

TOWN OF WEST JEFFERSON



PERSONNEL POLICY

Revised 5-2-2011, 9-19-2011, 1-9-2012, 9-10-2012, 11-12-2013, 11-2-2015

**TOWN OF WEST JEFFERSON
PERSONNEL POLICY**

BE IT RESOLVED by the Board of Aldermen of the Town of West Jefferson that the following policies apply to the appointment, classification, benefits, salary, promotion, demotion, dismissal, and conditions of employment of the employees of the Town of West Jefferson.

<u>Title</u>	<u>Page</u>
ARTICLE I. GENERAL PROVISIONS.....	5
Section 1. Purpose of the Policy	5
Section 2. At Will Employment.....	5
Section 3. Merit Principle	5
Section 4. Responsibilities of the Board of Aldermen.....	5
Section 5. Responsibilities of the Town Manager	5
Section 6. Responsibilities of the Human Resources Officer	6
Section 7. Application of Policies, Plan, Rules, and Regulations.....	7
Section 8. Departmental Rules and Regulations.....	7
Section 9. Definitions.....	7
ARTICLE II. POSITION CLASSIFICATION PLAN.....	8
Section 1. Purpose	8
Section 2. Composition of the Position Classification Plan.....	8
Section 3. Use of the Position Classification Plan	8
Section 4. Administration of the Position Classification Plan.....	8
Section 5. Authorization of New Positions and the Position Classification Plan.....	8
Section 6. Request for Reclassification.....	9
ARTICLE III. THE PAY PLAN	10
Section 1. Definition.....	10
Section 2. Administration and Maintenance	10
Section 3. Starting Salaries	10
Section 4. Trainee Designation and Provisions.....	10
Section 5. Probationary Pay Increases	11
Section 6. Merit Pay	11
Section 7. Merit Pay Bonus	11
Section 8. Salary Effect of Promotions, Demotions, Transfers, and Reclassifications.....	11
Section 9. Salary Effect of Salary Range Revisions	12
Section 10. Transition to a New Salary Plan.....	12
Section 11. Effective Date of Salary Changes	12
Section 12. Overtime Pay Provisions.....	13
Section 13. Call-back Pay.....	13
Section 14. Payroll Deduction.....	14
Section 15. Hourly Rate of Pay.....	14
Section 16. Pay for Acting in a Higher Level Classification	14

ARTICLE IV. RECRUITMENT AND EMPLOYMENT.....	15
Section 1. Equal Employment Opportunity Policy	15
Section 2. Implementation of Equal Employment Opportunity Policy	15
Section 3. Recruitment, Selection and Appointment	15
Section 4. Probationary Period	16
Section 5. Promotion	16
Section 6. Demotion	17
Section 7. Transfer	17
 ARTICLE V. CONDITIONS OF EMPLOYMENT.....	 18
Section 1. Work Schedule	18
Section 2. Political Activity	18
Section 3. Outside Employment.....	18
Section 4. Dual Employment	19
Section 5. Employment of Relatives	19
Section 6. Harassment Prohibited	19
Section 7. Solicitation and Acceptance of Gifts and Favors	20
Section 8. Performance Evaluation.....	20
Section 9. Safety	20
Section 10. Substance Abuse Policy	20
Section 11. Whistleblower Policy.....	20
 ARTICLE VI. EMPLOYEE BENEFITS.....	 21
Section 1. Eligibility.....	21
Section 2. Group Health and Hospitalization Insurance	21
Section 3. Group Life Insurance	21
Section 4. Other Optional Group Insurance Plans	21
Section 5. Retirement	21
Section 6. Supplemental Retirement Benefits.....	21
Section 7. Social Security	22
Section 8. Workers' Compensation.....	22
Section 9. Unemployment Compensation.....	22
Section 10. Tuition Assistance Program	22
Section 11. Law Enforcement Separation Allowance	23
 ARTICLE VII. HOLIDAYS AND LEAVES OF ABSENCE.....	 24
Section 1. Policy	24
Section 2. Holidays.....	24
Section 3. Holidays: Effect on Other Types of Leave	24
Section 4. Holidays: Compensation When Work is Require or Regularly Scheduled Off for Shift Personnel.....	24
Section 5. Vacation Leave	24
Section 6. Vacation Leave: Use by Probationary Employees.....	25
Section 7. Vacation Leave: Accrual Rate.....	25
Section 8. Vacation Leave: Maximum Accumulation.....	25
Section 9. Vacation Leave: Manner of Taking.....	25
Section 10. Vacation Leave: Payment upon Separation	26
Section 11. Vacation Leave: Payment upon Death	26
Section 12. Sick Leave	26
Section 13. Sick Leave: Accrual Rate and Accumulation.....	26-27

Section 14. Transfer of Sick Leave from Previous Employer	27
Section 14.2 Donation of Accumulated Sick Leave to Another Employee.....	27
Section 15. Sick Leave: Medical Certification	27
Section 16. Leave Prorated	27
Section 17. Family and Medical Leave	28
Section 18. Medical and Family Leave - Certification.....	29
Section 19. Leave Without Pay.....	29
Section 20. Family Medical Leave and Leave Without Pay: Retention and Continuation of Benefits.....	29-30
Section 21. Workers' Compensation Leave	30
Section 22. Military Leave.....	30
Section 23. Reinstatement Following Military Service	30-31
Section 24. Civil Leave	31
Section 25. Parental School Leave	31
Section 26. Funeral Leave	31-32
ARTICLE VIII. SEPARATION AND REINSTATEMENT	33
Section 1. Types of Separations	33
Section 2. Resignation.....	33
Section 3. Disability	33
Section 4. Voluntary Retirement	33
Section 5. Death	33
Section 6. Dismissal	34
Section 7. Reinstatement.....	34
Section 8. Rehiring	34
ARTICLE IX. RECORDS AND REPORTS	35
Section 1. Public Information	35
Section 2. Access to Confidential Records	36
Section 3. Personnel Actions.....	36
Section 4. Records of Former Employees.....	36
Section 5. Remedies of Employees Objecting to Material in File	36
Section 6. Penalties for Permitting Access to Confidential Records.....	36
Section 7. Examining and/or Copying Confidential Material without Authorization	36
Section 8. Destruction of Records Regulated	36
APPENDIX A. Substance Abuse Drug Policy.....	37-41
APPENDIX B. Water & Sewer Department Certification Incentive Bonus Plan.....	42-44
APPENDIX C. Whistleblower Protection Policy.....	45-47

ARTICLE I. GENERAL PROVISIONS

Section 1. Purpose of the Policy

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

Section 2. At Will Employment

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

Section 3. Merit Principle

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

Section 4. Responsibilities of the Board of Aldermen

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

Section 5. Responsibilities of the Town Manager

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

The Town Manager shall supervise or participate in:

- a) recommending rules and revisions to the personnel system to the Board of Aldermen for consideration;
- b) making changes as necessary to maintain an up to date and accurate position classification plan;
- c) preparing and recommending necessary revisions to the pay plan;

- d) determining which employees shall be subject to the overtime provisions of FLSA;
- e) establishing and maintaining a roster of all persons and authorized positions in the municipal service, setting forth each position and employee, class title of position, salary, any changes in class title and status, and such data as may be desirable or useful;
- f) developing and administering such recruiting programs as may be necessary to obtain an adequate supply of competent applicants to meet the needs of the Town;
- g) performing such other duties as may be assigned by the Board of Aldermen not inconsistent with this Policy; and
- h) appointing an employee to the role of Human Resources Officer.

Section 6. Responsibilities of the Human Resources Officer

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

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

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

The personnel policy and all rules and regulations adopted pursuant thereto shall be binding on all Town employees. The Town Manager, Town Attorney, members of the Board of Aldermen and advisory boards and commissions will be exempted except in sections where specifically included. An employee violating any of the provisions of this policy shall be subject to appropriate disciplinary action, as well as prosecution under any civil or criminal laws which have been violated.

Section 8. Departmental Rules and Regulations

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

Section 9. Definitions

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

Full-time employee. An employee who is in a position for which an average work week equals at least 35 hours, and continuous employment of at least 12 months, are required by the Town.

Part-time employee. An employee who is in a position for which an average work week of at least 20 hours and less than 35 hours and continuous employment of at least 12 months are required by the Town.

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

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

Temporary employee. An employee, not in a permanent position, for which either the average work week required by the Town over the course of a year is less than 25 hours, or continuous employment required by the Town is less than 12 months.

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

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

ARTICLE II. POSITION CLASSIFICATION PLAN

Section 1. Purpose.

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

Section 2. Composition of the Position Classification Plan

The classification plan shall consist of:

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

Section 3. Use of the Position Classification Plan

The classification plan is to be used:

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

Section 4. Administration of the Position Classification Plan

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

Section 5. Authorization of New Positions and the Position Classification Plan

New positions shall be established upon recommendation of the Town Manager and approval of the Board of Aldermen. New positions shall be recommended to the Board of Aldermen with a recommended class title after which the Town Manager shall either allocate the new position into

the appropriate existing class, or revise the position classification plan to establish a new class to which the new position may be allocated. The position classification plan, along with any new positions or classifications shall be approved by the Board of Aldermen and on file with the Human Resources Officer. Copies will be available to all Town employees for review upon request.

Section 6. Request for Reclassification

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

ARTICLE III. THE PAY PLAN

Section 1. Definition

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

Section 2. Administration and Maintenance

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

The pay plan is intended to provide equitable compensation for all positions, reflecting differences in the duties and responsibilities, the comparable rates of pay for positions in private and public employment in the area, changes in the cost of living, the financial conditions of the Town, and other factors. To this end, each budget year the Human Resources Officer shall make comparative studies of all factors affecting the level of salary ranges including the consumer price index, anticipated changes in surrounding employer plans, and other relevant factors, and will recommend to the Town Manager such changes in salary ranges as appear to be pertinent. Such changes shall be made in the salary ranges such that the hiring rate, all intervening rates, and the maximum change according to the market. Periodically, the Town Manager shall recommend that individual salary ranges be studied and adjusted as necessary to maintain market competitiveness. Such adjustments will be made by increasing or decreasing the assigned salary grade for the class and adjusting the rate of pay for employees in the class when the action is approved by the Board of Aldermen.

Section 3. Starting Salaries

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

Section 4. Trainee Designation and Provisions

Applicants being considered for employment or Town employees who do not meet all of the requirements for the position for which they are being considered may be hired, promoted, demoted, or transferred by the Town Manager to a "trainee" status. In such cases, a plan for training, including a time schedule, must be prepared by the Department Head.

"Trainee" salaries shall be no more than two grades below the minimum salary rate established for the position for which the person is being trained. A new employee designated as "trainee" shall be regarded as being in a probationary period. However, probationary periods shall be no less than six months and trainee periods may extend from three to eighteen months. A trainee shall remain a probationary employee until the trainee period is satisfactorily completed.

If the training is not successfully completed to the satisfaction of the Town Manager, the trainee shall be transferred, demoted, or dismissed. If the training is successfully completed, the employee shall be paid at least at the hiring rate established for the position for which the employee was trained.

Section 5. Probationary Pay Increases

Employees hired or promoted into the hiring rate of the pay range shall receive a salary increase within the pay range of approximately 5% upon successful completion of the probationary period. Employees serving a twelve-month probationary period may be considered for this increase after six months of employment.

Section 6. Merit Pay

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

Section 7. Merit Pay Bonus

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

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

Promotions. The purpose of the promotion pay increase is to recognize and compensate the employee for taking on increased responsibility. When an employee is promoted, the employee's salary shall normally be advanced to the hiring rate of the new position, or to a salary which provides an increase of at least approximately 5% over the employee's salary before the promotion, whichever is greater. In the event of highly skilled and qualified employees, shortage of qualified applicants, or other reasons related to the merit principle of employment, the Town Manager may set the salary at an appropriate rate in the range of the position to which the employee is promoted that best reflects the employee's qualifications for the job and relative worth to the Town, taking into account the range of the position and relative qualifications of other employees in the same classification. In no event, however, shall the new salary exceed the maximum rate of the new salary range. In setting the promotion salary, the Town shall consider internal comparisons with other employees in the same or similar jobs.

Demotions. Demotion is the involuntary movement of an employee from one position to a position in a class assigned to a lower salary range. When an employee is demoted to a position for which qualified, the salary shall be decreased at least 5%. Salaries of demoted employees may be no greater than the maximum of the new range.

Reassignments. A reassignment is defined as the voluntary movement to a position in a lower salary range. When an employee takes a reassignment, the salary shall be set at the rate in the lower pay range which provides a salary commensurate with the employees' qualifications to

perform the job and consistent with the placement of other employees within the same classification. Salary may be retained at the same level when this option does not create internal inequities with other employees in the same or similar job.

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

Reclassifications. An employee whose position is reclassified to a class having a higher salary range shall receive a pay increase of approximately 5% or an increase to the hiring rate of the new pay range, whichever is higher. If the employee has completed probation, the employee's salary shall be advanced to at least the probation completion amount in the new range.

If the position is reclassified to a lower pay range, the employee's salary shall remain the same. If the employee's salary is above the maximum established for the new range, the salary of that employee shall be maintained at the current level until the range is increased above the employee's salary.

Section 9. Salary Effect of Salary Range Revisions

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

Section 10. Transition to a New Salary Plan

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

- 1) No employee shall receive a salary reduction as a result of the transition to a new salary plan.
- 2) All employees being paid at a rate lower than the hiring rate established for their respective classes shall have their salaries raised at least to the new hiring rate for their classes.
- 3) All employees being paid at a rate below the maximum rate established for their respective classes shall be paid at a rate *within* the salary schedule.
- 4) All employees being paid at a rate above the maximum rate established for their respective classes shall have their salaries maintained at that salary level with no increases until such time as the employees' salary range is increased above the employees' current salary.

Section 11. Effective Date of Salary Changes

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

approved by the Town Manager.

Section 12. Overtime Pay Provisions

Employees of the Town can be requested and may be required to work in excess of their regularly scheduled hours as necessitated by the needs of the Town and determined by the Department Head. Overtime work should normally be approved in advance by the Department Head, Town Manager or Human Resources Officer.

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

Non-exempt employees will be paid at a straight time rate for hours up to the FLSA established limit for their position (usually 40 hours in a 7-day period; 171 hours for police and 212 hours for fire personnel in a 28 day cycle). Hours worked beyond the FLSA established limit will be compensated in either time or pay at the appropriate overtime rate. In determining eligibility for overtime in a work period, only hours actually worked shall be considered; in no event will vacation, sick leave, or holidays be included in the computation of hours worked for FLSA purposes. Compensatory leave balances may not exceed 240 hours except for public safety employees (sworn police and firefighting employees) who may not accrue more than 480 hours. Any overtime worked after such maximum balances must be compensated in pay.

Whenever practicable, departments will schedule time off on an hour-for-hour basis within the applicable work period for non-exempt employees, instead of paying overtime. When time off within the work period cannot be granted, overtime worked will be paid in accordance with the FLSA. Compensatory time balances may be carried by employees not to exceed 240 hours for regular employees and 480 hours for police and fire employees.

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

Section 13. Call-back and Stand-by Pay

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

Call-back. Non-exempt employees will be guaranteed a minimum payment of two hours of wages for being called back to work outside of normal working hours. "Call-back" provisions do not apply to previously scheduled overtime work (scheduled one or more days in advance).

Section 14. Payroll Deduction

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

Section 15. Hourly Rate of Pay

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

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

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

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

ARTICLE IV. RECRUITMENT AND EMPLOYMENT

Section 1. Equal Employment Opportunity Policy

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

Section 2. Implementation of Equal Employment Opportunity Policy

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

Section 3. Recruitment, Selection and Appointment

Recruitment Sources. When position vacancies occur, Human Resources Department shall publicize these opportunities for employment, including applicable salary information and employment qualifications. Information on job openings and hiring practices will be provided to recruitment sources, including organizations and news media available to minority applicants. In addition, notice of vacancies shall be posted at designated conspicuous sites within departments if practical. Individuals shall be recruited from a geographic area as wide as necessary and for a period of time sufficient to ensure that well-qualified applicants are obtained for Town service. The North Carolina Employment Security Commission may be used as a recruitment source. In rare situations because of emergency conditions, high turnover, etc., the Town may hire or promote without advertising jobs, upon approval of the Town Manager.

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

Application for Employment. All persons expressing interest in employment with the Town shall be given the opportunity to file an application for employment for positions which are vacant.

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

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

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

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

Section 4. Probationary Period

An employee appointed or promoted to a permanent position shall serve a probationary period. Employees shall serve a six-month probationary period, except that employees in sworn police, entry level fire, and Department Heads positions shall serve a twelve-month probationary period. Employees hired as trainees shall remain on probation until the provisions of their traineeship are satisfied. During the probationary period, supervisors shall monitor an employee's performance and communicate with the employee concerning performance progress. Employees serving a twelve-month probation shall have a probationary review at the end of six months as well as before the end of twelve months.

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

Disciplinary action, including demotion and dismissal, may be taken at any time during the probationary period of a new hire without following the steps outlined in this policy.

A promoted employee who does not successfully complete the probationary period may be transferred or demoted to a position in which the employee shows promise of success. If no such position is available, the employee shall be dismissed. Promoted and demoted employees who are on probation retain all other rights and benefits such as the right to use of the grievance procedures.

Section 5. Promotion

Promotion is the movement of an employee from one position to a vacant position in a class assigned to a higher salary range. It is the Town's policy to create career opportunities for its employees whenever possible. Therefore, when a current employee applying for a vacant position is best suited of all applicants, that applicant shall be appointed to that position. The Town will balance three goals in the employment process: 1) the benefits to employees and the organization

of promotion from within; 2) providing equal employment opportunity and a diversified workforce to the community; and 3) obtaining the best possible employee who will provide the most productivity in that position. Therefore, except in rare situations where previous Town experience is essential (such as promotions to Police Sergeant), or exceptional qualifications of an internal candidate so indicate, the Town will consider external and internal candidates rather than automatically promote from within. Candidates for promotion shall be chosen on the basis of their qualifications and their work records. Internal candidates shall apply for promotions using the same application process as external candidates.

Section 6. Demotion and Reassignment

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

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

Section 7. Transfer

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

ARTICLE V. CONDITIONS OF EMPLOYMENT

Section 1. Work Schedule

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

Section 2. Political Activity

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

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

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

Section 3. Outside Employment

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

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

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

duties.

Section 4. Dual Employment

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

Section 5. Employment of Relatives

The Town prohibits the hiring and employment of immediate family in full or part time positions within the same work unit. "Immediate Family" is defined in Article VII, Section 26. The Town also prohibits the employment of any person into a permanent position who is an immediate family member of individuals holding the following positions: Mayor, Mayor Pro Temp, Board of Aldermen Member, Town Manager, Finance Director, Human Resources Officer, Town Clerk, or Town Attorney. Otherwise, the Town will consider employing family members or related persons in the service of the Town, provided that such employment does not:

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

This provision shall not apply retroactively to anyone employed when the provision is adopted by the Town. Should an immediate family member of a Town employee be elected to the Board, the employee shall resign within six months.

Section 6. Harassment Prohibited

The Town prohibits harassment in any form that is based on sex, race, color, religion, national origin, age, and/or disability. Harassment is defined as conduct that culminates in tangible employment action or is sufficiently severe or pervasive to create a hostile work environment. Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when 1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; 2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or 3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment. Sexual harassment includes repeated offensive sexual remarks, continual or repeated comments about an individual's body and offensive sexual language.

Any employee who believes that he or she may have a complaint of harassment may follow the Grievance Procedure described in this Policy or may file the complaint directly with the Human Resources Officer or Department Head who will immediately notify the Town Manager. The

employee may file the complaint directly with the Town Manager if it involves a Department Head. The Human Resources Officer will insure that an investigation is conducted into any allegation of harassment and advise the employee and appropriate management officials of the outcome of the investigation.

Employees who are found to be engaged in harassment are subject to disciplinary action up to and including dismissal. Employees making complaints of harassment are protected against retaliation from alleged harassers or other employees.

Section 7. Solicitation and Acceptance of Gifts and Favors

No official or employee of the Town shall solicit or accept any gift, favor, or thing of value (more than \$100) that may tend to influence such employee in the discharge of the employee's duties, or grant in the discharge of duty an improper favor, service, or thing of value.

Section 8. Performance Evaluation

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

Section 9. Safety

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

Section 10. Substance Abuse Policy

See Appendix A.

Section 11. Whistleblower Policy

See Appendix C.

ARTICLE VI. EMPLOYEE BENEFITS

Section 1. Eligibility

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

Section 2. Group Health and Hospitalization Insurance

The Town provides group health and hospitalization insurance programs for full-time employees. Employees may add family members to their health and hospitalization insurance at their own cost.

Employees who are scheduled to work 30 hours or more per week on a continuous year-round basis may, if they so desire, purchase available group health through the Town for themselves or for themselves and qualified dependents. A prorated amount of the cost of coverage paid for a full-time employee shall be paid by the Town with the remainder of the cost being paid by the employee. This prorated amount shall be based on regularly scheduled hours.

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

Section 3. Group Life Insurance

The Town provides group life insurance for each employee subject to the stipulations of the insurance contract. Life insurance will be provided by the Town in an amount approved by the Town, subject to appropriation.

Section 4. Other Optional Group Insurance Plans

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

Section 5. Retirement

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

Section 6. Supplemental Retirement Benefits

The Town provides 401-K benefits for its full-time employees as a percentage of salary as designated by the Board of Aldermen beginning on the first day of employment, subject to appropriation by the Board of Aldermen.

Each full-time law enforcement officer shall receive 401-K benefits as prescribed by North Carolina State Law and beginning on the first day of employment.

Section 7. Social Security

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

Section 8. Workers' Compensation

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

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

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

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

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

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

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

Section 9. Unemployment Compensation

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

Section 10. Tuition Assistance Program

Full-time employees who have completed initial probation may apply for tuition reimbursement for courses taken on their own time, which will improve their skills for their current job or prepare them for promotional opportunities within the Town service. Tuition, registration, fees, laboratory fees, and student fees are eligible expenses. Employees may be reimbursed for 50% of eligible expenses. Satisfactory completion of the courses will be required for reimbursement. Requests for tuition assistance shall be submitted to the Department Head prior to course registration and

are subject to the review by the Human Resources Officer and approval of Town Manager, subject to availability of funds.

Section 11. Law Enforcement Separation Allowance

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

- a. The officer shall have completed 30 or more year of creditable service, or have attained 55 years of age and completed five or more years of creditable service; and
- b. Not have attained 62 years of age;
- c. Have completed at least five years of continuous service as a law enforcement officer immediately preceding a service retirement, as defined by N.C. Gen. Stat. ' ' 143-166.41(a)(3) and 143-166.41(b); and
- d. The law enforcement officer, after separation from employment with the Town, notifies the Town of any new employment involving state, local or federal law enforcement duties. Such notification shall, include the nature and extent of the employment, any change of employment status, and any discontinuation of employment, within five (5) days of the new employment, change or discontinuation.

Such allowance shall terminate at death, or on the last day of the month prior to which the officer attains 62 years of age, or upon the first day of re-employment in a sworn position by any federal, State or local law enforcement department, agency or institution, whether in North Carolina or elsewhere in a job scheduled for 1000 or more hours per year.

ARTICLE VII. HOLIDAYS AND LEAVES OF ABSENCE

Section 1. Policy

The policy of the Town is to provide vacation leave, sick leave, and holiday leave to all full-time employees.

Section 2. Holidays

The Town will observe the following Holiday schedule:

- New Year's Day
- Good Friday
- Memorial Day
- Independence Day
- Labor Day
- Veteran's Day
- Thanksgiving Day and the following Friday
- Christmas Day and:
 - If Christmas falls on a Wednesday, also the day before and the day following Christmas
 - If Christmas falls on a Monday, also Tuesday the day after Christmas
 - If Christmas falls on a Tuesday, also the Monday/Christmas Eve Day
 - If Christmas falls on a Thursday, Also the Wednesday/Christmas Eve Day
 - If Christmas falls on a Friday, also the Thursday/Christmas Eve day
 - If Christmas falls on a Saturday or Sunday, then the Friday before and the Monday after Christmas

Section 2 revised 1-9-12

Section 3. Holidays: Effect on Other Types of Leave

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

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

Police Officers working a rotating schedule will be paid for 8.0 hours of holiday time for each holiday in addition to regular pay for the week. Other employees who work a holiday will be paid for the time they worked on the holiday in addition to regular pay for the week.

Section 5. Vacation Leave

Vacation leave is intended to be used for rest and relaxation, school appointments, and other personal needs. For purpose of earning & accruing vacation leave, the period of twelve (12) calendar months between January 1 & December 31 is established as the leave year.

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

Section 6. Vacation Leave: Use by Probationary Employees

Employees serving a probationary period following initial employment may accumulate vacation leave but shall not be permitted to take vacation leave during the first six months of employment, during the probationary period, unless approved in a pre-employment agreement.

Section 7. Vacation Leave: Accrual Rate

Each full time employee of the Town shall earn vacation at the following schedule, prorated by the average number of hours in the workweek (Section 16):

Years of Service	Days/Hrs Earned Per Year -or-	Hrs Earned Per Month
Completion of 6 mo. probationary period (through December 31)	5.0 / 40 hours	
1-4	10.0 / 80 hours	6.67
5-7	15.0 / 120 hours	10
8-10	15.0 / 120 hours	10
11	16.0 / 128 hours	10.67
12	17.0 / 136 hours	11.33
13	18.0 / 144 hours	12
14	19.0 / 152 hours	12.67
15-19	20.0 / 160 hours	13.33
20-29	25.0 / 200 hours	16.67
30+	25.0 / 200 hours + one week pay	16.67

Example: An employee is hired by the Town full-time in February 2013, who then completes their 6 mo. probationary period in August. The Employee then earns their 40 hrs of vacation in August. For the remainder of the year, (September-December 31) this employee will earn vacation time per month at a rate of 6.67 hrs/month for a total of 27 hours. The total vacation time earned (if no time had been taken) as of December 31, 2013 would be 67 hrs. Beginning January 1, 2014, the employee will then earn their 10 days or 80 hrs of vacation time for the entire 2014 year. The employee's grand total would then be 147 hours at January 1, 2014 (if no time had been taken). It should be noted that totals are always rounded up to the nearest one (1) hour increment by the Town.

Section 8. Vacation Leave: Maximum Accumulation

Vacation leave may be accumulated without any applicable maximum until December 31 of each year. However, if the employee departs from service, payment for accumulated vacation leave shall not exceed 30 days (240 hours) prorated as shown in Section 16. Effective the first payroll in the calendar year, any employee with more than 30 days (240 hours) of accumulated leave shall have the excess accumulation removed so that only 30 days (240 hours) are carried forward to January 1 of the next calendar year. Employees are not eligible to receive pay for vacation time not taken.

Employees may have the excess vacation leave (over 30 days (240 hours) prorated as shown in Section 16) converted to sick leave.

Employees are cautioned not to retain excess accumulated vacation leave until late in the year. Because of the necessity to keep all functions in operation, large numbers of employees cannot be granted vacation leave at any one time. If an employee has excess leave accumulation during the

latter part of the year and is unable to take such leave because of staffing demands, the employee shall receive no special consideration either in having vacation leave scheduled or in receiving any exception to the maximum accumulation.

Section 9. Vacation Leave: Manner of Taking

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

Section 10. Vacation Leave: Payment upon Separation

An employee who has successfully completed six months of the probationary period, or twelve-month where applicable, will normally be paid for accumulated vacation leave upon separation not to exceed 30 days prorated as shown in Section 16, provided notice is given to the supervisor at least two weeks in advance of the effective date of resignation.

Any employee failing to give the notice required by this section shall forfeit payment for accumulated leave. The notice requirement may be waived by the Town Manager when deemed to be in the best interest of the Town. Employees who are involuntarily separated shall receive payment for accumulated vacation leave subject to the 30 days prorated as shown in Section 16, maximum. Employees dismissed for criminal conduct may be determined ineligible to receive vacation pay.

Section 11. Vacation Leave: Payment upon Death

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

Section 12. Sick Leave

Sick leave may be granted to a probationary or regular employee absent from work for any of the following reasons: sickness, bodily injury, required physical or dental examinations or treatment, or exposure to a contagious disease, when continuing work might jeopardize the health of others.

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

~~Up to three days of sick leave may be used for bereavement and funeral leave upon the death of an immediate family member. Additional time needed or funeral leave needed for persons other than immediate family members, may be charged to vacation, accrued compensatory leave, or leave without pay.~~

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

"Immediate family" shall be defined as spouse, children, step-children, parent or legal guardian,

stepfather/mother, brother, sister, step-brother/sister. In the event of a death only, funeral leave will include mother-in-law, father-in-law, grandparents, and grandchildren.

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

Section 13. Sick Leave: Accrual Rate and Accumulation

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

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

Section 14. Transfer of Sick Leave from Previous Employer

The Town will accept sick leave balances when documented by a previous employer when the employee worked for a previous employer covered by the State or Local Government Retirement System and the employee did not withdraw accumulated contributions from that employer when leaving employment. The sick leave will be treated as though it were earned with the Town of West Jefferson. The sick leave amount must be certified by the previous employer and it is the employee's responsibility to provide documentation from his or her previous employer within three (3) months of employment. Transferred sick leave will be credited to the employee upon completion of the probationary period.

Section 14.2 Donation of Accumulated Sick Leave to Another Employee

With the approval of the Human Resources Officer, employees may donate up to six (6) weeks per year of accumulated sick leave hours to another employee who may be in genuine need of sick leave hours. Such donation of sick leave should not place the donating employee in a position of not having sufficient sick leave hours for his/her own use.

Section 15. Sick Leave: Medical Certification

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

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

Claiming sick leave under false pretense to obtain a day off with pay shall subject the employee to

disciplinary action up to and including dismissal.

Section 16. Leave Pro-rated

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

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

Section 17. Family and Medical Leave

Employees of the Town may be granted FMLA when they become eligible. They become eligible when the Town employees fifty or more employees.

The Town will grant up to 12 weeks of family and medical leave per twelve months to eligible employees in accordance with the Family and Medical Leave Act of 1993 (FMLA) once employees become eligible. The leave may be paid (coordinated with the Town's Vacation and Sick Leave policies), unpaid, or a combination of paid and unpaid. Earned Compensatory time may not be used during FMLA leave. Unpaid leave will be granted only when the employee has exhausted all appropriate types of paid leave. Additional time away from the job beyond the 12-week period may be approved in accordance with the Town's Leave without Pay policy.

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

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

1. the birth of a child and in order to care for that child;
2. the placement of a child for adoption or foster care;
3. to care for a spouse, child, or parent with a serious health condition; or
4. the serious health condition of the employee.

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

If a husband and wife both work for the Town and each wishes to take leave for the birth of a child,

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

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

The request for the use of leave must be made in writing by the employee and approved by the Department Head or Town Manager.

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

Section 18. Medical and Family Leave - Certification

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

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

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

Section 19. Leave Without Pay

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

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

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

Benefits

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

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

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

Section 21. Workers' Compensation Leave

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

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

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

Section 22. Military Leave

Regular employees who are members of an Armed Forces Reserve organization or National Guard shall be granted two calendar weeks per year for military leave without pay. On rare occasions due to annual training being scheduled on a federal fiscal year basis, an employee may be required to attend two periods of training in one calendar year. For this purpose only, an employee shall be granted an additional ten days of military leave during the same calendar year. If the compensation received while on military leave is less than the salary that would have been earned during this same period as a Town employee, the employee shall receive partial compensation equal to the difference. The effect will be to maintain the employee's salary at the normal level during this period. If such duty is required beyond this ten workdays, the employee shall be eligible to take accumulated vacation leave or be placed in a leave without pay status, and the provisions of that leave shall apply. While taking military leave, the employee's leave credits and other benefits shall continue to accrue as if the employee physically remained with the Town during this

period. Employees who are eligible for military leave have all job rights specified by the Vietnam Veterans Readjustment Act.

Section 23. Reinstatement Following Military Service

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

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

Section 24. Civil Leave

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

Section 25. Parental School Leave

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

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

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

Section 26. Funeral Leave

Funeral leave may be used for death in the employee's immediate family (see below for definition of immediate family), but may not exceed three days for any one occurrence. Additional leave time

required for such occurrence may be charged to vacation or other approved leave such as compensatory time when approved by the Town Manager. Employees shall not be permitted to accumulate funeral leave or to use bereavement leave for creditable service toward retirement.

“Immediate family” shall be defined as spouse, children, step-children, parent or legal guardian, stepfather/mother, brother, sister, step-brother/sister. In the event of a death only, funeral leave will include mother-in-law, father-in-law, grandparents, and grandchildren.

ARTICLE VIII. SEPARATION AND REINSTATEMENT

Section 1. Types of Separations

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

Section 2. Resignation

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

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

Section 4. Disability

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

Section 5. Voluntary Retirement

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

Section 6. Death

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

Section 7. Dismissal

An employee may be dismissed for any reason.

Section 8. Reinstatement

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

Section 9. Rehiring

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

ARTICLE IX. RECORDS AND REPORTS

Section 1. Public Information

In compliance with GS 160A-168, the following information with respect to each Town employee is a matter of public record: name; age; date of original employment or appointment to the service; current position title; current salary; date and amount of the most recent increase or decrease in salary; date of the most recent promotion, demotion, transfer, suspension, separation, or other change in position classification; and the office to which the employee is currently assigned. Any person may have access to this information for the purpose of inspection, examination, and copying, during regular business hours, subject only to such rules and regulations for the safekeeping of public records as the Town may adopt.

Section 2. Access to Confidential Records

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

- 1) The employee or his/her duly authorized agent may examine all portions of his/her personnel file except letters of reference solicited prior to employment, and information concerning a medical disability, mental or physical, that a prudent physician would not divulge to the patient.
- 2) A licensed physician designated in writing by the employee may examine the employee's medical record.
- 3) A Town employee having supervisory authority over the employee may examine all material in the employee's personnel file.
- 4) By order of a court of competent jurisdiction, any person may examine all material in the employee's personnel file.
- 5) An official of an agency of the State or Federal Government, or any political subdivision of the State, may inspect any portion of a personnel file when such inspection is deemed by the Town Manager to be necessary and essential to the pursuit of a proper function of the inspecting agency, but no information shall be divulged for the purpose of assisting in a criminal prosecution of the employee, or for the purpose of assisting in an investigation of the employee's tax liability. However, the official having custody of the personnel records may release the name, address, and telephone number from a personnel file for the purpose of assisting in a criminal investigation.
- 6) An employee may sign a written release to be placed in his/her personnel file that permits the record custodian to provide, either in person, by telephone, or by mail, information specified in the release to prospective employers, educational institutions, or other persons specified in the release.
- 7) The Town Manager, with the concurrence of the Board of Aldermen, may inform any person of the employment, non employment, promotion, demotion, suspension or other disciplinary action, reinstatement, transfer, or termination of a Town employee, and the reasons for that action. Before releasing that information, the Town Manager shall determine in writing that

the release is essential to maintaining the level and quality of Town services. The written determination shall be retained in the Town Manager's office, is a record for public inspection, and shall become a part of the employee's personnel file.

Section 3. Personnel Actions

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

Section 4. Records of Former Employees

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

Section 5. Remedies of Employees Objecting to Material in File

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

Section 6. Penalties for Permitting Access to Confidential Records

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

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

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

Section 8. Destruction of Records Regulated

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

Appendix A

TOWN OF WEST JEFFERSON Substance Abuse-Drug Free Workplace Policy

I. POLICY STATEMENT

Employee substance abuse and use increases the potential for accidents, absenteeism, substandard performance, and low employee morale. It also undermines public confidence in the Town's work force. Such situations run counter to the policy of the Town of West Jefferson, which is to maintain a safe, healthy, and productive work environment for all employees and to encourage obedience of the law. To implement this policy, the Town will act to the fullest extent allowed, consistent with requirements of the law and individual rights, to eliminate and/or prevent employee substance abuse. In recognition of the serious duty entrusted to Town employees and with knowledge that drugs and alcohol hinder a person's ability to perform duties safely and effectively, the Town of West Jefferson has adopted this substance abuse policy. All employees have the right to report any violation of this policy without fear of reprisal. Supervisory employees will receive periodic training on the administration of this policy, including recognizing performance or behavioral problems related to abuse, testing, rehabilitation and the taking of appropriate disciplinary action when necessary. An employee who seeks help for substance abuse through a substance abuse professional on a voluntary basis shall not be subject to disciplinary action as a result thereof, however, voluntary participation with substance abuse professionals does not absolve the employee from the terms of this policy and any subsequent consequences. The Town encourages employees to seek help for substance abuse before intervention becomes necessary. A violation of this policy constitutes grounds for discipline including termination of employment.

II. DEFINITIONS

Applicant: Any person who applies for a vacant position by completing and submitting an application for employment regardless of current employment status, (e.g., a current Town employee becomes an applicant when an application for another position is submitted).

Employee: Any person who is employed either full-time or part-time by the Town of West Jefferson.

Laboratory: Any laboratory approved and certified by the Department of Health and Human Services, the National Institute of Drug Abuse or the College of American Pathology to conduct employee drug and alcohol testing and job applicant drug testing.

Medical Review Officer: A person who is a medical professional responsible for receiving and reviewing laboratory results generated by an employer's drug testing program and evaluating medical explanations for certain drug test results.

West Jefferson Safety Sensitive Positions: A position will be designated safety sensitive if performance of job duties while the employee is under the influence of a

substance could cause imminent harm to persons served. Examples of these positions include:

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

West Jefferson will comply with requirements of federal drug-free workplace rules, including but not limited to the Federal Drug-Free Workplace Act of 1988 and Federal Department of Transportation rules. West Jefferson employees who are considered safety sensitive are subject to random testing.

Prohibited Drug: means (a) controlled substances that are not legally obtainable and (b) controlled substances whose use is legal but which are not legally obtainable. Controlled substances shall have the meaning set forth in North Carolina General Statute § 90-87(5), as amended, or a metabolite thereof.

Reasonable Suspicion: Reasonable suspicion exists when a supervisor can point to specific, objective facts and is able to articulate rational inferences drawn from those facts in light of their experience that an employee has consumed or is under the influence of drugs or alcohol while at work. Circumstances which constitute a basis for determining reasonable suspicion may include, but are not limited to:

- a) Direct observation of drug or alcohol use or possession.
- b) Direct observation of the physical symptoms of being under the influence of a drug or alcohol, such as impairment of motor functions.
- c) A pattern of abnormal conduct or erratic behavior.
- d) Arrest or conviction for a drug or alcohol related offense, or the identification of an employee as the focus of a criminal investigation into illegal drug possession, use, or distribution.
- e) Information that is provided by reliable and credible sources or that can be independently corroborated.
- f) Newly discovered evidence that the employee tampered with a previous drug test.

Substance Abuse: The illegal use or abuse of drugs or alcohol.

Substance Abuse Professional: A person who evaluates employees who have violated a drug and alcohol regulation and makes recommendations concerning education, treatment, follow-up testing, and aftercare.

III. ASSISTANCE TREATMENT PROGRAMS

a) Self Referral. Employees with Substance Abuse problems can request assistance from the Town Manager. Assistance will be provided on a confidential basis, and each employee will be referred to the appropriate treatment and counseling services, which may be available through existing insurance policies. Employees who voluntarily request

assistance in dealing with Substance Abuse problems prior to being identified as having a Substance Abuse problem may do so one time during their employment with the Town without enforcement action under this Policy for such referral.

b) Town Referral. Employees who test positive in a drug or alcohol test pursuant to this policy may be referred for counseling or treatment to overcome their Substance Abuse problem. Referral will be on a confidential basis, and the employee will be referred to the appropriate treatment and counseling services, which may be available through existing insurance policies. During the counseling or treatment program, the employee shall not engage in prohibited conduct set forth in this policy. Engaging in prohibited conduct shall result in disciplinary action, including suspension without pay, or termination. Before the employee is permitted to return to work, he or she will be required to provide the Town with certification, from either an inpatient or an outpatient rehabilitation program, of fitness for duty. In addition, the employee will be required to continue with his treatment plan. The Town will monitor the employee's continued participation in the treatment program. Undergoing treatment or counseling will normally not jeopardize an employee's employment. However, the employee may be removed from a position involving health, safety, or confidential matters. If other work within the Town cannot be found, the employee will be terminated.

IV. DRUG-FREE WORKPLACE AWARENESS PROGRAM

To assist employees in understanding and avoiding the perils of Substance Abuse, a Drug and Alcohol Awareness Program will be provided. This program will be an ongoing educational effort to prevent and eliminate substance Abuse. The Drug and Alcohol Awareness Program will inform employees through periodic distribution of information to the employee about:

- a) The dangers of Substance Abuse.
- b) The Drug-Free Workplace Policy.
- c) The availability of treatment and counseling for employees who voluntarily seek such assistance.
- d) The sanctions imposed for violations of the Drug-Free Workplace Policy.

V. PROHIBITED CONDUCT

The Drug-Free Workplace Policy prohibits the following:

- a) Use, possession, manufacture, distribution, dispensation, or sale of Prohibited Drugs in the Workplace or during non-working time to the extent that such conduct during nonworking time impairs the employee's ability to perform on the job.
- b) Storing any Prohibited Drug or alcohol in the Workplace.
- c) Being under the influence of a Prohibited Drug or alcohol in the Workplace.
- d) Abuse of prescription drugs.
- e) Falsifying, or causing a drug or alcohol test to be falsified, including switching or adulterating any urine sample submitted for testing.
- f) Refusing consent to drug or alcohol testing required pursuant to this policy.
- g) Failing, when requested by the Town, to enroll in any alcohol or drug treatment or counseling program or failing to adhere to the requirements of the program.
- h) Being convicted under any criminal drug statute for a violation of a criminal drug statute, in which said violation occurs at the Workplace or during non-working time to the extent

that such conviction impairs the employee's ability to perform on the job.

- i) Failing to notify the Town of any criminal drug statute conviction for a violation within 5 days after that conviction.
- j) Failing to comply with rules and regulations promulgated under any testing programs maintained by the Town pursuant to such rules and regulations.

VI. PERSONS SUBJECT TO TESTING

a) **Applicants for Employment (for Prohibited Drugs).**

b) **Random Testing of employees in West Jefferson Safety Sensitive Positions.**

c) **Post Accident:** Employees will be required to undergo drug/alcohol testing in the following circumstances involving a Town vehicle or equipment:

1. When an employee is involved in an accident that results in a fatality or bodily injury requiring immediate medical attention; or
2. When an accident is estimated to have \$2,500 or more in physical damage to vehicle or property and the employee was at fault or contributed to the accident; or
3. When the employee's supervisor has reasonable suspicion to believe that the employee has operated a Town vehicle or equipment after consuming Prohibited Drugs or alcohol.

d) **Reasonable Suspicion:** When reasonable suspicion exists that an employee is affected by a substance covered in this policy, the employee shall be required to report for an alcohol or drug test. Refusal will result in either disciplinary action, a recommendation of disciplinary action, or termination.

VII. TESTED SUBSTANCES

West Jefferson's drug and alcohol testing program includes testing for alcohol, prescribed substances or any other substance, including over the counter medications that may affect performance. In addition, this program includes testing for any other substances as recommended by the Medical Review Officer.

VIII. PROCEDURE

a) **Notice of Policy:** During the recruitment and/or employment process every applicant will be given notice of this policy. The Town will provide annual summary notice of this policy to all employees

b) **Testing:**

1. Alcohol testing will be administered through a breathalyzer program recognized by the State of North Carolina and commonly used by law enforcement, or as recommended by a Medical Review Officer.
2. Drug testing is normally a urine test. Guidance and instructions in administering the test will be provided by a Laboratory, with all laboratory results to be sent to the Medical Review Officer.

c) **Random Testing:** Random testing is conducted without individualized suspicion of a violation of this Policy. Selection is made by random, neutral criteria so the chance of being selected is equal for all safety sensitive employees.

d) **Notice of Results:** When the employee is asked to submit to a drug or alcohol test, the Town Manager or designee will notify the employee of positive results within two working days of receipt. The employee will be given information as to the ramifications of the confirmed positive result.

e) Positive Test Results:

1. Applicants: Any applicant for a position who has a positive test result is immediately disqualified for employment with the Town for a period of 18 months. A current employee who is being considered for another position within the Town who tests positive will be subject to the disciplinary process, including termination.

2. Employees: If the employee receives notice that the employee's test results were confirmed positive, the employee will be given the opportunity to explain the positive result to the Medical Review Officer after notification of the test result. In addition, the employee may have the same sample retested at their expense at a Laboratory of the employee's choice. Once the positive test result is reported to the Town Manager, the results will be given to the appropriate department director or supervisor. At that point the employee will be subject to disciplinary action, possibly including termination.

f) **Return to Duty:** If employment is determined to continue, additional requirements for employment will be initiated prior to an employee returning to work. These requirements may include but are not limited to counseling, rehabilitation, leave with or without pay, a fitness for duty examination, future random testing as determined by a Substance Abuse Professional, and/or discipline. At the time action is taken and notice is given to the employee, the parameters and requirements for returning to work will be determined and the employee notified in writing.

g) **Confidentiality:** The Town of West Jefferson will make every effort to keep the results of drug and alcohol tests confidential. Only persons who have a need to know the results will have access to them. The employee will be asked for consent before test results are released to anyone else. However, test results may be used in administrative hearings and court cases arising as a result of the employee's drug testing or for any other internal need. Also, results will be sent to federal agencies as required by federal law. If the employee is to be referred to a treatment facility for evaluation, the employee's test results will also be made available to the employee's counselor.

h) **Costs:** West Jefferson will pay the cost of any drug and alcohol testing that it requires or requests, including any confirmatory tests deemed necessary by the Laboratory or Medical Review Officer. Any additional tests the employee requests must be paid for by the employee.

Policy Revised 5-2-11

Appendix B

Administrative Policy for Water & Sewer Department Town of West Jefferson Certification Incentive Bonus Plan

Effective Date: 9-10-2012

Purpose

The Town of West Jefferson recognizes the State of NC's requirement to have proficient staff in the water, sewer and wastewater departments and that the State of NC requires specific certifications be obtained prior to performing certain industry-related functions. The Town of West Jefferson has implemented this plan in an effort to ensure compliance with State requirements and to provide some incentive for those in technical occupations to obtain required certifications.

Policy Statement

This policy is intended to outline the Certification Incentive Plan guidelines. The policy focuses solely on industry related technical certificate training as obtained through the State of NC and required or desired of individuals within the Operations Division.

Courses eligible for the Certification Incentive Include:

Industry related technical training that results in technical certification, as recognized by the State of NC or its agencies, typically obtained by passing a professional exam.

- Certification courses are identified as either 1) Required; or 2) Desired. Required courses are those that are required to meet the minimum qualifications for a position. Desired certifications are those that exceed the minimum job requirements, but have been identified as relevant and desirable to the Town. These are the only courses that are eligible for a certification incentive under this plan. In most cases, desired certifications will prepare the individual for the next step in their career and ensure the Town of West Jefferson has adequately trained personnel.
- A Town of West Jefferson employee within Operations who successfully completes an eligible industry or job related course that results in technical certification, providing all eligibility requirements as outlined in this policy are met, may receive a certification incentive bonus based on the following:
 - Required Certification – \$1000 (one time bonus)
 - Desired Certification – \$500 (one time bonus)

* Although the pre-requisites for industry-related or technical certifications vary, many often require one or more lower-level certifications as a pre-requisite for obtaining a higher level certificate. In this case, only the required certificate is eligible for the \$1000 bonus. For example, as a Water Treatment Plant Operator, an employee is required to hold a B Well Certificate, as identified on the job description for that position. Before an employee can obtain a B Well Certificate, however, the employee must have successfully obtained a C Well Certificate, as per state requirements. The C Well Certificate in this case is eligible for a \$500 bonus. **Once the B Well Certificate is obtained, an additional \$1000 bonus is applied.**

Illustrative example:

Required Desired for a Position*	Steps to Obtain	Eligible for Incentive Bonus?
B Well	Step 1: C Well	YES \$500 Bonus
	Step 2: B Well	YES \$1000 Bonus
B Distribution	Step 1: C Distribution	YES \$500 Bonus
	Step 2: B Distribution	YES \$1000 Bonus
Collections I	Step 1: Collections I	YES \$1000 Bonus
Waste Water Grade II	Step 1: Grade I	YES \$500 Bonus
	Step 2: Grade II	Yes \$1000 Bonus

Certification Incentive Plan Guidelines

Eligibility

- Pre-approval is required prior to course registration. A pre-approval request form must be submitted for review and signature to: 1) Supervisor; 2) Clerk.
- Failure to obtain pre-approval will disqualify applicant from a certification incentive award.
- This Plan is limited to one certification incentive Bonus per fiscal year. In other words, you may be eligible for only one certification incentive Bonus per year for completing a required or desired technical certification. The fiscal year runs from July 1 through June 30.
- To qualify for consideration, an employee must be 1) a full-time regular employee; 2) have successfully completed their probationary period; and 3) be without recorded disciplinary action within the six (6) month period preceding payment.
- Consideration for the certification incentive may also include an employee’s overall attitude, performance review, attendance record, safety record, and degree of commitment to professionalism, as demonstrated in the performances of duties.
- This Certification Incentive Plan does not limit the pursuit and obtainment of more than one technical certificate in a given fiscal year; however, only one certification incentive Bonus will be awarded in any given fiscal year. If an employee obtains two eligible technical certifications in one year, the certification incentive Bonus for the second eligible certificate may be applied at the beginning of the next fiscal year, with pre-approval.
- An approved Bonus will be processed when the employee presents the original certification for the course. A copy of the course certificate will be retained in the

employee's training file. All Bonuses will occur coincident with the start of the next pay period.

- This policy is not retroactive for certifications currently held.
- Continuing Education Courses taken as required to maintain an existing Technical Certification are not eligible for this Certification Incentive Plan.
- Supervisors are responsible for ensuring that any scheduled training will not create an inability to maintain efficient operating levels within the department. The development and maintenance of a division training schedule by supervisory personnel is strongly recommended to assist with this process.

School and Exam Costs for Required or Desired Technical Certification Courses

- Costs associated with Continuing education hours and certification renewals necessary to maintain required and desired certifications are covered by Town of West Jefferson.
- The State of North Carolina will allow three (3) attempts to successfully pass an exam for technical certification after completing the course instruction. If the exam is not passed after the third attempt, the State requires that the course be repeated before retesting. Town of West Jefferson will allow time off from work with pay and pay costs associated with taking the initial course and the first three exams. If the exam is not passed the first time after taking the initial course of instruction, the following applies:

	Pre-Requisite Courses for Required Certification	Required Certification Courses	Desired Certification
Initial Course	Course fees and Associated costs paid by the Town. Time off allowed with pay.	Course fees and Associated costs paid by the Town. Time off allowed with pay.	Course fees and Associated costs paid by the Town. Time off allowed with pay.
Initial Exam	Costs associated with exam paid the Town Time off allowed with pay.	Costs associated with exam paid by the Town Time off allowed with pay.	Costs associated with exam paid by the Town Time off allowed with pay.
2nd Test	Cost of exam paid by the Town. Time off allowed with pay	Cost of exam paid by the Town. Time off allowed with pay.	Cost of exam paid by the Town. Time off allowed with pay..
3rd Test	Cost of exam paid by the Town Time off allowed with pay	Cost of exam paid by the Town. Time off allowed with pay	Cost of exam paid by the Town. Time off allowed with pay.
Repeat Certification Course and additional exam costs	Any further attempts will be discussed before with Town Manager and ORC.	Any further attempts will be discussed before with Town Manager and ORC..	Any further attempts will be discussed before with Town Manager and ORC.

Appendix C

TOWN OF WEST JEFFERSON **Whistleblower Protection Policy**

WHEREAS, N.C. Gen. Stat § 95-241 prohibits discrimination or retaliatory action against an employee because the employee in good faith does or threatens to file a claim or complaint, initiate any inquiry, investigation, inspection, proceeding or other action, or testify or provide information to any person with respect to the Worker's Compensation Act, the North Carolina Wage and Hour Act, the Occupational Safety and Health Act of North Carolina, the Mine Safety and Health Act, N.C. Gen. Stat. § 95-28.1, which prohibits discrimination against any person possessing sickle cell trait or hemoglobin C trait, the National Guard Reemployment Rights Act, the Pesticide Board, or Chapter 90, Article 5F, relating to Control of Potential Drug Paraphernalia Products, among others; and

WHEREAS, the Town of West Jefferson is committed to the highest standards of moral and ethical behavior by its employees, administrators, elected officials, and others involved in the conduct of Town business or expenditure of Town funds; and

WHEREAS, the Town of West Jefferson wishes to advise employees, administrators, and Town officials of their responsibility to report suspected fraudulent activity or dishonest acts, as well as to report discriminatory or retaliatory actions against an employee reporting suspected fraudulent activity, dishonest acts or wrongful discrimination or retaliation;

NOW THEREFORE, The Town Board of Aldermen adopts the following policy:

FRAUD PREVENTION AND WHISTLEBLOWER PROTECTION POLICY

I. The Town of West Jefferson prohibits discrimination or retaliatory action against an employee because the employee in good faith does or threatens to file a claim or complaint, initiate any inquiry, investigation, inspection, proceeding or other action, or testify or provide information to any person with respect to the Worker's Compensation Act, the North Carolina Wage and Hour Act, the Occupational Safety and Health Act of North Carolina, the Mine Safety and Health Act, N.C. Gen. Stat. § 95-28.1, which prohibits discrimination against any person possessing sickle cell trait or hemoglobin C trait, the National Guard Reemployment Rights Act, the Pesticide Board, or Chapter 90, Article 5F, relating to Control of Potential Drug Paraphernalia Products (hereafter, "protected activities").

II. The Town of West Jefferson prohibits fraudulent activity or dishonest acts involving employees, administrators, officials, consultants, vendors, contractors, outside agencies, or employees of local boards, agencies and commissions or other parties having a business relationship with the Town of West Jefferson (hereafter, "covered individuals").

III. The Town Manager and all levels of management within the Town of West Jefferson are responsible for the prevention and detection of fraud, misappropriation, and other inappropriate conduct, including discrimination or retaliatory actions against employees who engage in protected activities or report fraudulent activity or dishonest acts by covered individuals. As used in this policy, the term "fraudulent activity or dishonest act" includes, but is not limited to, the following:

- A. A willful or deliberate act or failure to act by one of the covered individuals, with an intention of obtaining an unauthorized or inappropriate financial benefit for himself or another person with whom he has a close familial, business or other associational relationship;
- B. Any dishonest or fraudulent act;
- C. Forgery or alteration of a check, bank draft, or any other financial document or account;
- D. Misappropriation of funds, securities, supplies, or other assets;
- E. Impropriety in the handling or reporting of money or financial transactions;
- F. Accepting or seeking anything of material value from vendors, contractors, or other persons providing services or materials to the Town;
- G. Using Town funds to make unauthorized purchases; or
- H. Authorizing or receiving compensation for hours not worked.

IV. No person acting on behalf of the Town shall, and it shall be considered misconduct on the part of an employee and a violation of the Code of Ethics on the part of any other covered individual, to:

- A. Dismiss, or threaten to dismiss, any employee;
- B. Discipline, suspend, or threaten to discipline or suspend an employee;
- C. Impose any penalty upon an employee; or
- D. Intimidate or coerce an employee

because the employee has acted in accordance with the requirements of this policy to in good faith report the suspicion or detection of a fraudulent activity or dishonest act by a covered individual. However, it shall also be a violation of this policy for any informant to make a baseless allegation of fraudulent activity or dishonest act that is made with reckless disregard for the truth and that is intended to be disruptive or to cause harm to another individual.

V. Any fraudulent activity or dishonest act by a covered individual, or discrimination or retaliation against a Town employee for reporting any fraudulent activity or dishonest act, or discrimination or retaliation against a Town employee for engaging in a protected activity, shall be reported immediately to the Town Manager, who will conduct an investigation into the alleged activity, involving other applicable personnel and law enforcement agencies as the Town Manager deems necessary or appropriate. An employee found to have engaged in any dishonest acts or fraudulent activity, or who is involved in discriminating or retaliating against a person who reports such activity or otherwise engages in protected activities, is subject to disciplinary action for misconduct by the Town of West Jefferson, which may include dismissal and referral to the Ashe County District Attorney for prosecution, depending on the circumstances. Any dishonest act or fraudulent activity by a non-employee, covered individual may be referred to the appropriate law enforcement agency or Ashe County District Attorney for investigation and prosecution.

VI. Any employee of the Town of West Jefferson who has a reasonable basis for believing a fraudulent activity or dishonest act has occurred or is occurring has a responsibility to promptly notify the Town Manager, and the failure to do so may be considered misconduct by the Town, depending on the circumstances.

VII. Elected officials of the Town of West Jefferson have a responsibility to immediately notify the Town Attorney of fraudulent activity or any dishonest act involving covered individuals which is reported to them or which they detect or suspect. If the alleged fraudulent activity or dishonest act involves a Town employee, the Town Attorney shall refer the matter to the Town Manager for appropriate investigation or action. If the alleged fraudulent activity or dishonest act involves the Town Manager or other covered individual other than a Town employee, the Town Attorney may investigate the matter, involve law enforcement personnel to investigate the matter, or refer the matter to the Ashe County District Attorney for prosecution, depending on the circumstances.

VIII. Other individuals can report suspected fraudulent activity or dishonest acts by a covered individual anonymously by sending written notice in a sealed envelope to the Town of West Jefferson administrative offices to the attention of the Town Manager or Town Attorney. Depending on the classification of the covered individual about whom the fraudulent activity or dishonest act is alleged, the Town Manager or Town Attorney shall proceed, as appropriate, pursuant to paragraph V or VII.

IX. An employee who believes that he has been discriminated or retaliated against due to a good faith report of fraudulent activity or dishonest act, or for engaging in a protected activity, shall be entitled to file a grievance in accordance with the Town of West Jefferson Personnel Policy.

Adopted this 2nd day of November 2015.

Dale Baldwin, Mayor

Attest: _____ (Seal)
Wesley M. Barker
Town Clerk