off-days, the employee has the option of requesting that the work schedule be rearranged, or the employee may use any unused portion of the 120 hours leave with pay, vacation leave, or leave without pay.
 - *Upon call-up (mobilization) or order to Federal active duty for an employee in one of the Reserve Component. (See exception below.)
- (2) Civil Air Patrol members.

***Exception:** Leave is extended to six months for reservists called to active duty. After six months, the Town will pay the difference between the gross military pay and the gross pay

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from his or her current position with the Town. While taking military leave, the employee's leave credits and other benefits shall continue to accrue as if the employee physically remained with the Town during this period. Regular employees have all job rights specified in the Uniformed Services Employment and Reemployment Rights Act and Veterans' Readjustment Assistance Act.

The Town shall require the employee to provide notification of upcoming duty and/or schedule changes as soon as known. In addition, the Town shall require verification of duty served. Military leave time hours may not be accumulated or carried over from year to year.

The employee may elect to use vacation leave to cover any unpaid portion of the military leave.

Military leave and other rights under this Section 12 do not apply to any service member whose discharge is other than honorable.

Section 13. Civil Leave

A Town employee called for jury duty or as a court witness for the federal or state governments or a subdivision thereof, shall receive leave with pay for such duty during the required absence without charge to accumulated vacation or sick leave. The Town will offset the amount of any court fees paid to the employee from paid civil leave, so that the employee will receive their regular wages.

While on civil leave, benefits and leave shall accrue as though on regular duty.

Section 14. Educational Leave with Pay

A leave of absence with pay during regular working hours will be granted to an employee to take courses required by the Town as a condition of employment. The Town shall reimburse the employee for tuition, fees, and books for the courses, provided the employee submits a receipt for such expenses.

An employee on educational leave with full pay shall continue to earn vacation and sick leave and any other benefits to which Town employees are entitled.

Section 15. Light Duty

In the event of an injury, either on duty or off duty related, an employee is expected to return to duty when authorized by competent medical authority. Some light duty may be authorized but only with work within the department assigned and only within work limits described by the employee's medical authority. The department head is responsible for supervision and assignment of light duty within these guides. If light duty is not available within the department the Town Manager may make accommodations within other departments. Once released by the medical authority the employee is expected to return to perform the full range of regular work within the position description of the position assigned.

Section 16. Adverse Weather Policy

- (a) Accounting for time not worked Employees not working in mandatory operations who anticipate problems in transportation should be permitted and encouraged to avail themselves of vacation leave or earned compensatory time when encountering difficulty in

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reporting for work or when leaving early due to adverse weather conditions.

When it has been determined that services will be suspended, time lost will be charged to vacation leave, compensatory time, or (if both are unavailable) leave without pay.

In either of the above, employees may be allowed to make up time in accordance with the provisions outlined below.

Employees who are on prearranged vacation leave, comp leave, or sick leave will charge leave to the appropriate account with no provision for make-up time.

- (b) Make-up time provisions because of adverse weather conditions Where operational needs allow, the Town will make reasonable efforts to arrange schedules whereby employees will be given an opportunity to make up time not worked (either due to suspension of services or voluntary action by employee) rather than charging it to leave. There are very few opportunities for such time to be made up without the employee working more than 40 hours during a workweek. Since hours worked in excess of 40 during a workweek would constitute overtime under Federal regulations, it will be necessary for make-up time for non-exempt employees to be limited to the workweek in which the time is lost or in a week when the employee has not worked a full work schedule due to such absences as holidays, sick leave, civil leave, etc. (Time will be computed on an hour for hour basis for employees who volunteer to make up adverse weather time on a holiday.) Time must be made up within six months from the occurrence of the absence. If time is not made up within six months, vacation leave must be charged, or the employee's pay will be adjusted to deduct the time not worked as leave without pay.
- (c) Special Provision When catastrophic, life-threatening weather conditions occur, as created by hurricanes, tornadoes, or floods, and it becomes necessary for authorities to order evacuation from the place of employment, the following provisions will prevail:
 - 1. Employees who are required to evacuate will not be required to make up time that is lost from work during the period officially declared hazardous to life and safety. Employees required to remain at work may be relieved administratively for a period of time necessary to assure the safety of their family.
 - 2. Employees required to work in such emergency situations will be compensated in accordance with the Town's overtime work policy.

Article VIII. Separation, Disciplinary Actions, and Reinstatement

Section 1. Types of Separation

All separations of employees from positions in the service of the Town shall be designated as one of the following types and shall be accomplished in the manner indicated:

- (a) Resignation: A minimum of two (2) weeks' notice is expected of all resigning personnel. Such notice should be given to the department head (or in the case of department heads, to the Town Manager). **Employees who do not give at least two (2) weeks' notice will forfeit payment for all accrued vacation leave.**

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An employee's failure to report to work without contacting his or her supervisor for three consecutive scheduled work days shall be deemed a voluntary resignation without notice.

- (b) Reduction in Force: In the event that a reduction in force becomes necessary, consideration shall be given to the quality of each employee's past performance, organizational needs, and seniority, in that order, in determining those employees to be retained. Employees who are laid off because of reduction in force shall be paid at least an amount equal to the amount that employee earns during one pay period. No regular employee shall be separated while there are temporary employees serving in the same class in the department, unless the regular employee is not willing to transfer to the position held by the temporary employee.
- (c) Disability: If an employee becomes unable to work due to a disability and no reasonable accommodation permitting the employee to continue to work is available, the employee and the Town will determine the appropriate time for the employee to separate from work, subject to ADA requirements. Please see Article V, Section 19 for more information on accommodations for disability.
- (d) Death: All unpaid wages and other compensation due in accordance with Article VII, Section 4 of these policies will be paid to the designated beneficiary of a deceased employee. The Town may require documentation in the form of Letters Testamentary or Letters of Administration to pay the appropriate representative if no beneficiary has been designated. The date of death shall be recorded as the separation date for computing compensation due.
- (e) Termination: If an employee is terminated, such termination shall be effective at the end of employee's regular schedule for the calendar day on which the employee is given notice of termination. A written summary giving the circumstances and facts leading to the dismissal shall be prepared. A copy of the summary shall be mailed to the employee by certified mail and one copy shall be filed in the employee's personnel file.

Section 2. Disciplinary Actions

An employee may be suspended, demoted, or terminated by the department head because of failure in performance of duties or failure in personal conduct. The form of discipline and the number of disciplinary actions that take place before an employee is terminated will depend on each employee's situation. These guidelines are not all-inclusive, and are not intended to apply to every situation. These guidelines do not alter the nature of the at-will employment between the employee and the Town.

The department head shall provide the employee with a written notice of any disciplinary action including the recommended effective date, reasons for the action, and appeal rights available to the employee.

- (a) Failure in Performance of Duties Failure in the performance of duties includes any aspects of the employee's job which are not performed as required to meet the standards set by the Town Manager.

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The following causes relating to failure in the performance of duties are representative, but not all-inclusive, of those considered to be adequate grounds for suspension, demotion or dismissal:

- (1) Inefficiency, negligence or incompetence in the performance of duties;
- (2) Careless, negligent or improper use of Town property or equipment;
- (3) Physical or mental incapacity to perform duties;
- (4) Discourteous treatment of the public or other employees;
- (5) Absence without approved leave;
- (6) Habitual improper use of leave privileges;
- (7) Habitual tardiness or failure to report for work at the time and place directed by the employee's supervisor;
- (8) Insubordination by failing to follow a lawful order by a supervisor;
- (9) Violation of any Personnel Policy.

Prior to making a decision to terminate employment, the employee will have the opportunity to discuss the dismissal and the reasons for the dismissal recommendation with the department head or Town Manager.

- (b) Failure in Personal Conduct An employee may be suspended, demoted or dismissed for causes relating to personal conduct detrimental to Town service without warning in order to avoid undue disruption of work, to protect the safety of persons or property, or for other serious reasons.

The following causes relating to failure in personal conduct are representative, but not all-inclusive, of those considered to be adequate grounds for suspension, demotion, or dismissal:

- (1) Fraud in securing appointment;
- (2) Conduct unbecoming a public officer or employee;
- (3) Conviction of a felony or of a misdemeanor which would adversely affect performance of duties, or the entry of a plea of "no contest" to either;
- (4) Misappropriation of Town funds or property;
- (5) Falsification of Town records for personal profit or to grant special privileges;
- (6) Reporting to work under the influence of or using alcohol or illegal drugs while at work;
- (7) Willful damage or destruction of property;
- (8) Willful acts that would endanger the lives and property of others;
- (9) Acceptance of gifts in exchange for "favors" or "influence";
- (10) Incompatible outside employment or conflict of interest;
- (11) Violation of political activity restrictions;
- (12) Insubordination by intimidation, harassment, or abuse of another in the workplace.

- (c) Disciplinary Suspension An employee who is suspended for disciplinary reasons shall be relieved temporarily of all duties and responsibilities and shall receive no compensation for the period of suspension. The employee may not use vacation leave, compensatory time or other methods of compensation during the suspension period.

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(d) Immediate Disciplinary Suspension An employee may be suspended without notice by the department head for causes related to personal conduct in order to avoid undue disruption of work, to protect the safety of persons or property, or for other serious reasons. When a department head suspends an employee, he or she shall tell the employee to leave Town property at once and remain away until further notice.

(e) Non-Disciplinary Suspension During the investigation of any serious policy violation of an employee, the hearing or trial of an employee on any criminal charge, or during the course of any civil action involving an employee, the department head may suspend the employee without pay for the duration of the proceedings as a non-disciplinary action. However, the investigation, hearing, trial, or civil action must involve matters that may form the basis for disciplinary suspension, demotion or dismissal in order for the non-disciplinary suspension to be allowed.

Full recovery of pay and benefits for the period of non-disciplinary suspension may be authorized by the Town Manager, if the suspension is terminated with full reinstatement of the employee.

Section 3. Employee Appeal

A regular employee wishing to appeal a demotion, suspension or dismissal may present the matter in accordance with the provisions of the grievance procedure prescribed in Article IX of these policies.

Section 4. Reinstatement

An employee who resigns while in good standing or who is dismissed because of reduction in force may be reinstated with the approval of the Town Manager. An employee who enters extended active duty with the Armed Forces of the United States, the Public Health Service or with a Reserve Component of the Armed Forces will be granted reinstatement rights as allowed by the Veterans Readjustment Assistance Act.

An employee who is reinstated under this Section 4 shall be credited with previous service and previously accrued sick leave and will receive all benefits provided in accordance with this policy and state law. The salary paid a reinstated employee shall be as close as reasonably possible, given the circumstances of each employee's case and position after reinstatement, to the salary level previously attained by the employee in the salary range for the previous class of work, plus any across-the-board pay increases.

Article IX. Grievance Procedure

Section 1. Policy and Purpose

It is the policy of the Town to provide a means whereby employees may freely discuss grievances with supervisors and to provide a procedure for the presentation and mutual adjustment of points of disagreement that arise between employees and their supervisors. The purposes of this policy are:

- (a) to provide employees a procedure by which their complaints can be considered

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rapidly, fairly, and without reprisal;

- (b) to encourage employees to express themselves about the conditions of employment which affect them as employees;
- (c) to promote better understanding of policies, practices and procedures that affect employees;
- (d) to develop in supervisors a greater sense of responsibility in their dealings with employees.

Section 2. Definition

A grievance is any dispute concerning the interpretation or application of this Personnel Policy, or any other policy, practice or procedure affecting working conditions for the Town. A grievance might involve alleged safety or health hazards, unfair or discriminatory supervisory practices, misapplication of department work rules, unsatisfactory physical facilities or equipment or other complaints related to conditions of work or disciplinary action. Complaint processes involving issues covered by other parts of this policy are excluded from this procedure. Nothing herein shall be interpreted to change the status of any employee from that of an employee at will.

Section 3. Procedure

When an employee has a grievance, the successive steps described below are to be taken toward resolution of the matter.

The number of days indicated at each step of the grievance procedure should be considered as the maximum number of working days allowed for presentation of and response to the grievance at that level. However, when mutually agreed upon, time limits given below may be extended by those concerned.

Employees who use this procedure shall be free from discrimination, coercion, restraint or reprisal.

Step One. The employee with a grievance shall present the matter orally or in writing to his or her department head within seven (7) calendar days of its occurrence or within seven (7) calendar days of the time the employee learns of its occurrence. If the exact date cannot be established for the occurrence of a grievance circumstance, the seven (7) calendar day limit will be extended for a reasonable time period, as determined by the Town. The grievance shall specify the relief that the employee seeks from the grievance procedure. The department head is encouraged to consult with any employee or officer deemed necessary to reach a correct, impartial, and equitable determination and shall give the employee an answer as soon as possible, but within five (5) working days of receiving the notice of grievance.

Step Two. If the decision is not resolved in Step One, or if the employee fails to receive an answer within the designated period provided in Step One, or if the employee cannot submit a grievance to his or her department head because that person is the subject of the complaint, the employee may file the grievance in writing with the Town Manager within seven (7) calendar days. The grievance shall specify the relief expected from the use of this procedure.

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The Town Manager, or his or her designee, shall hold a hearing thereon, consult with whatever sources the Town Manager deems appropriate, and allow the employee to present his or her case.

The Town Manager shall review the case data and render a decision in writing within seven (7) working days after receipt, with one copy sent to the employee by certified mail and one copy placed in the employee's personnel file. There shall be no appeal from this decision.

Section 4. Back Pay Awards

Back pay and benefits may be awarded to reinstated employees who missed work due to disciplinary actions. Such determinations shall be made by the Town Board of Aldermen upon the recommendation of the Town Manager.

Article X. Insurance/Retirement Benefits

Town employee benefits are described below. Employees should refer to the Human Resources Coordinator for more detailed information about benefits. If there is any conflict between the benefit plan documents and this Personnel Policy, the benefits plan documents will be controlling.

Section 1. Insurance Benefits

The Town offers group hospitalization, life insurance and a separate death benefit which is offered through the North Carolina Local Governmental Employees' Retirement System to employees. The Town may make other group insurance plans available for its employees upon authorization of the Town Board of Aldermen.

Regular, full-time employees are eligible for these benefits as outlined in each plan.

Section 2. Unemployment Insurance

In accordance with the North Carolina General Statutes, local governments are covered by unemployment insurance. Eligible Town employees may apply for unemployment compensation through the local office of the Employment Security Commission.

Section 3. Old Age and Survivor's Insurance

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

Section 4. Retirement Benefits

The Town provides retirement benefits for its employees through the North Carolina Local Governmental Employees' Retirement System (NCLGERS).

All employees who are budgeted to work 1000 hours or more annually are required to join the NCLGERS retirement plan according to the NC General Statutes.

Section 5. 401K Plan & Law Enforcement Separation Allowance

The Town provides a contribution to a 401K plan for regular, full-time employees as well as active

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law enforcement personnel. The Town also provides a monthly separation allowance to retired law enforcement officers as required in Chapter 143, Article 12E and Article 12D of the General Statutes of North Carolina.

Section 6. Workers' Compensation

All employees are covered with workers' compensation insurance as required by North Carolina General Statutes. This insurance provides payment of medical bills and lost wages as allowed. Employees are required to notify the Town as soon as possible after an accident. Failure to notify the Town may jeopardize an employee's claim for workers' compensation benefits.

Section 7. Retiree Health Insurance Benefits

Any employee who, upon retirement, qualifies for a monthly retirement benefit in accordance with the provisions of the North Carolina Local Government Employees' Retirement System (NCLGERS) may be eligible for a continuation of their individual health insurance coverage under the Town's group health insurance plan. As a participant in the State Health Plan, former Town employees who now qualify as NCLGERS retirees become eligible for a continuation of health insurance coverage under the guidelines of that Plan. Unless contradicted by the guidelines of the State Health Plan, a NCLGERS retiree from the Town of Black Mountain is eligible for continuation of their health insurance benefits after providing that the retiree has fifteen (15) years of service with the Town immediately preceding retirement. In the event that State Health Plan guidelines for retiree qualification are contradictory to those set forth by this policy, the guidelines of the State Health Plan shall dictate eligibility. The cost of the insurance is paid entirely by the Town for the retiree only and is provided until the expiration of the benefit as prescribed by the guidelines of the State Health Plan. The qualifying employee may also elect to continue dependent coverage under the provisions of the State Health Plan by paying the full amount prescribed by the Plan for the elected dependent coverage. Cost for dependent coverage is deducted directly from the retiree's benefit check by the State Health Plan prior to the monthly remittance.

The Town currently operates a disease management program in conjunction with the provision of the group health insurance program. Retirees who remain eligible for the continuation of group health insurance benefits under the provisions of the above-prescribed policy also remain eligible for the provision of the disease management programs. To maintain eligibility, retirees must abide by all program guidelines. Disease management benefits are also available to dependents of retirees so long as the dependents are covered through the provision of the retiree health insurance program. Due to the uncertainty of future funding for the disease management program, the Town of Black Mountain reserves the right to eliminate this benefit at any time in the future and no retiree currently eligible for the benefit shall consider its provision as permanent and irrevocable. No retiree who was originally hired by the Town after May 1, 2008, nor their dependents, regardless of their participation in the retiree health insurance program, shall be eligible for the disease management program.

Section 8. Retiree Life Insurance Benefits

Retiring employees have the option of continuing the MIT Life Insurance coverage at their expense. This benefit is billed through the Town and the retiree pays 100% of the cost of the coverage on an annual basis.

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Article XI. Personnel Records and Reports

Section 1. Personnel Records Maintained

Such personnel records as are necessary for the proper administration of the personnel system will be maintained by the Town Manager or his designee. The Town shall maintain, in personnel records, only information that is relevant to accomplishing personnel administration purposes.

Section 2. Public Personnel Records Defined

The following information on each Town employee are part of an employee's public personnel record:

- (a) Name;
- (b) Age;
- (c) Date of original employment or appointment to Town service;
- (d) Current position title;
- (e) Current salary;
- (f) Date and amount of most recent change in salary;
- (g) Date of most recent promotion, demotion, transfer, suspension, separation, or other change in position classification;
- (h) Date and general description of the reasons for each promotion with that municipality.
- (i) Date and type of each dismissal, suspension, or demotion for disciplinary reasons taken by the municipality. If the disciplinary action was a dismissal, a copy of the written notice of the final decision of the municipality setting forth the specific acts or omissions that are the basis of the dismissal;
- (j) Office to which employee is currently assigned.

Section 3. Access to Personnel Records

As required by North Carolina General Statutes, any person may have access to the information listed in Section 2 of this Article for the purpose of inspection, examination, and copying during the regular business hours, subject only to such rules and regulations for the safekeeping of public records as the Town Aldermen may adopt. Access to such information shall be governed by the following provisions:

- (a) All disclosures of records shall be accounted for by keeping a written record (except for authorized persons processing personnel actions) of the following information: name of employee; information disclosed; date information was requested; name and address of the person to whom the disclosure is made; and purpose for which information is requested. This information must be retained for a period of two years.

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- (b) Upon request, the record of disclosure shall be made available to the employee to whom it pertains.
- (c) Any individual examining a personnel record may copy the information. Any available photocopying facility may be provided and the cost may be assessed to the individual.
- (d) Any person denied access to any record shall have a right to compel compliance with these provisions by application to a court for a writ of mandamus or other appropriate relief.

Section 4. Confidential Information

All information contained in the Town employee's personnel file, other than the information listed in Section 2 of this Article will be maintained as confidential and shall be open to inspection only in the following instances:

- (a) The employee or his or her duly authorized agent may examine all portions of the employee's personnel file, except (1) letters of reference solicited prior to employment, and (2) information concerning a medical disability, mental or physical, that a prudent physician would not divulge to his or her patient.
- (b) A licensed physician designated in writing by the employee may examine the employee's medical record.
- (c) A Town employee having supervisory authority over the employee may examine all material in the employee's personnel file.
- (d) By order of a court of competent jurisdiction, any person may examine such portion of the employee's personnel file as may be ordered by the court.
- (e) An official of an agency of the state or federal government, or any political subdivision of the state, may inspect any portion of a personnel file when such inspection is deemed by the official having custody of the personnel records to be necessary and essential to the pursuance of a proper function of the inspecting agency, but no information shall be divulged for the purpose of assisting in a criminal prosecution of the employee or for the purpose of assisting in an investigation of the employee's tax liability. However, such official having custody of such records may release the name, address, and telephone number from a personnel file for the purpose of assisting in a criminal investigation.
- (f) An employee may sign a written release, to be placed with his or her personnel file, that permits the person with custody of the file to provide, either in person, by telephone, or by mail, information specified in the release to prospective employers, educational institutions, or other persons specified in the release.
- (g) The Town Manager, with concurrence of the Town Aldermen may inform any person of the employment or non-employment, promotion, demotion, suspension, or other disciplinary reasons for that personnel action. Before releasing the information, the Town Manager shall determine in writing that the release is essential to maintaining the public trust and confidence in the administration of services or to maintain the level and quality

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of Town services. This written determination shall be retained in the office of the Town Clerk, and is a record available for public inspection and shall become part of the employee's personnel file.

- (h) Each individual requesting access to confidential information will be required to submit satisfactory proof of identity.
- (i) A record shall be made of each disclosure and placed in the employee's file (except of disclosures to the employee and the supervisor).

Section 5. Records of Former Employees

The provisions for access to records of former employees is subject to this Article XI.

Section 6. Records of Applicants

Applications and other information gathered with respect to an applicant will be kept confidential. The Town will not release this information without written permission from the applicant.

Section 7. Remedies of Employees Objecting to Material in File

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

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

North Carolina General Statutes provide that a public official or employee who knowingly, willfully, and with malice permits any person to have access to information contained in a personnel file is guilty of a Class 3 misdemeanor and upon conviction shall only be fined an amount not more than five hundred dollars (\$500.00).

Section 9. Penalty for Examining and/or Copying Confidential Material Without Authorization

North Carolina General Statutes provide that any person not specifically authorized to have access to a personnel file designated as confidential, who shall knowingly and willfully examine in its official filing place, remove or copy any portion of a confidential personnel file shall be guilty of a Class 3 misdemeanor and upon conviction shall only be fined in the discretion of the court but not in excess of five hundred dollars (\$500.00)

Section 10. Destruction of Records Regulated

No person may destroy, sell, loan, or otherwise dispose of any public record except as allowed by North Carolina General Statutes. Whoever unlawfully removes a public record from the offices where it is usually kept, or whoever alters, defaces, mutilates or destroys it will be guilty of a misdemeanor and upon conviction will be fined no less than ten dollars (\$10.00) nor more than five hundred dollars (\$500.00).

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ARTICLE XII. SUBSTANCE USE/ABUSE

Section 1. Purpose. It is the Town's policy to maintain a safe and healthy working environment for employees, and a productive and effective workforce for the citizens of Black Mountain. The Substance Use/Abuse Policy is intended to provide a safe working environment, protect employees' privacy, and ensure a clear guidelines for testing for drug and alcohol use. Accordingly, employees are prohibited from possessing, using, being under the influence of, transferring, manufacturing or selling alcohol, illegal drugs, or legal drugs without a valid prescription while at work. Violation of this policy will result in disciplinary action, up to, and including termination.

Section 2. Scope and Application. This policy applies to all Town employees except sworn law enforcement personnel and applicants for sworn law enforcement positions, who are tested for substance abuse in accordance with state law and Police Department policy.

Section 3. Definitions.

- (a) *Substance abuse* is defined as the use or presence of illegal drugs or alcohol in an employee's system during working hours.
- (b) *Applicant* is defined as any person seeking employment with the Town to whom a provisional offer of employment has been made.

Section 4. Applicants.

- (a) **Scope and Application of Section 4.** This Section of the Policy applies to all applicants for employment with the Town. All offers of employment are subject to the terms and conditions of this Policy.
- (b) **Applicant Drug Testing.** All applicants must undergo a pre-employment drug screen test. Testing will be conducted in accordance with state law.
- (c) **Contingent Employment.** Any offer or acceptance of employment is contingent upon the applicant successfully completing his or her drug test. No applicant shall be required to submit to a drug test until after the applicant has been offered a provisional offer of employment. The Town will withdraw an offer of employment if the test results are positive for illegal drugs or for the presence of prescription drugs (such as barbiturates, amphetamines, opiates, etc.) unless the applicant has a current prescription. No one shall be permitted to begin work until the results of the test have been obtained.
- (d) **Posting.** The following language will be displayed where it may be easily seen by employees and persons seeking employment:

All applicants will be subject to and must successfully pass a pre-employment drug screen and criminal background check.
- (e) **Application Form.** Employment application form(s) for employment with the Town shall include the following language:

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Employment with the Town of Black Mountain is contingent upon the successful completion of a drug screening test to be administered after a provisional offer of employment is made. Successful completion of the test means that the person tested negative for illegal drugs.

- (f) Release. Before taking the drug screening test, applicants must sign a “SPECIFIC HEALTHCARE REQUEST AND AUTHORIZATION” form. See Appendix A. Failure to sign the form or cooperate in the test procedure as requested shall be deemed a withdrawal of the individual’s application for employment.

(g) Communication of Test Results by the Medical Review Officer.

- (1) Negative Test Results. If the drug screening test results is negative, the laboratory will so advise the Human Resources Coordinator. The applicant then is permitted to begin work. The laboratory will not refer negative test results to the Town’s Medical Review Officer (hereinafter referred to as “MRO”), unless otherwise requested to do so.
- (2) Adulterated or Unreadable Samples. If a drug screening test cannot be accurately performed because a urine sample is not authentic, or has been adulterated, contaminated or otherwise made impossible to analyze properly, the following procedures shall be used, unless otherwise dictated by applicable law:
 - a. If a urine sample is obviously not authentic (as example: when an applicant substitutes cold tap water for urine), the laboratory will so inform the Town. The Town then shall inform the applicant that the sample is not acceptable and the offer of employment will be withdrawn.
 - b. If the urine sample cannot be properly analyzed because of contamination or adulteration, the laboratory will so inform the Town. The Town then shall inform the applicant that he or she cannot be determined to be qualified for work and is requested to discuss the test with the MRO. The MRO will ask the applicant to provide an explanation for the contaminated or adulterated sample.
 - i. If the MRO advises the Town that the applicant failed to provide a satisfactory explanation, the Town shall advise the applicant that the offer of employment has been withdrawn.
 - ii. If the MRO advises the Town that the applicant provided a satisfactory explanation, the applicant will be permitted to repeat the drug-screening test, in which a new urine sample will be collected and analyzed.
- (3) Positive Test Results – In the event a drug-screening test is positive (positive drug test results must be confirmed by the laboratory using Gas Chromatography/Mass Spectrometry hereinafter referred to as “GCMS”), the following procedures should be followed:
 - a. The laboratory will inform the Town’s MRO that the drug screening test is positive, and will convey such details of the test as the MRO deems necessary. The MRO will consult with the applicant to determine whether or not there is a satisfactory explanation for the positive test results.

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- b. If a satisfactory explanation is provided, the MRO will advise the Town that the applicant's test was negative, and the applicant will be permitted to begin employment.
 - c. If a satisfactory explanation is not provided, the MRO will so advise the Town. The Town will advise the applicant that the offer of employment has been withdrawn.
- (4) Confidentiality. Because of the sensitive nature of drug screening tests, extreme caution shall be exercised to maintain the confidentiality of the results. No statement nor any other information concerning an applicant's drug screening results shall be made available to other members of management, except those having a need to know. No other person, including friends and/or members of the applicant's family, shall be notified or given information concerning the applicant's drug screening results.

Section 5. Employees.

- (a) Scope and Application of Section 5. This Section of this Policy applies only to employees of the Town.
- (b) Voluntary Referral for Counseling and/or Rehabilitation.
- (1) Policy. The Town recognizes and accepts that early treatment is the key to rehabilitation for substance abusers; therefore, employees are encouraged to voluntarily request help. The Town will not discriminate against employees who voluntarily request referral to counseling and/or rehabilitation, but such requests do not excuse employees from otherwise complying with this Policy.
 - (2) Posting. The Town shall post the name and telephone number of the Town's recommended rehabilitation and counseling service, at a location where it may be seen by all employees.
 - (3) Procedure for Volunteering For Assistance. An employee may volunteer for assistance by requesting help from the Human Resources Coordinator, department head, or a supervisor. If an employee contacts a department head or supervisor concerning a substance abuse problem, the department head or supervisor shall assist the employee in setting up an appointment with the Human Resources Coordinator for referral to recommended counseling or rehabilitation service, but shall not attempt to diagnose the problem nor counsel the employee.
- (c) Prohibitions for all Employees.
- (1) The possession, use, distribution, transfer, manufacture, or sale of alcohol, illegal drugs, or legal drugs without a valid prescription on Town property or while working is specifically prohibited. An employee who violates this prohibition is subject to disciplinary action up to and including termination of employment. Any circumstances that indicate the violation of state, federal or local laws may be reported to appropriate law enforcement officials, and the Town will cooperate in any criminal prosecution(s).
 - (2) Reporting for work under the influence of illegal drugs or alcohol is prohibited. If the Town has a reasonable suspicion that an employee is under the influence of illegal drugs or alcohol, that employee will be required to take a drug test as

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described below. If the results of the drug test are positive, the employee will be disciplined per this Policy, up to and including termination. This prohibition includes prescription drugs, unless the employee has a current valid prescription.

- (d) Searches. Where a supervisor reasonably suspects that an employee or group of employees may possess illegal drugs or alcohol at work, the Town may conduct a search of the employee(s) workspace as set forth in Art. VI, Section 18 of this Personnel Policy.
- (e) Drug and/or Alcohol Screening Criteria. If a supervisor reasonably suspects that an employee is under the influence of drugs or alcohol while on the job, he or she will promptly require the employee to submit to drug testing in accordance the criteria set forth below. Time permitting, the supervisor will consult with the Human Resources Coordinator, but testing should take place as soon as reasonably practicable. The supervisor and/or his or her designee will escort the employee to the testing site under the following circumstances:
 - (1) Post-Accident or Incident. Employees shall be required to submit to a drug screen and alcohol test in any of the following accident or incident situations:
 - a. When an accident or incident for which the employee is responsible results in personal injury requiring immediate or off-site medical attention; or,
 - b. When an accident or incident for which the employee is responsible results in substantial damage to property; or,
 - c. When an accident is attributable to an employee in a safety-sensitive position (as defined in Section 5(e)(3) of this Article.
 - (2) For Cause Testing of Employees. Employees shall be required to submit to a drug screen and alcohol test when the Town has reasonable suspicion that the employee is impaired by drugs and/or alcohol, or in possession of illegal drugs or alcohol, while at work.

While it is impossible to list every factor which might lead to a decision to test an employee, examples of criteria leading to a reasonable suspicion of drug or alcohol use or possession may include:

- a. Direct observation of drug or alcohol use on the job by a credible person;
 - b. Direct observation of the symptoms of drug or alcohol use on the job by a credible person, such as:
 - i. reddened eyes or dilated pupils;
 - ii. odor of alcohol or drugs;
 - iii. slurred speech; and/or
 - iv. difficulty in motor coordination.
 - c. A pattern of erratic, abnormal behavior that reasonably appears to be the result of drug or alcohol use on the job;
 - d. An arrest or conviction for a drug-related event;
 - e. Evidence that an employee tampered with a drug test; or
 - f. Other reasonable, articulable evidence that the employee is under the influence of illegal drugs or alcohol while on the job.
- (3) Random Drug Testing of Employees. Employees whose positions are safety-

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sensitive will be randomly tested. The following are safety-sensitive positions subject to random drug testing are:

- a. Employees required to have commercial driver's license certification as required by the Department of Transportation;
- b. All emergency services dispatchers;
- c. All armed law enforcement officers;
- d. All firefighters;
- e. All employees whose primary job duties include the operation of a motor vehicle;
- f. Lifeguards; and
- g. Emergency medical technicians.

The Human Resources Coordinator will be responsible for supplying the drug testing collection facility a roster of employees in safety-sensitive positions to be randomly tested. This roster will be separated by work group to ensure that all groups are represented equally. The collection facility will be responsible for maintaining a computerized random list by work group to ensure that the number of employees tested each year represents approximately 50% of the total number of employees eligible for testing. The facility will also be responsible for notifying by name to the Town's Human Resources Coordinator the employees selected to report to the collection facility for random testing. The Human Resources Coordinator will then inform each selected employee's supervisor the schedule to report for testing.

Any employee who refuses to participate in a random test required herein is subject to disciplinary action, including, but not limited to, termination of employment. An employee who is unable to participate in a test due to illness, vacation, excused absence or some other reason satisfactory to management, shall be tested as soon thereafter as reasonably possible.

(f) Testing Procedure.

- (1) Before an employee is requested by a supervisor to submit to a drug and/or alcohol-screening test under this policy, the supervisor shall consult with the Human Resources Coordinator and the Town Manager, if possible. The employee shall be told that, in accordance with the Town's Substance Abuse Policy, he or she is being requested to submit to an alcohol or drug screening test. Take care not to state any conclusions or speculations as to whether or not the employee is abusing any substances. The person making the request shall complete the "SPECIFIC HEALTHCARE REQUEST AND AUTHORIZATION" form. See Appendix A.
- (2) The employee shall be requested to sign the "SPECIFIC HEALTHCARE REQUEST AND AUTHORIZATION" form (Appendix A) prior to being tested. Failure of an employee to sign the consent to testing may be grounds for disciplinary action, up to and including dismissal.
- (3) All tests shall be conducted in accordance with applicable laws and procedures.
- (4) The employee may be permitted to continue to work pending the results of the drug or alcohol screening test if, in the Town's sole discretion, the employee's return to

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- work will not endanger the employee, fellow employees or members of the public.
- (5) If the employee refuses to cooperate or refuses to take the drug and/or alcohol-screening test, he or she shall be suspended pending final decision on termination of employment.

- (g) Vehicle Operation and Transportation – Impaired Employees. If the Town has a reasonable suspicion that an employee may be impaired by drugs or alcohol, and thus appears to be unable to drive safely, the Town shall arrange or provide for transportation for the employee. If the employee refuses to accept such transportation, and insists upon driving and is not in a Town vehicle, the employee should be discouraged from driving, but shall not be forcibly restrained.

If the employee insists on driving and is preparing to drive a vehicle owned by the Town, the Town employee and officials may take any reasonable action to prevent that person from driving but shall not use physical force to stop the individual, unless such actions are undertaken by sworn law enforcement personnel who have been properly trained regarding the use of force in such situations. All actions taken by any Town employee to persuade or restrain an employee under this section shall be immediately reported to their supervisor and documented in writing.

Regardless of the ownership of the vehicle, the employee shall be informed that the Town will notify local law enforcement authorities if the employee attempts to drive and the Town shall so notify the authorities if such driving occurs.

- (h) Communication of Test Results by the Medical Review Officer.

- (1) Negative Test Results. If the drug screening test result is negative, the laboratory will so advise the Human Resources Coordinator, who will notify the employee of the test result. The laboratory will not refer negative test results to the MRO, unless otherwise requested to do so. If an employee has been suspended pending the results of the drug-screening test, the employee may, at the Town's sole discretion, be reinstated with back pay and benefits.
- (2) Adulterated or Unreadable Samples. If a drug screening test which cannot be accurately performed because a urine sample is not authentic, or has been adulterated, shall be considered reasonable evidence of an employee's failure to cooperate with the Town in administering this Policy. (See Section 4(g)(2) for a description of such samples). The MRO will discuss the test with the employee and request an explanation. If the employee provides a satisfactory explanation, a new drug or alcohol-screening test may be performed at the Town's discretion. If the employee does not provide a satisfactory explanation, he or she is subject to disciplinary action up to and including termination of employment.
- (3) Positive Test Results. In the event a drug-screening test is positive (positive drug test results must be confirmed by the laboratory using GCMS), the following procedures should be followed:
 - a. The laboratory will inform the Town's designated MRO that the drug screening test is positive, and will convey such details of the test as the MRO deems

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necessary. The MRO will consult with the employee to determine whether or not there is a satisfactory explanation for the positive test results.

- b. If a satisfactory explanation is provided, the MRO will advise the Town that the employee's test was negative, and the employee will be so informed and will be reinstated with back pay and benefits, as appropriate.
 - c. If a satisfactory explanation is not provided, the MRO will so advise the Human Resources Coordinator, who shall meet with the employee with another member of management to advise the employee of the test results. Upon confirmation of a positive test result, the employee's supervisor shall consult with the Human Resources Coordinator and determine the appropriate disciplinary action, up to and including termination. If the Town determines that suspension is an appropriate disciplinary action, the employee must obtain appropriate treatment, execute and comply with the requirements of the "LAST CHANCE ASSISTANCE AGREEMENT" (Appendix B) as a condition of continued employment.
- (i) Failure of an Employee to Cooperate. Employee compliance with the Town's Substance Abuse Policy is a condition of employment. Failure or refusal of an employee to cooperate and participate in the program, sign any requested document, or submit to requested testing shall be grounds for disciplinary action, up to and including termination.
- (j) Time Off for Counseling/Rehabilitation and Return to Work. Employees may use available paid and unpaid leave in accordance with Article VII of this Policy for work time lost for counseling and/or rehabilitation. Employees may be terminated after a positive drug test in accordance with this Policy, but if the Town instead elects to take disciplinary action short of termination, the Town may require the employee to participate in drug or alcohol counseling or rehabilitation. In such event, it will be a condition of continued employment that the employee consents to (1) providing certification by the treatment facility that the employee has satisfactorily completed treatment and is fit to return to duty; and (2) taking a drug screen and alcohol test which generates a negative test result.
- (k) Medical Benefits for Counseling and/or Rehabilitation. Medical benefits for counseling and/or rehabilitation shall be available as provided in the Town's medical insurance plan provided for full-time employees. Such benefits available will depend upon the medical diagnosis by the employee's physician in conjunction with the Town's Benefit Plan.
- (l) Effect of a Positive Test after Referral. After an employee has been referred for counseling or rehabilitation under this Substance Abuse Policy, a condition of continued employment is that the employee promises to remain drug-free. A subsequent positive drug test may result in termination of employment.

Section 6. Severability and Effect. If any part of this Policy is determined to be void or unenforceable under state or federal law, the remainder of the Policy will remain in full force and effect.

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Section 7. Reservations. No part of this Policy, nor any of its procedures, is intended to affect Town employees' at-will status, the Town's right to manage its workplace, or its right to discipline its employees. This policy is not a guarantee of employment, continued employment, or any terms or conditions of employment, except as specifically provided herein. This Policy does not create an express nor implied contract between the Town and any employee. It is impossible to anticipate every situation which may arise in regard to drug/alcohol abuse. Therefore, the Town Manager's office is responsible for the overall implementation of this Policy and the administration of drug/alcohol abuse problems.

The Town reserves the right to interpret, change, modify, amend, or rescind this Policy in whole or in part.

Section 8. Document for the File. The employee may decide to appeal the request or requirement of a drug test, or any resulting disciplinary action; legal action is also a possibility. In addition, the personnel file must contain information about the current incident in case future problems occur. Therefore, *documentation is very important*. Be sure that the employee's personnel file contains written documentation of observations which led to the concern for performance deficiencies, and copies of the signed consent form.

Section 9. Confidentiality. All information involving medical examinations, counseling, rehabilitation and/or treatment of an individual employee or applicant shall be treated as confidential medical information. All such information will be available only to those Town officials and designated medical and professional persons who have a valid need to know. Such information will not be provided to any other party without the employee's written consent, except pursuant to administrative or legal procedure or process. Any employee who willfully discloses such information in violation of Town policy will be subject to discipline up to and including dismissal.

Section 10. Notification to Employees of Policy. The Town's Substance Abuse Policy is included in the Town's Personnel Policy. Employees are given a copy of the Personnel Policy when hired and are required to sign a form indicating they have read the Personnel Policy.

SPECIFIC HEALTHCARE REQUEST AND AUTHORIZATION

APPENDIX "A"



Please complete this form and forward it to the Urgent Care Center where you intend to send your employee. This form provides the request and authorization for the needed health care for your employee without which we cannot proceed. Please include your insurance carrier claim number in the appropriate space below (when applicable).

1. You may fax the completed **Specific Healthcare Request & Authorization** form to the Urgent Care Center where you intend to send your employee, **or**
2. You may ask your employee to deliver the completed **Specific Healthcare Request & Authorization** form to the Front Desk Staff upon arrival at the Urgent Care Center.

This employee is being sent to Sisters of Mercy Urgent Care for the health care indicated in the appropriate space(s) below.

PLEASE PRINT CLEARLY

EMPLOYEE

SAMPLE

OF BIRTH

SOCIAL SECURITY #

INSURANCE CARRIER CLAIM #

- ☐ I authorize care for this *work-related injury*.
- ☐ I authorize healthcare and/or diagnostic tests listed below.
- ☐ I do not authorize care for the injury/illness

COMPANY

NAME OF AUTHORIZING PERSON

DATE

TITLE

EMAIL

PHONE

FAX

HEALTHCARE SERVICES REQUESTED	INDICATE ANY VARIATIONS FROM ORIGINAL HEALTH CARE SERVICES REQUESTED FOR EMPLOYEES*

*As shown on Sisters of Mercy Urgent Care Comprehensive Employer Health Care Request (Form 202 BI-Spec)

All reports and information regarding this employee's care will be sent to the Company Contact Person for Work-Related Care as previously provided by your company. If there have been any changes in this regard, please advise our Workers' Compensation/Industrial Representative at 828-252-9266.

PLEASE CHECK THE URGENT CARE LOCATION WHERE YOU ARE SENDING YOUR EMPLOYEE

- ☐ **URGENT CARE NORTH** • 155 Weaverville Blvd, Weaverville, NC • phone: 828.645.5088 fax: 828.645.6095
- ☐ **URGENT CARE SOUTH** • 1812 Hendersonville Rd., Asheville NC • phone: 828.274.1462 fax: 828.274.9044
- ☐ **URGENT CARE EAST** • 2313 US Hwy. 70, Swannanoa, NC • phone: 828.686.4988 fax: 828.686.4983
- ☐ **URGENT CARE WEST** • 8 New Leicester Hwy., Asheville, NC • phone: 828.252.4878 fax: 828.252.4103

OUR MISSION: Sisters of Mercy Urgent Care, Inc. exists to provide cost-effective quality-oriented healthcare to the residents, businesses, and industries of the southeastern United States, adhering to the Core Values of the Sisters of Mercy, which are: sacredness of life, dignity of the individual, justice, mercy, service, and excellence.

Form 202 B&I-Spec

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TOWN OF BLACK MOUNTAIN

“APPENDIX B”

SUBSTANCE ABUSE

LAST CHANCE ASSISTANCE AGREEMENT

SAMPLE

Name of Employee: _____
Last First Middle

1. I voluntarily acknowledge that I have violated the Town's Substance Use/Abuse policy, and I acknowledge that the Town has the right to terminate my employment for violation of this Policy. Under this Last Chance Assistance Agreement, the Town agrees to refrain from terminating me on the date entered below in exchange for my agreement to obtain treatment.

2. I promise to fully cooperate and participate in counseling and/or rehabilitation program in accordance with instructions and requirements of program administrators. I understand that any Town approved leave of absence to continue in a counseling or rehabilitation program may be reviewed on a weekly basis.

3. I authorize my counseling or rehabilitation representatives to confer with the Human Resources Coordinator (or designee) regarding my attendance, progress and suitability for continued employment or return to active employment, as the case may be, including the disclosure of medical/psychiatric evaluations and substance abuse testing of me.

4. I understand that as a pre-condition to my returning to work, I must test negative on a drug test administered in accordance with the Town Personnel Policy. I also understand and agree that I will willingly submit to random, unannounced drug testing at any time after my return to work, and that if I test positive on any such test, or if I refuse to take a test as requested, I will be subject to immediate termination.

5. If I have received treatment for drug abuse, I understand and agree that my future employment depends upon my remaining free of drug abuse for the entire duration of my continued employment, and that this “LAST CHANCE” opportunity afforded me by the Town is conditioned accordingly. I further understand and agree that nothing herein alters the nature of my at-will employment, my right or the Town's right to terminate or modify our employment relationship at any time and for any reason.

6. If I have received treatment for alcohol abuse, I understand and agree that for the entire duration of my continued employment, I will not use alcohol in a manner that violates Town policy.

7. I further understand and agree that I will be held to the same attendance, performance, safety, behavioral, and other standards as every other employee of the Town, and if my drug or alcohol use causes me to violate those standards, I will be subject to discipline or discharge on the same basis as other employees who violate those standards for other reasons. I further understand

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and agree that I may be tested for drug or alcohol use based on reasonable cause; after an accident or incident which caused or reasonably could have caused personal injury or property damage in which my inaction or action was a contributing factor; or otherwise in accordance with Town policy.

8. I understand that upon my continued active employment or return to active employment, I must meet all established standards of conduct and job performance required of any other employee.

SIGNED:

SAMPLE

Employee

Date

APPROVED:

Supervisor

Date

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Article XIII. Implementation Of Policy

Section 1. Conflicting Policies Repealed

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

Section 2. Severability

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

Section 3. Violations of Policy Provisions

An employee violating any of the provisions of these policies shall be subject to disciplinary action, in addition to any civil or criminal penalty which may be imposed for the violation of the same.

Section 4. Effective Date

These policies shall become effective upon adoption.

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Acknowledgement of Receipt of Personnel Policy Manual

I, _____ (employee), acknowledge receipt of the Town of Black Mountain Personnel Policy Manual.

I clearly understand that this Personnel Policy Manual does not create a contract for employment and that the Town may change or modify the procedures in this Personnel Policy Manual at any time, with or without prior notice. The provisions of this Personnel Policy Manual are guidelines; accordingly, this Personnel Policy Manual is not a contract and does not abrogate the at-will employment status of any employee. Regardless of any part of this Personnel Policy Manual or another, the Town may terminate any employee for any reason or for no reason at any time, with or without notice, in compliance with applicable law.

I HAVE READ AND UNDERSTAND THE POLICIES OUTLINED BY THE TOWN OF BLACK MOUNTAIN, AND AGREE TO BE BOUND BY THE TOWN'S RULES AND REGULATIONS DURING MY EMPLOYMENT WITH THE TOWN. I UNDERSTAND THAT VIOLATING THE POLICIES AND RULES SET OUT IN THIS EMPLOYMENT MANUAL MAY LEAD TO DISCIPLINARY ACTION, UP TO AND INCLUDING TERMINATION.

Print Name: _____

Signature: _____

_____ Date

Print Name: _____

Witness Signature: _____

_____ Date

*Signed and witnessed copies of this Acknowledgement of Receipt of Personnel Policy Manual must be on file for all employees.

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