



---

# TOWN OF BILTMORE FOREST PERSONNEL POLICY

---

Adopted by Board of Commissioners  
June 6, 2024

Effective July 1, 2024

PERSONNEL POLICY  
Town of Biltmore Forest

I.	GENERAL PROVISIONS	5
	a. Section 1. Purpose of the Policy	
	b. Section 2. Employer/Employee Relationship	
	c. Section 3. Merit Principle	
	d. Section 4. Responsibility of the Board of Commissioners	
	e. Section 5. Responsibility of the Town Manager	
	f. Section 6. Responsibility of the Department Head	
	g. Section 7. Coverage	
	h. Section 8. Definitions	
II.	The Position Classification Plan	10
	a. Section 1. Adoption	
	b. Section 2. Administration of the Position Classification Plan	
	c. Section 3. Authorization of New Positions and the Position Classification Plan	
III.	The Pay Plan	11
	a. Section 1. Adoption	
	b. Section 2. Maintenance of the Pay Plan	
	c. Section 3. Transition to Pay Plan	
	d. Section 4. Use of Salary Ranges	
	e. Section 5. Payment at a Listed Rate	
	f. Section 6. Salary of Trainee	
	g. Section 7. Pay Rates in Promotion, Demotions, Transfer, and Reclassification	
	h. Section 8. Pay Rates in Salary Range Revisions	
	i. Section 9. Pay for Part-Time Work	
	j. Section 10. Overtime	
	k. Section 11. Compensatory Time (Comp Time)	
	l. Section 12. Call-Back and Stand-By Pay	
	m. Section 13. Payroll Deductions	
	n. Section 14. Longevity Pay	
	o. Section 15. Work Week and Pay Period	
	p. Section 16. Effective Dates of Salary Adjustments	
	q. Section 17. Salary Reductions	
	r. Section 18. Pay for Interim Assignments in a Higher-Level Classification	
IV.	Recruitment And Employment	17
	a. Section 1. Equal Employment Opportunity (EEO) Policy	
	b. Section 2. Implementation of EEO Policy	
	c. Section 3. Recruitment	
	d. Section 4. Job Announcements	
	e. Section 5. Applications for Employment	

- f. Section 6. Application Reserve File
- g. Section 7. Qualification Standards
- h. Section 8. Testing/Physical Exams
- i. Section 9. Appointments
- j. Section 10. Employment of Relatives
- k. Section 11. Probationary Period of Employment
- l. Section 12. Performance Evaluation
- m. Section 13. Promotion
- n. Section 14. Demotion
- o. Section 15. Transfer
- p. Section 16. Reinstatement

- V. Work Conditions and Expectations 24
- a. Section 1. Work Period and Schedule
  - b. Section 2. Reporting for Work
  - c. Section 3. Gifts and Favors
  - d. Section 4. Political Activity Restricted
  - e. Section 5. Outside Employment
  - f. Section 6. Dual Employment
  - g. Section 7. Conformance to Immigration Law and Selective Service Requirements
  - h. Section 8. Confidential Information
  - i. Section 9. Use of Town Owned Equipment
  - j. Section 10. Reimbursement for use of Personal Vehicle
  - k. Section 11. Harassment Prohibited
  - l. Section 12. Surrender of Property
  - m. Section 13. Substance Abuse Policy
  - n. Section 14. Disruption of the Workplace
  - o. Section 15. Employee Safety and Health
  - p. Section 16. Media Contact
  - q. Section 17. Attitude and Common Courtesy

- VI. Type of Leave 32
- a. Section 1. Policy
  - b. Section 2. Holidays
  - c. Section 3. Effect of Holidays on Other Type of Leave
  - d. Section 4. Holidays: Compensation When Work is Required or Regularly Scheduled Off for Shift Personnel
  - e. Section 5. Vacation Leave
  - f. Section 6. Sick Leave
  - g. Section 7. Leave Pro-Rated
  - h. Section 8. Funeral Leave
  - i. Section 9. Leave Without Pay
  - j. Section 10. Family and Medical Leave Act
  - k. Section 11. Parental Leave

	l. Section 12. Worker’s Compensation Leave	
	m. Section 13. Temporary Disability Leave	
	n. Section 14. Military Leave	
	o. Section 15. Civil Leave	
	p. Section 16. Education Leave	
	q. Section 17. Paid Family Leave	
	r. Section 18. Short Term Disability Leave	
	s. Section 19. Shared Leave	
	t. Section 20. Personal Leave	
	u. Section 21. Calculation of Holiday Leave, Vacation Leave, and Sick Leave	
VII.	Separation, Discipline, and Reinstatement	42
	a. Section 1. Types of Separation	
	b. Section 2. Disciplinary Actions	
	c. Section 3. Employee Appeal	
	d. Section 4. Reinstatement	
VIII.	Grievance Procedure	47
	a. Section 1. Policy	
	b. Section 2. Grievance Defined	
	c. Section 3. Purpose of the Grievance Procedure	
	d. Section 4. Procedure	
	e. Section 5. Grievance and Adverse Action Appeal Procedure for Discrimination	
IX.	Insurance/Retirement/Benefits	50
	a. Section 1. Insurance Benefits	
	b. Section 2. Unemployment Insurance	
	c. Section 3. Old Age and Survivor’s Insurance	
	d. Section 4. Worker’s Compensation	
	e. Section 5. Credit Union Membership	
	f. Section 6. Retirement Benefits & 401K Contribution	
	g. Section 7. Separation Allowance/Law Enforcement 401K	
	h. Section 8. Tuition Assistance Program	
	i. Section 9. Fitness Membership Subsidy	
X.	Personnel Records and Reports	53
	a. Section 1. Personnel Records and Maintenance	
	b. Section 2. Access to Personnel Records	
	c. Section 3. Confidential Information	
	d. Section 4. Records of Former Employees	
	e. Section 5. Remedies of Employees Objecting Material in File	
	f. Section 6. Penalty for Permitting Access to Confidential File by Unauthorized Person	

- g. Section 7. Penalty for Examining and/or Copying Confidential Material Without Authorization
- h. Section 8. Destruction of Records Regulated

XI.	Implementation of Policy	56
	a. Section 1. Conflicting Policies Repealed	
	b. Section 2. Separability	
	c. Section 3. Violations of Policy Provisions	
	d. Section 4. Effective Date	
	e. Section 5. Amendments	

## **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. Each employee of the Town serves an important function. Not only are they entrusted with the responsibility of performing a specific job to the best of their ability, but they also serve as a representative of the Town to the general public. Their speech and behavior can give the citizens and visitors a good or bad impression of Town government, and staff is therefore expected to conduct themselves in a manner that is above reproach at all times.

This personnel policy contains information about the responsibilities and benefits which apply to all full-time employees of the Town of Biltmore Forest. Part-time employees may have different benefits and conditions of employment and should refer any questions about their employment to their supervisors.

### Section 2. Employer/Employee Relationship

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

None of the benefits or policies set forth in this policy are intended because of their publication to confer any rights or privileges upon employees or to entitle them to be or remain employed by the Town. The contents of this document are presented as a matter of information only. Although the Town believes wholeheartedly in the plans, policies, and procedures described herein, they are not conditions of employment.

These personnel policies are not a binding contract, but merely a set of guidelines for the implementation of personnel policies. The Town explicitly reserves the right to modify any of the provisions of this policy at any time and without any notice to employees.

### Section 3. Merit Principle

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

- (a) Applicants and employees shall be assured of fair treatment in all aspects of personnel administration without regard for political affiliation, religious creed, sex, sexual orientation, national origin, color, race, or disabilities. Individuals shall

likewise be treated with proper regard for their privacy and constitutional rights as citizens.

- (b) Employees shall be recruited, selected, trained, and advanced on the basis of their ability, knowledge, and skills, including open consideration of qualified applicants for initial appointment. Employees shall be trained as needed to assure high quality performance.
- (c) Employees shall be retained on the basis of the adequacy of their performance. They shall be guided in ways to correct inadequate performance and separated when inadequate performance cannot be corrected.
- (d) Employees shall be protected against coercion for partisan political purposes and are prohibited from using their official authority for the purpose of interfering with or affecting the result of an election or a nomination for office.
- (e) Employees shall receive equitable and adequate pay and benefits and eligible employees shall receive merit pay increases based upon their performance subject to the availability of funds.

#### Section 4. Responsibility of Board of Commissioners

A Town Board of Commissioners shall establish personnel policies and rules, including the classification and pay plan, and make and confirm appointments when so specified by law.

The Board of Commissioners shall adopt or provide for rules and regulations, or resolutions concerning personnel policies and other measures that promote the hiring and retention of capable, diligent, and honest employees under the authority of Chapter 160A-164 of the North Carolina General Statutes, to be administered by the Board or its designee. The Board of Commissioners shall prescribe the office hours, workdays, and holidays to be observed by the various offices and departments.

#### Section 5. Responsibility of the Town Manager

The Town Manager is appointed by the Board of Commissioners and shall, among other things: be responsible to the Board of Commissioners for administration and technical direction of the personnel program; maintenance of the position classification plan and the pay plan; and perform such other duties in connection with a modern personnel program as is required by this policy. All matters dealing with personnel shall be routed through the Town Manager who shall maintain a complete system of personnel files and records.

The Town Manager shall:

- (a) See to the collection of municipal taxes and that the required records are maintained.
- (b) Serve as director of personnel for the Town.

- (c) Be responsible for the administration of all budgetary items related to personnel and the operation of the Town.
- (d) Make all employment appointments except the Town Attorney.
- (e) Recommend revisions of the personnel system to the Board of Commissioners for consideration;
- (f) Recommend revisions of the position classification plan to the Board of Commissioners.
- (g) Prepare and recommend revisions of the pay plan to the Board of Commissioners for approval.
- (h) Advise the Board of administrative, professional, and managerial positions to be excluded from overtime compensation as provided for in Article III, Section 10.
- (i) Establish and maintain a roster of all persons in municipal service, setting forth each officer and employee, class title of position, salary, any changes in class title and status, and such data as may be deemed desirable or useful.
- (j) Develop and administer such recruiting programs, as may be directed by the Board, to obtain an adequate supply of competent applicants to meet the needs of the Town.
- (k) Investigate periodically the operation and effect of the personnel provisions of this policy and at least annually report findings and recommendations to the Board of Commissioners.
- (l) Perform such other duties as may be assigned by the Board of Commissioners not inconsistent with this policy.

#### Section 6. Responsibility of Department Head

A department head shall meet his/her responsibility as directed by the Town Manager, being guided by the Charter, ordinances, and policies of the Town. The head of each Town department, shall recommend to the Town Manager, the appointment and removal of Town employees assigned to the department.

#### Section 7. Coverage

The provisions of this policy shall be applicable to all regular and probationary full and part-time employees except as provided below:

1. The Town Attorney and elected officials shall be exempt from the provisions of this policy.
2. Part-time officials appointed by the Board of Commissioners and employees of advisory or special boards and commissions who work an irregular schedule, shall be exempt from all provision of this policy except where specifically included.



## Section 8. Definitions

**Probationary Employee.** A person appointed to a budgeted position who has not satisfactorily completed the probationary period (See Article V, Section 11 of this policy).

**Regular Part-time Employee.** An employee, who is regularly scheduled and who works no more than 1,000 hours or less per year.

**Temporary Part-time Employee.** A temporary part-time employee is one whose term of employment is usually intended to last more than 3 weeks, but ordinarily not more than 9 months, or who is engaged for a specific project involving a period of not more than 12 months.

**Full-time Employee.** An employee, either regular or temporary, who is regularly scheduled to work the number of hours per work week, designated by the Board of Commissioners as full-time.

**Regular Employee.** An employee who has successfully completed the prescribed probationary periods shall be considered regular. However, all Town positions are subject to budget review and approval each year by the Board of Commissioners, and all employees' work and conduct must meet standards of performance and behavior. Therefore, reference to regular employees or permanent positions should not be construed as a contract or right to perpetual funding or employment.

**Completed Month.** Any month in which an employee works at least half the workdays.

**Class of positions.** A position or group of positions which have the same generic title and class specification (e.g., police officer).

**Class specification.** A statement of general duties, responsibilities, distinguishing features, illustrative examples of work, required knowledge, skills and abilities and training for a class of positions.

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

**Adverse Action.** A reprimand, demotion, dismissal, reduction in pay, layoff, suspension, or an undesirable transfer.

**Standby Status.** When a non-exempt employee is required to limit their normal off duty activities to be available for emergencies which may arise in his/her area of employment or to tend to the needs of the Town. Normally they will be required to be contacted and respond within a designated period of time.

**Trainee.** A Trainee is an employee that does not possess all of the qualifications that a position requires but can be trained to meet these required qualifications. The salary paid a Trainee is below the entry level of the position that they are being trained for as stipulated in Article IV Section 6.

Immediate Family. Immediate Family is defined as spouse, child, parents of employee or spouse, grandparents, grandchild, brother, or sister.

Position/Job Description. A detailed statement of job duties and activities pertaining to a specific position. It is differentiated from a class specification by being more detailed and covering only one position.

## **Article II. The Position Classification Plan**

### Section 1. Adoption

The position classification plan, as set forth in this article, is hereby adopted as the position classification plan for the Town. The position classification plan provides a complete inventory of all authorized and allocated positions within 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. Administration of the Position Classification Plan

The Town Manager or his/her designee shall be responsible for the administration and maintenance of the position classification plan so that it will accurately reflect the duties performed by employees in the classes to which their positions are allocated. The Town Manager shall be responsible for bringing to the attention of the Board of Commissioners the need for new positions, and material changes in duties, responsibilities, working conditions or other factors which may affect the classification of any existing positions.

### Section 3. 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 Commissioners. New positions shall be recommended to the Board of Commissioners 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. Copies of this position classification plan are available to all Town employees for review upon request.

## Article III. The Pay Plan

### Section 1. Adoption

The rules and regulations contained in this Article and other Articles of this policy are hereby adopted as the pay plan for the Town. The Pay Plan shall include all authorized classes of positions included in the Classification Plan.

### Section 2. Maintenance of the Pay Plan

The Town Manager shall be responsible for the administration and maintenance of the pay plan. The pay plan is intended to provide equitable compensation for all positions, reflecting differences in duties and responsibilities, the comparable rates of pay for positions in private and public employment in the area, changes in the cost of living, the financial conditions of the Town, and other factors. To this end, the Town Manager shall, each year prior to preparation of the annual budget solicit information affecting the levels of salary ranges, including internal relationships between classes to reduce or eliminate any inequities, and shall present to the Board of Commissioners such changes in salary ranges as appear to be warranted.

### Section 3. Transition to Pay Plan

No employee shall receive a salary reduction because of the transition to a new pay plan.

### Section 4. Use of Salary Ranges

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

- (a) The minimum rate established for the class is the normal hiring rate, except in those cases where unusual circumstances appear to warrant appointment at a higher rate. Appointments above the minimum rate may be made when deemed necessary and in the best interest of the Town. Above-the-minimum appointments will be based on such factors as the qualifications of the applicant being higher than the desirable education and experience for the class, a shortage of qualified applicants available at the minimum rate, the refusal of qualified applicants to accept employment at the minimum rate, or other similar factors.
- (b) Upon successful completion of the probationary period, or six months of satisfactory employment, an employee shall receive a five (5) percent increase in base salary.
- (c) Additional base salary increases are reserved to reward employees for extraordinary effort. The Town Manager, in coordination with respective department heads, shall consider all factors affecting employee performance and shall submit their reasons whether to advance or retain the employee at the same rate.

## Section 5. Payment at a Listed Rate

All employees covered by the salary plan shall be paid at a listed rate within the salary range established for their respective job classes except for employees in a “trainee status”, or employees whose present salaries are above the established maximum rate following transition to a new pay plan.

## Section 6. Salary of Trainee

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

Trainee salaries may be no more than ten (10) percent below the minimum salary established for the position for which the person is being trained. An employee will remain at the trainee rate until the department head determines that the trainee is qualified to assume the full responsibilities of the position. The department head shall review the progress of each employee in a trainee status every three (3) months, or more frequently as necessary, to determine when the trainee is qualified to assume the full responsibilities of the position. Provided, however, that a trainee shall not be in such status for longer than one (1) year.

## Section 7. Pay Rates in Promotion, Demotions, Transfer, and Reclassification

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

- a. Promotion: An employee who is promoted shall receive a five (5) percent pay increase in base salary or an increase to the minimum rate of the new pay range, whichever is higher.
- b. Demotion: An employee who is demoted may have the salary remain the same if the demotion is voluntary (deemed a reassignment), except that the salary cannot exceed the maximum for the class, or reduced to a rate in the lower range, if the demotion is for cause.
- c. Transfer: An employee transferring from a position in one class to position in another class assigned the same pay range shall continue to receive the same salary.

## Section 8. Pay Rates in Salary Range Revisions

When the Board of Commissioners approves a change in salary range for a class of positions, the salaries of employees whose positions are allocated to that class shall be affected as follows:

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

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

- c. General salary range adjustments (market adjustments) to the salary schedule shall be affected by adjusting the Town's overall salary schedule up (or down) by the same percentage amount. Market adjustment shall normally be considered by the Town Board prior to adopting a new fiscal year budget. When a rate adjustment is made to a pay range, to reflect market changes, employees in classes within that pay range may or may not receive the rate adjustment, depending on the Town's financial condition. If financial conditions do not permit the Town to pass those rate changes to employees, it is better to raise the salary schedule rates and not pass the rate adjustment on to employees than to ignore market changes. Ignoring market changes will cause pay schedules to lose competitiveness and increase difficulty in recruitment and retention of good employees.

#### Section 9. Pay for Part-Time Work

The pay plan established by this policy is for full-time service. An employee appointed to a class of position for less than full-time service shall be paid a pro-rated amount determined by converting the established salary of that classification to an hourly rate.

#### Section 10. Overtime

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 other designated Town official.

To the extent that local government jurisdictions are so required, the Town will comply with the Fair Labor Standards Act (FLSA). The Town Manager 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. When time off within the "work period" cannot be granted, overtime worked will be paid at a time-and-one-half rate or taken as compensatory time at a time-and-one-half rate, in accordance with FLSA regulations. Salaried employees in positions with fluctuating work schedules whose salary covers straight time pay for all hours scheduled or required to work, however many or few, may receive half-time pay for any overtime worked.

In determining eligibility for overtime in a work period, only hours actually worked shall be considered; in no event, will Compensatory Time, vacation leave, sick leave, or holidays be included in the computation of hours worked for FLSA purposes.

#### Section 11. Compensatory Time (Comp Time)

Compensatory leave balances may not exceed forty (40) hours except for public safety employees (sworn law enforcement officers) who may not accrue more than 48 hours. Any overtime worked after such maximum balances are accrued must be compensated in pay.

Employees are required to use or be paid for comp time before the start of each fiscal year, by June 30<sup>th</sup>. Employees may retain and carry over up to twelve (12) hours of comp time each fiscal year. All other comp time will be paid out, in accordance with FLSA standards, upon the last pay period of the fiscal year. Department heads may exercise discretion in the manner in which employees accrue comp time or are paid for overtime.

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.

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

#### Section 12. Call-Back and Stand-by Pay

The Town provides some services on a twenty-four hour basis, seven days a week, to its citizens. 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 twenty-four hour 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 action, 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).

Stand-by. Stand-by time is defined as that time when an employee must carry a communication device and must respond immediately to calls for service. Non-exempt employees required to be on "stand-by" duty will be paid for two hours of work for each day of stand-by time they serve. Hours worked while on stand-by are calculated beginning when the employee leaves for the work site and are added to the regular total of hours worked for the week.

#### Section 13. Payroll Deductions.

Only payroll deductions specifically mandated or authorized by federal, state, or Town act may be deducted at each period from each employee's pay. 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 14. Longevity Pay

Full-time employees of the Town may be compensated for years of continuous service by payment of a supplement based on their years of service. Compensation for years of continuous service is subject to available funding, and inclusion in the Town's annual budget. For any year in which the Board of Commissioners fund and authorize payments for years of continuous service, such payments shall be made according to the following schedule.

<b>Years of Service</b>	<b>Longevity Amount</b>
2 to 4 Years	\$250.00
5 to 9 Years	\$500.00
10 to 14 Years	\$750.00
15 to 19 Years	\$1,000.00
20 or more years	\$1,250.00

The payment, if any, shall be included in the payroll that include the anniversary date of employment with the Town.

Payment for years of service is subject to annual approval by the Board of Commissioners, is dependent upon the financial condition of the Town and shall not be considered a part of any employee's annual base pay. Appropriate federal, state, retirement and any other deductions will be made from payment for years of service.

Section 15. Work Week and Pay Period

The standard seven day work week for the Town of Biltmore Forest is 12:01 a.m. Thursday to 12:00 midnight on the following Wednesday. The Town's administrative office hours are Monday through Friday from 9:00 a.m. to 5:00 p.m. The Public Works Department hours of work are from 7:00 a.m. to 5:30 p.m. Monday through Thursday. Many services performed by Town employees are essential and must be provided 24 hours each day, every day of the year. Therefore, Town employees may be required to work changing shifts and the number of hours per day may differ.

All employees shall be paid on a bi-weekly basis with the pay day being every other Thursday. When a holiday falls on Thursday the pay day will be the day preceding the holiday. Paychecks are received in arrears one week after the end of the pay period.



#### Section 16. Effective Dates of Salary Adjustments

Approved salary adjustments shall become effective at the beginning of the next pay period or at such a later date as may be provided.

#### Section 17. Salary Reductions

Salary reductions may be necessitated by a shortage of funds or other valid and appropriate reason(s). In such instances, all classes of positions shall be given due consideration, and the nature and extent of such reduction determined by the Town Board.

#### Section 18. 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 opportunities. The Town shall recruit, screen, appoint, and promote employees on the basis of job-related experience the candidates' qualifications, job related skills, the quality of past performance, and the candidates general suitability to perform the required work, without regard to political preference, age, sex, sexual orientation, race, color, creed, religion or national origin or disability. The Town of Biltmore Forest will make reasonable accommodations to the known physical or mental impairments of otherwise qualified individuals, unless the result would create an undue hardship on the Town. Throughout its recruitment and employment efforts the Town will do whatever is required and legally permissible to maintain a "drug free workplace".

### Section 2. Implementation of EEO Policy

All personnel responsible for recruitment and employment shall review periodically the implementation of this personnel policy and relevant practices to assure that equal employment opportunity based on reasonable performance-related job requirements is being actively observed to the end that no employee or applicant for employment shall suffer discrimination because of age, sex, sexual orientation, race, color, creed, religion, national origin, or disability. Notices regarding equal employment matters shall be posted in conspicuous places on Town government premises in places where notices are customarily posted.

### Section 3. Recruitment

Each department head shall be responsible for assisting the Town Manager in recruiting employees for vacancies in their respective departments. All opportunities for employment shall be publicized, including applicable salary ranges and employment qualifications. Individuals shall be recruited from a geographic area as wide as is necessary to ensure that well qualified applicants are obtained for Town service. The Town shall consider among its recruitment sources organizations and news media which are utilized by and are available to minority group applicants and applicants with disabilities, to the extent that these organizations service the Town's labor market. The Town shall ensure that communications with applicants with disabilities are as effective as communications with other applicants.

### Section 4. Job Announcements

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

### Section 5. Applications for Employment

All persons expressing interest in employment with the Town shall be given the opportunity to file an application for employment when a position is vacant or when the Town is attempting to fill such positions. Equal consideration shall be given to promoting from within for each job vacancy.

### Section 6. Application Reserve File

The Town Manager shall establish a system of maintaining up-to-date records which reflect the town efforts in equal employment opportunity. Such records shall include data necessary to accomplish required reports under the provisions of the Equal Employment Opportunity Act of 1972. Applications shall be kept in a reserve file for two (2) years, in accordance with Equal Employment Opportunity Commission guidelines.

The EEO form 4, when completed, shall provide for an analysis of the status of actual equal employment opportunity with the Town government and for an evaluation of progress made in this regard.

#### Section 7. Qualification Standards

- (a) Employees shall meet the employment standards established by the position classification plan and such other reasonable, job-related minimum standards of character, aptitude, knowledge, skills, abilities, and physical condition as may be established by the Town Board with the advice and recommendation(s) of department heads.

The Town may condition an offer of employment on the result of a medical examination, including a drug test, required post-offer, and before the applicant begins employment duties, if all entering employees in the same job category are subjected to the same such examination. However, if the applicant's medical examination reveals a disability, the Town may not refuse to hire the applicant if the disability can be reasonably accommodated.

Additionally, all applicants shall furnish proof of legal status to work in the United State and fill in the required I-9 form before beginning work.

- (b) The Town's policy includes the responsibility for ensuring that qualifications for both entry level and promotional level jobs shall be reviewed periodically to assure that requirements are fair, will be fairly administered and conform to the actual job performance requirements.
- (c) In keeping with both these responsibilities, the Town may employ an applicant in a trainee capacity who does not meet all minimum qualifications for a particular job if the deficiencies can be eliminated through orientation and on-the-job training.

#### Section 8. Testing/Physical Exams

It is the policy of the Town to employ according to merit and fitness. To that end, the Town shall use all available means to attract qualified candidates for employment and make such investigations and have conducted such examinations as deemed appropriate to assess fairly the aptitude, education and experience, knowledge and skills, character, physical fitness, and other qualifications required for positions in the service of the Town. These examinations may consist of medical, drug screening, skills based, job knowledge and/or physical strength and agility tests. All selection devices administered by the Town, or by persons or agencies for the Town, shall be valid measures of bona fide occupational qualifications.

- (a) Tests administered by the Town or by the North Carolina Employment Security Commission for the Town will conform to applicable legal requirements.
- (b) All tests given to applicants shall be administered and evaluated by qualified employees, or by Employment Security Commission personnel who are fully acquainted with the Town's policy on equal employment opportunity.
- (c) Upon becoming aware of the need of accommodation, disabled applicant(s) shall inform the Town before testing begins. The Town shall ensure that the testing site is accessible to and reasonably accommodates those disabled applicants who notify the Town.

## Section 9. Appointments

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

When positions are to be filled, department heads shall notify the Town Manager concerning the number and classifications of positions which need to be filled. The Town shall publicize opportunities as outlined in this policy. If selections cannot be made from current employees wishing to be considered for the vacant position(s), available lists of qualified applicants and/or applicants responding to media advertisements, then the Town Manager shall assist department heads with recruitment of qualified applicants.

Each department head shall be responsible for recommending for hire such employees as are authorized by the budget for their department. Before any commitment is made to an applicant or employee, the department head shall submit a completed application form to the Town Manager with a recommendation as to the position to be filled, the salary to be paid, and the reasons for selecting the particular applicant over others. After review, the Town Manager may act on the recommendation of the department head.

The Town Manager shall make the final appointment.

## Section 10. Employment of Relatives

Members of an immediate family shall not be employed within the same department if such employment will result in one member supervising another member of the employee's immediate family, or if one member will occupy a position which has influence over another member's employment, promotion, salary administration or other related management or personnel considerations. This does not apply to seasonal or temporary employees. The term immediate family includes spouse, child, parent, brother, sister, grandparent, grandchild, son-in-law, daughter-in-law, parent-in-law, brother or sister-in-law, aunt, uncle, of the employee or spouse or guardian

of the employee. This also includes various combinations of “step”, “half”, and adopted relationships. For these purposes, it also includes other people living in the same household, who share a relationship comparable to immediate family members, if either occupies a position which requires influence over the other's employment, promotion, salary administration or other related management or personnel considerations.

Exceptions may only be granted by the Town Manager and only when a subject employee or applicant possesses a unique set of skills or experience needed by the Town and the employee's spouse or relative will not be involved in any personnel decisions regarding that employee. The Manager will note the reasons for making the exception in writing to be maintained in the employee's personnel file and may note appropriate limitations on transfers and promotions for that employee as a condition of initial employment, in order to reduce the likelihood of future problems.

This provision shall not apply retroactively to anyone employed when the provision is adopted by the Town.

#### Section 11. Probationary Period of Employment

An employee appointed to an authorized regular position shall serve a probationary period of not less than six (6) months. The initial probationary period for law enforcement employees shall be twelve (12) months. This time is to be considered a continuation of the selection process, and is a time when the employee determines if this is the career they want, and the employer determines if the employee is right for the position.

During the probationary period, supervisors shall monitor an employee's performance and communicate with the employee concerning performance progress. Employees serving twelve-month probationary periods shall have a 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 grievance procedures.

All probationary employees may accumulate sick leave and earn vacation leave but may not be permitted to use paid vacation leave during the first six (6) months of employment unless the denial of such leave will create an unusual hardship. Vacation leave may be taken during this period only with prior approval of the Town Manager.

Before the completion of the probationary period, the department head shall indicate in writing to the Town Manager:

1. That the new employee's progress, accomplishments, strengths, failures, and weaknesses has been discussed with the new employee, and
2. Whether the new employee is performing satisfactory work,
3. Whether the employee should be retained and given a probationary increase or have the probation extended,
4. Whether the employee should be retained in the present position, transferred, demoted, or discharged.

Upon successful completion of the prescribed probationary period, the employee shall be granted a five percent (5%) probationary pay increase.

#### Section 12. Performance Evaluation

A supervisor shall evaluate an employee's performance to assess his/her fulfillment of basic performance requirements for continued employment, recommendation for a merit increase, and recommendation for promotion or transfer. Through open communication from his/her supervisor, the employee shall obtain a clear understanding of what is expected of his/her performance. At least once each year, employees shall have their performance evaluated and goals and objectives reviewed. Any area of needed improvement will be discussed, and a course of action outlined. The completed evaluation shall be placed in the employee's permanent personnel file.

The performance evaluation system provides a history of work progress of the individual employee with the Town. The performance evaluation system may also be used as a tool to determine eligibility for promotion, as a basis for demotion or discharge of an employee. The supervisor should use the evaluation system as a tool for counseling employees and as a communications piece for discussing work progress, problems, and opportunities.

While the work progress of an employee is formally evaluated on a periodic basis, the supervisor should continuously counsel employees about work progress, job expectations, performance, strengths and weaknesses. This serves to open communications between the supervisor and the employee and to build a better work environment.

#### Section 13. Promotion

- a) The Town shall seek qualified applicants for vacant positions giving first consideration to promoting from within and across departmental lines. Employees shall be considered for promotion on the basis of job experience, the quality of past performance, and the candidate's general suitability to perform the required work. Candidates for promotion shall be chosen on the basis of existing or anticipated job openings, on their qualifications, and on their work records. Performance appraisals and work records of

all personnel shall be carefully examined when openings for positions in higher classifications occur.

- b) Vacancies in positions shall be filled as far as practicable by the promotion of employees in the service of the Town, subject to the limitations of Article V Section 9.
- c) When a vacancy occurs, the department head in whose department the vacancy occurs shall review all applications received, including those from current Town employees wishing to be promoted into the position. If a current Town employee is chosen for promotion, the department head shall forward the employee's name to the Town Manager with recommendations for classification and salary and the reasons for selecting the employee over other applicants. After receiving the supervisor's comments, the Town Manager shall make an appointment if appropriate and determine the starting salary.

#### Section 14. Demotion

Demotion is the movement of an employee from one position to a position in a class assigned to a lower salary range. Demotion may be voluntary or involuntary. 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 15. Transfer

If a vacancy occurs and an employee in another department is eligible for a transfer, the employee should make the request in writing to the receiving department head. If selected, the department head wishing to hire the employee shall request the transfer, subject to the approval of the Town Manager.

An employee who has successfully completed a probationary period may be transferred to the same or similar class in a different department without serving another probationary period.

It is the policy of the town to transfer employees temporarily or permanently from one department to another, and when doing so will serve the Town's best interest. This policy permits maximum utilization of manpower during unanticipated emergency situations, during peak workloads and for shifting staff to where it is needed most.

#### Section 16. Reinstatement

An employee who has been separated because of a reduction in force or who resigned while in good standing may be reinstated within one year of the date of separation and credited with all

previously accrued benefits that have not been paid to them. An employee who has been suspended for cause may be reinstated at the end of the suspension period at the same or a lower pay grade occupied by them at the time of the suspension.



## **Article V. Work Conditions and Expectations**

### Section 1. Work Period and Schedule

The work week is defined as seven consecutive days beginning at 12:01 a.m. on Thursday and ending at 12:00 midnight on the following Wednesday.

Full-time, non-exempt, employees are subject to the overtime provisions set forth in Article IV, Section 10 of this policy. Law enforcement employee's work schedule(s) will be established and maintained in accordance with Title 29 Code of Federal Regulations, Part 500 through 899.

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

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

### Section 2. Reporting For Work

Because of the nature of Town work, regular attendance by each employee is mandatory. If an employee is going to be unable to report for work as scheduled, the employee must notify their immediate supervisor immediately. Such notice must be given as far in advance of the time assigned for reporting to work as possible. An employee absent from work because of illness or injury should advise their supervisor immediately of their work status and estimated return to work date daily. Frequent absence or tardiness for any reason may subject an employee to disciplinary action, up to and including dismissal. Unscheduled absences fall into two (2) categories:

- a. Excused absence. Absence for reasons which are necessary and compelling. The supervisor or department head, upon notification of the absence, is responsible for determining if it is excused. As appropriate, sick or other leave time may be utilized to cover the absence, with the approval of an employee's supervisor or department head.
- b. Unexcused absence. Absence which results when an employee does not report for work or notify their supervisor or department head of their absence; or an absence which the supervisor, after notification, determines does not result from compelling reasons. An employee who remains away from his/her job for more than five (5) working days without approved leave will be considered to have resigned from their position with the Town. The five days are cumulative and do not have to be consecutive for this policy to take effect.

If an employee has transportation problems due to weather, they may use vacation leave, take leave without pay, or make up the time lost. Any request to make up the time lost must be approved by the supervisor or department head and may not result in overtime.

Essential services must always be kept at an adequate level. Therefore, these departments cannot always allow employees to report late or leave early during adverse weather.

### Section 3. Gifts and Favors

- (a) No official or employee of the Town shall accept any valuable gift, whether in the form of service, loan, things, or promise from any person, firm or corporation which, to the employee's knowledge is interested directly or indirectly in any manner whatsoever in business dealings with the Town.
- (b) No official or employee shall accept any gift, favor or thing of value that may tend to influence that employee in the discharge of duties.
- (c) No official or employee shall grant in the discharge of duties any improper favor, service, or thing of value.

### Section 4. Political Activity Restricted

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, social, fraternal, 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 of America. However, no employee shall:

- (a) Engage in any political or partisan activity while on duty or within any period of time during which they are expected to render services for which they receive compensation from the Town;
- (b) Use official authority or influence for the purpose of interfering with or affecting the result of an election or nomination for office;
- (c) Be required as a duty of employment or as a condition for employment, promotion, or tenure of office to contribute to, solicit for, or act as custodian of funds for political or partisan purposes;
- (d) Coerce, solicit, or compel contributions, while on duty, for political or partisan purposes by another employee of the Town; or
- (e) Use any supplies or equipment of the Town for political or partisan purposes;
- (f) Display any political advertisement in or on Town property;
- (g) Be a candidate for or hold elective office while in a pay status with the Town of Biltmore Forest. Should an employee decide to be a candidate for elective office, they must take an unpaid leave of absence or resign their employment. If they take an unpaid leave of absence and are elected to an elective office, they must resign as an employee of Biltmore Forest.
- (h) Shall seek or attempt to use any political endorsement in connection with any appointment to or preferment or advantage in connection with a position in the Town's service.

Town employees in certain federally aided programs are subject to the Hatch Act as amended in 1975. This federal act, in addition to prohibiting (b), (c) and (g), also prohibits candidacy for elective office in a partisan election.

All constitutional and elected officers are exempt from this entire section, but no such officer shall use any public funds, goods, supplies, or materials for partisan political purposes.

Any violation of this section shall subject such employee to disciplinary action up to and including dismissal.

#### Section 5. Outside Employment

The work of the Town will take precedence over other occupational interests of employees. All outside employment for salaries, wages, or commission and all self-employment must be approved by the department head and recommended to the Town Manager for final approval. Employees are expected to work only on Town business when on Town time. Conflicting outside employment will be grounds for disciplinary action up to and including dismissal. Documentation of the disapproval or 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.

Employees are prohibited from performing outside employment while on Workers' Compensation Leave or any Leave Without Pay status from Town employment.

#### Section 6. Dual Employment

A full or part-time employee of the Town may simultaneously hold another temporary 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 7. Conformance to Immigration Law and Selective Service Requirements

All employees are required to furnish proof of citizenship or other required documents indicating a legal right to work in the United States. Copies of the completed form I-9 shall be a permanent part of their personnel file.

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

#### Section 8. Confidential Information

No official or employee shall, without the approval of the department head and Town Manager or by court order, disclose confidential information concerning the property, government, or affairs of the Town. Nor shall they, under any circumstance, use such information to advance the financial or other private interest of themselves or others.

#### Section 9. Use of Town Owned Equipment

The Board of Commissioners specifically forbids the personal use of any Town owned equipment, facilities, or supplies by any employee, official, or individual unless authorized by the Town Manager. Should authorization be granted, use will be limited to the use specified in the authorization.

Use of Town owned vehicles are governed by the Town Policy below. Further clarifications are covered in paragraphs (c) through (f).

- (a) Vehicles Owned by the Town may be provided to one or more employees in connection with Town business and shall be used only on Town business. The employee operating the Town vehicle must have the appropriate valid operator's license; operate the equipment in a safe manner and in compliance with all vehicle operation laws. When the vehicle is not used in the Town's business, it is kept on the Town's business premises. The Town's premises and residence of any employee using the vehicle are at different locations. Pursuant to Federal and State law, the employee, nor an individual whose use would be taxable to the employee, may use the Town vehicle for personal use. The Board of Commissioners reasonably believes, based on Town policy and state law, that no employee or any individual uses these vehicles for personal use. Failure to comply with these requirements or loss of driving privileges may result in the employee being re-assigned or dismissed.
- (b) For bona fide non-compensatory business reasons, the Town may require certain employees to commute to and from work in Town vehicles that are not exempted by IRS regulations. In accordance with federal and state law, an employee may not use the Town owned vehicle for personal use other than commuting. The Town has a written policy forbidding personal use of any Town vehicle and the employee using the vehicle is not an elected or appointed official. Under these conditions the Town will account for commuting use by including an appropriate amount in the employee's gross income, as specified in IRS regulations.
- (c) Certain vehicles may be used to commute without any income being added to the employee's gross income. For example, a "qualified specialized utility repair truck" used to commute to enable the employee to respond in emergency situations to

restore or maintain water services and not used for personal reasons is exempt from having an adjustment made to the employee's gross income.

- (d) Use of clearly marked police vehicles to commute, and not used for personal use, are also exempt from the requirement to adjust the employee's gross income. Under certain conditions an unmarked police vehicle used to commute and not for personal use may also qualify for this exemption.
- (e) Only Town employees are authorized to operate Town vehicles.
- (f) Only authorized persons are to be transported in Town vehicles. The only exceptions are emergency situations or authorized ride along programs.

#### Section 10. Reimbursement for use of Personal Vehicle

The Town will reimburse an employee for use of their personal vehicle for Town business when authorized by the Town Manager or Department head. The rate of reimbursement will be equal to the amount allowed for tax deduction purposes by the IRS at the time of use. When required to travel overnight, the Town will reimburse the employee for meals and lodging when the appropriate forms have been submitted.

#### Section 11. Harassment Prohibited

The Town prohibits and will not tolerate sexual harassment or harassment on the basis of sex, race, color, religion, sexual orientation, national origin, age, non-disqualifying disability, political affiliation, marital status or veteran status. Harassment complaints or allegations will be investigated promptly and where, it is determined that such inappropriate conduct occurred, the Town will act immediately to eliminate the conduct and impose such corrective action as is necessary, including disciplinary action up to and including dismissal.

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 Town Manager or Department Head. The employee may file the complaint directly with the Town Manager if it involves a Department Head. The Town Manager 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 12. Surrender of Property

An employee who is suspended or discharged shall be required to return all items of equipment and supplies, including uniforms, owned by the Town. Return of such equipment must precede the issuance of such an employee's final salary check.

#### Section 13. Substance Abuse Policy

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

The Town declares its intention to be a “drug-free workplace.” No employee shall manufacture, distribute, dispense, use or be under the influence of intoxicating beverages or non-prescribed controlled drugs of any kind while on duty. An employee shall not report for duty while under the influence of any alcoholic beverage or non-prescribed controlled or illegal drug. Any employee using medication or a controlled drug by prescription which may affect job performance or safety, shall notify their supervisor upon reporting to work. Any employee convicted or pleading guilty under any criminal drug statute must notify their supervisor or department head no later than five (5) days after such conviction. Any employee who violates this condition of employment may be disciplined up to and including dismissal or may be required to participate in a drug abuse assistance or rehabilitation program approved by the Town.

#### Section 14. Disruption of the Workplace

The Town has a responsibility to maintain a productive and professional work environment conducive to conducting the Town’s business. To that end, employees are expected to keep any workplace disruptions and distractions to a minimum. This includes personal visits and phone calls, texting, receiving personal mail or packages, charitable solicitations, or other activities that distract an employee or coworkers from the work of the Town. Supervisors will provide feedback to employees on any actions that are becoming distracting.

#### Section 15. Employee Safety and Health

The personal safety and health of every employee is important to the Town of Biltmore Forest, and it is Town policy to meet this responsibility by providing safe and healthful places and conditions of employment and by constantly striving to improve the quality of the workplace.

The protection of one’s fellow employees and the public on Town property is a responsibility shared by all. If an employee knows of safety or health conditions that could be improved where

he works, he should notify his supervisor or department head. All Town employees are fully covered by the North Carolina Workers' Compensation Act and are required to report all accidents and injuries on the job to the Town Manager's office within 24 hours so that appropriate action can be taken, and the necessary forms filed.

The following Safety Program Policy governs the activity of all Town employees:

“The Town of Biltmore Forest considers the safety of its employees a major responsibility. The Town will constantly endeavor to encourage safe working habits and provide safe working conditions for its employees. It is recognized that accident control can only be successful when support comes from top management, when adequate coordination and advice comes from staff members, when supervisors accept safety responsibilities, and when employees participate in the elimination of unnecessary safety hazards.”

The principles of our safety programs are as follows:

- (a) Management and supervisory personnel shall provide support for the prevention of accidents and for the implementation of this policy.
- (b) All accidents and safety incidents shall be investigated to determine their causes and the remedial action required to prevent recurrence.
- (c) Supervisors shall be responsible for the safe condition of equipment and materials, for encouraging good housekeeping practices, and for promoting overall safe working conditions. Regularly scheduled inspections of workplaces shall be conducted to identify safety hazards, and corrective actions shall be initiated to control unsafe acts, conditions, or procedures.
- (d) Accident prevention principles shall be incorporated into both training for new employees and on-going training programs for all employees.
- (e) Department heads shall analyze hazardous working conditions and develop standard operating procedures to ensure that hazardous conditions are minimized and that safe work practices are used.
- (f) Personal protective equipment shall be used by employees to reduce the probability of injury.
- (g) Each employee shall be charged with the responsibility of making safety a daily concern. This responsibility must be accepted by everyone, regardless of his/her position in the organization.

Any employee who fails to use proper safety equipment required by and furnished by the Town, shall be subject to disciplinary action by the department head or Town Manager. Failure to use proper safety equipment as directed may constitute a basis for denial of a claim for workers' compensation benefits.

Section 16. Media Contact

Biltmore Forest personnel shall make every effort to maintain good working relationships with the media. All requests for information shall be handled with respect and referred to the appropriate personnel that has the information requested. The Town Manager or Department Head shall be notified, as soon as practical, as to the nature of the request and the organization making the request. If possible, any reply should come from the Town Manager or Department head.

Employees should ascertain that the requesting person is in fact representing a media organization. Employees should also be mindful of their personal liability for providing information on employees, former employees, Town policy, projects, or events.

#### Section 17. Attitude and Common Courtesy

When contacting the public in any manner, especially on public business, Town employees shall do so in a courteous manner. Every employee shall endeavor to conduct themselves in a manner that reflects credit upon his/her department and the government of the Town of Biltmore Forest.



## Article VI. Types of Leave

### Section 1. Policy

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

### Section 2. Holidays

The Town of Biltmore Forest follows the holiday calendar utilized by the State of North Carolina. In addition, each full-time employee is granted their birthday as a holiday.

In order to be eligible for holiday pay, an employee must have been in pay status for a full regularly scheduled workday before and after the holiday, unless excused by the Town Manager or Department head.

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

Regular holidays which occur during a vacation, sick, or other leave period of any officer or employee of the Town 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.

Employees required to perform work on regularly scheduled holidays shall be compensated at their regular pay for the hours worked on the holiday, in addition to the pay for the holiday, or given time off equivalent to the hours worked on the holiday. The holiday hours paid shall be eight (8) hours.

### Section 5. Vacation Leave

Vacation leave shall be used for rest and relaxation, school appointments, and other personal needs. It shall be used at the discretion of the employee and at the convenience of the appropriate supervisor. 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. Vacation Leave may be donated to other employees according to procedures published by the Town Manager.

#### (a) Vacation Leave: Use by Probationary Employees

- a. 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 unless approved in a pre-employment agreement.

(b) Vacation Leave - Amount of Allotment and Maximum Accumulation

- a. When calculating vacation leave for employees whose yearly base hours are 2080, the employee's normal workday expressed in hours, up to a maximum of eight (8) hours, shall be used.

Those employees shall earn vacation leave at the following rate:

Years of Service	Accrual Rate (Days per Year)
0-2	10
3	11
4	12
5	13
6	14
7	15
8	15
9	16
10	16
11	17
12	17
13	18
14	18
15	19
16	19
17+	20

Vacation leave may be accumulated without any applicable maximum until the last payroll in December. However, if the employee departs from service, payment for accumulated vacation leave shall not exceed thirty (30) days prorated as shown in Section 16. Effective December 31st, any employee with more than thirty (30) days of accumulated leave shall have the excess accumulation removed so that only thirty (30) days are carried forward to January 1 of the next calendar year. Those hours, in excess of thirty (30) days, shall be converted to the employee's sick leave account.

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.

Vacation Leave - Manner of Taking Leave

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 impact normal operations of the Town. Department Heads are responsible for ensuring that approved vacation leave does not hinder the effectiveness of service delivery. Vacation may be taken in one half

(1/2 hour) increments. Employees may “sell back” vacation days to the Town. The amount of vacation days sold back to the Town may not exceed ten (10) days or eighty (80) hours per fiscal year.

#### Vacation Leave - Payment Upon Separation

An employee who has successfully completed six months of the probationary period will normally be paid for accumulated vacation leave upon separation not to exceed 40 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 and work the two-week 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 be ineligible to receive and shall forfeit payment of any accrued vacation leave hours.

#### Vacation Leave - Payment for Accumulated Vacation Upon Death

The designated beneficiary of an employee who dies while employed by the Town shall be entitled to payment for the balance of vacation leave credited to the employee's account, up to a maximum of 240 hours.

### Section 6. 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 taken in half-hour (30 minutes) increments.

For these purposes, “immediate family” shall be defined as spouse, child, parent, brother, sister, grandparent, grandchild, son-in-law, daughter-in-law, parent-in-law, brother or sister-in-law, aunt, uncle, of the employee or spouse or guardian of the employee. This also includes various combinations of “step”, “half”, and adopted relationships. Sick leave may be used when an employee must care for a member of his or her immediate family who is ill.

Sick leave may also be used to supplement Workers' Compensation Disability Leave during the waiting period before Workers' compensation benefits begin.

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.

#### a. Sick Leave - Manner of Allotment

- i. Full-time employees shall accrue sick leave at the rate of eight hours per month. When sick leave credits are inadequate to cover absence caused by the employee's illness, the time lost will first be charged to vacation leave, if any, and next to leave without pay. For calculating sick leave compensation, the actual hours taken as sick leave will be used.

- b. 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 Biltmore Forest. 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 their hire date. For those employees who are currently employed with the Town at the approval of this policy, any previously earned sick leave from prior employers in the State and Local Government Retirement System will be credited to their account.
  
- c. Sick Leave - Maximum Accrual
  - i. Unused Sick leave shall accumulate or carry forward from year to year.
  
- d. Sick Leave - Physician's Certificate
  - i. The employee's supervisor or department head may require a physician's certificate concerning the nature of the illness and the employee's physical capacity to resume duties for each occasion on which an employee uses sick leave of forty (40) or more hours. Such request for a physician's certificate may be requested at any time that the department head feels the need.

The department head shall be responsible for the enforcement of this provision to the end that (1) employees shall not be on duty when their presence may endanger their health or the health of other employees, and (2) there will be no abuse of sick 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.

Under Family and Medical Leave act guidelines, the Town may require that a request for leave because of a serious illness of the employee or the employee's child, spouse or parent, be supported by a doctor's certification, which shall include the following:

1. The date on which the serious health condition began;
2. The probable duration of the condition;
3. Appropriate medical facts regarding the condition;
4. A statement that the leave is needed to care for a child, spouse or parent and an estimate of the amount of time that is needed; or,
5. That the employee is unable to perform the functions of the position, whichever applies.

Where certification is necessary for intermittent leave for planned medical treatment, the dates on which the treatment is expected to be given and the duration of the treatment, shall be provided.

If the Town has reason to doubt the validity of medical certification, the Town may require the employee to get a second opinion from a doctor designated by and paid for by the Town. If the second opinion differs from the original medical opinion, the Town may require the employee to get a third opinion from a doctor jointly approved by the Town and the employee but paid for by the Town. The Third opinion is final and binding on both the Town and the employee. The Town may require and pay for the employee to obtain periodic re-certification on a reasonable basis, usually no more frequently than every thirty (30) days.

(d) Sick Leave on Separation

Employees who resign and who are not reinstated within one (1) year, or are dismissed from Town employment, shall lose all sick leave credit. No employee shall be paid for any sick leave balance.

### Section 7. Leave Pro-Rated

Holiday, annual, and sick leave earned by full-time employees with fewer or more hours than the basic work week (forty hours) 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 (forty 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 if leave earned biweekly.

### Section 8. Funeral Leave

Eligible employees scheduled to work eight (8), ten (10), or twelve (12) hour shifts who have a death in the Immediate Family (as defined in Section 4 of this Article) are eligible to receive up to twenty-four (24) working hours of paid funeral leave. Permanent part-time employees are eligible for leave, prorated by the average number of hours in the work week (Section 16). Any additional time or for deaths that are not covered by the Immediate Family designation, vacation leave or accrued compensatory time may be taken. Funeral leave pay cannot duplicate any other compensation of the same period. The Town may request documentation for this leave whenever there is a pattern of absenteeism demonstrated by the employee or for other reasons as needed.

### Section 9. Leave Without Pay – Policy

A regular or probationary employee may be granted a leave of absence without pay for up to one (1) year by the Town Manager. The leave shall be used for reasons of inability to report to work, personal or family disability, continuation of education or special work that will permit the Town to benefit by the experience gained or the work performed, or any absence that is not covered by one of the provided paid leaves.

For extended leave without pay absences, the employee shall apply in writing to the Town Manager for leave and may be carried on the Town's books in a non-pay status during their absence. The employee is obligated to return to duty within, or at the end of, the time determined appropriate by the Town Manager or Department head. Failure to report at the expiration of a leave of absence, unless an extension has been requested, shall be considered a resignation. When on such extended leave without pay, the employee must assume payment of all Town paid benefits, including health insurance and neither vacation nor sick leave shall be earned or accrue. 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 should be notified immediately.

(a) Leave Without Pay - Effect on Benefits

An employee shall retain all unused vacation and sick leave while on leave without pay. An employee ceases to earn or accrue leave credits on the date leave without pay begins. The employee may continue to be eligible for benefits under the Town's group insurance plans, subject to any regulations adopted by the Board of Commissioners and the regulations of the respective insurance carriers.

Section 10. Family and Medical Leave Act

*The Family and Medical Leave Act* was passed by Congress to balance the demands of the workplace with the needs of families, to promote stability and economic security of families and to promote national interests in preserving family integrity; to minimize the potential for employment discrimination on the basis of sex by ensuring generally that leave is available for medical reasons (including maternity related disability) and for compelling family reasons; and to promote the goal of equal employment opportunity for women and men. At the adoption of this policy, the Town is not a covered employer under the provisions of the Family Medical Leave Act.

Section 11. Parental Leave

Full-time regular employees who are parents, guardians, or persons "standing in loco parentis" of a school-aged child shall be granted four hours per year of unpaid leave to attend or otherwise be involved at their child's school. However, Parental leave is subject to the following conditions:

- (a) The leave shall be at a mutually agreed upon time between the supervisor and the employee;
- (b) A written request must be submitted to the supervisor for the leave at least 48 hours before the time desired for the leave;
- (c) Written verification from the child's school that the employee attended or was otherwise involved at the school during the time of the leave.

For the purposes of this section, "school" means any public school, private church school, church of religious charter, non-public school, preschool and child daycare facilities.

Section 12. Workers' Compensation Leave

An employee absent from duty because of sickness or disability covered by the North Carolina Workers' Compensation Act may receive benefits and elect to use accumulated vacation and sick leave as a supplemental payment for the difference between his regular net salary and the net payments received under the Workers' Compensation Act. However, under no circumstances can Biltmore Forest require the employee to endorse his Workers' Compensation check over to the Town. Upon reinstatement, an employee's salary will be computed on the basis of the last salary earned plus any increment or other salary increase to which the employee would have been entitled during the disability covered by Workers' Compensation.

To protect his/her interest under the law, the employee has the responsibility for promptly reporting all injuries resulting from on-the-job accidents in accordance with the N. C. Workers' Compensation Act. All injuries shall be reported immediately to the supervisor of the department.

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

### Section 13. Temporary Disability Leave

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

Leave without pay may be available for a period of time before the employee is medically/mentally disabled, when known in advance, and a period of time after the medical/mental disability ends. Normally this leave shall not exceed three (3) months. However, upon the attending physician's advice and in consultation with and approval of the department head and Town Manager, the employee may alter the duration of this disability leave.

The employee may elect to use accumulated vacation leave (1) before going on sick leave, (2) after accumulated sick leave has been exhausted, and/or (3) after the temporary disability has ended. If an employee is temporarily disabled and has exhausted all accumulated sick leave, that employee may be eligible to receive leave without pay for personal disability under the provisions of Section 6 of this Article. If an employee wishes to retain all accumulated sick leave and vacation leave, leave without pay may be taken for the entire period.

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

### Section 14. Military Leave

Regular employees who are members of the National Guard or Armed Forces Reserve will be allowed fifteen (15) calendar days military training leave annually with adjusted pay. Adjusted pay means that the Town will make up the difference between military pay and regular Town base pay. If the military net pay is greater than the Town's net pay, there shall be no Town compensation for

this leave. If such military duty is required beyond this fifteen (15) calendar days period, the employee shall be eligible to take accumulated vacation leave or be placed in a leave without pay status. While taking military leave with pay or without pay, the employee's leave credits and other benefits shall continue to accrue as if the employee physically remained with the Town during this period. Regular employees who are guardspersons and reservists have all job rights specified in the Veterans Readjustment Assistance Act.

#### Section 15. Civil Leave

A Town employee called for jury duty or as a court witness for the federal or state government or a subdivision thereof, shall receive leave with pay for such duty during the required absence without charge to accumulated vacation or sick leave. While on civil leave, benefits and leave shall accrue as though on regular duty. No employee shall receive or keep any witness fees for appearing in court in connection with their official duties.

#### Section 16. Education Leave

An employee of the Town of Biltmore Forest may be granted an unpaid leave of absence when voluntarily requested and not job required for job training, certification, or other job-related training or education. Arrangements for expenses and compensation shall be made prior to the leave of absence on a case-by-case basis, as recommended by the Department Head and approved by the Town Manager.

#### Section 17. Paid Family Leave

The Town of Biltmore Forest believes that strong families benefit both the local community and the workplace. For this reason, the Town offers the option to its employees of a maximum of four (4) weeks Paid Family Leave for the birth of and bonding with a newborn, bonding with a newly placed child for foster care or adoption and to care for a child, spouse, or parent with a serious health condition. This leave may be utilized in conjunction with other vacation or sick leave as necessary.

#### Section 18. Short Term Disability Leave

The Town offers full-time and permanent part time employees working 30 or more hours short term disability leave. Eligibility for and the amount of disability benefits available are subject to the terms of the applicable plan. During the disability period under certain circumstances there are no contributions to the retirement system, or 401(k). Other employee deductions from regular paychecks such as credit union or supplemental insurance payments and group life, health and dental insurance premiums will need to be addressed to the vendor's satisfaction by the employee. Employees cannot receive more than 100% of their basic salary between all benefits.

Short-term disability (STD) leave assumes worker's compensation will be helping employees with job-related injuries or illnesses, and therefore, does not cover work-related disabilities.

#### Section 19. Shared Leave



An employee may request donated leave from fellow employees if they are facing a prolonged absence from work and insufficient accrued leave hours to pay him/ her during that time. Reasons for which the request may be granted are listed below in Recipient Guidelines, parts a, b, and c.

#### General Guidelines

- a) An employee requesting donated leave shall file a request with the Town's Finance Director. The Finance Director, Department Head of the employee requesting leave, and Town Manager shall review the application. Employees who volunteer to donate leave shall file the attached form verifying the voluntary donation and acknowledging they will not receive any payment for donated leave.
- b) Information presented to and used by the Town in determining qualification of this program shall be kept confidential.
- c) If the request is granted, sick leave may be donated to a named employee. The hours donated by the employee shall be for the use of the employee of their election only.
  - A catastrophic illness of self or immediate family member (mother, father, sibling, child, and/or spouse - as legally recognized by the State of North Carolina), requiring life threatening surgery or treatment, which has been documented in writing by the attending physician.
  - An extended period of sickness or treatment for self or immediate family member, documented in writing by the attending physician.
  - Injuries or illnesses caused as a direct result of illegal acts on the part of self or immediate family member will not qualify.
- d) To qualify for this program, an employee must anticipate being unable to attend work for a minimum of thirty (30) calendar days.

*\*Elective, nonessential surgeries and/ or treatments do not qualify under this program.*

#### Eligibility

Participation in this program shall be based on the employee's past compliance with leave policies. All employees (other than temporary employees) shall be eligible to participate, but no employee is guaranteed a right to participate in this program.

#### Application Procedure

An employee may request donated leave by making a written request on the Shared Leave Form available in the Town Hall.

#### Recipient Guidelines

- a) In order to qualify for donated leave, an employee must exhaust all his/her available leave, and use the leave accruing while they are out, before using donated leave.
- b) Donated leave will be used as needed until the donated leave bank is no longer available or the employee returns to work.
- c) Participation in this program and use of paid time off under this program shall end upon the recipient's resignation or separation from the Town employment, or upon the death of a currently participating recipient.
- d) When the recipient has exhausted, or anticipates exhausting their donated leave, they may reapply for additional donated leave.
- e) Donor Guidelines
- f) Leave is to be donated on a voluntary basis. No employee shall be coerced or required, as a condition of employment, to donate paid leave to any another Town employee.

- g) The amount of sick leave donated by an employee cannot reduce the donor's sick leave balance below five (5) days of sick leave. There is no corresponding prohibition regarding the maximum amount of annual leave or compensatory time that an employee may voluntarily donate.
- h) Employees donating leave will not receive remuneration for the leave they donated.
- i) Unused donated leave shall be returned to the donor.

## Section 20. Personal Leave

An employee of Biltmore Forest shall be allowed up to twenty-four (24) hours per fiscal year of personal leave. Personal leave should typically be taken in increments of fifteen (15) minutes, up to a maximum of two (2) hours per occasion per month with permission of their supervisor. Personal leave is to be used for personal matters that cannot be transacted outside of normal work hours, medical appointments, and absences due to adverse weather conditions. Any time used beyond two (2) hours in a day will be charged to another appropriate leave, with the exception noted below.

An employee may use up to 8 hours of personal leave on three separate occasions within each fiscal year. In no instance will the total number of personal hours used for each fiscal year exceed twenty-four (24) hours. This allowance recognizes that at some points Town staff may need a longer period to transact business and/or time off for other reasons not accounted for in other leave types.

A request for personal leave shall be submitted to the department head for their approval or disapproval. The request must state the purpose and time requested. The department head may require that the leave be charged to vacation, sick or leave without pay if in his/her opinion it is not justified as personal leave. The employee will be notified prior to taking leave of the department's head's decision. Abuse of personal leave privilege may result in disciplinary action against the individual if warranted. Personal leave may be used by Public Works employees to supplement a standard eight (8) hour holiday.

## Section 21. Calculation of Holiday Leave, Vacation Leave, and Sick Leave

Holiday leave, vacation leave, and sick leave earned by full-time employees will be based on an 8-hour workday.

## Article VII. Separation, Discipline and Reinstatement

### Section 1. Types of Separation

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

- (a) **Resignation:** A minimum of two (2) weeks' notice for most employees is expected of all resigning personnel. Such notice should be given to the department head or Town Manager.

Employees who do not give proper notice (2 weeks for most employees) shall be deemed a resignation without notice and will not be paid for their accumulated vacation leave balance upon termination. Failure to comply with this requirement may be the cause for denying reference to potential employers.

Five (5) consecutive days without reporting to work or contacting the appropriate official shall be considered a resignation.

All letters or notes of resignation received by department heads shall be forwarded to the Town Manager on the completion of the workday following the date of receipt.

- (b) **Demotion:** A regular employee whose performance of duties is unsatisfactory over a period shall be notified in writing by the supervisor or department head how their performance is deficient and what must be done for their performance to be satisfactory. The employee will be given up to three months to improve their performance to a satisfactory level. If at the end of the three months the appraising official determines that the performance is still unsatisfactory, a recommendation to demote to a position for which the employee is more suited or to dismiss shall be made to the Town Board of Commissioners by the appraising official.
- (c) **Reduction in Force:** In the event that a reduction in force becomes necessary, consideration shall be given to the quality of each employee's past performance, organizational needs, and seniority, in that order, in determining those employees to be retained. Employees who are laid off because of reduction in force shall be given at least two (2) weeks' notice of anticipated layoff. No regular employee shall be separated while there are temporary employees serving in the same class in the department, unless the regular employee is not willing to transfer to the position held by the temporary employee.
- (d) **Disability:** An employee who is injured on or off the job, who becomes ill, or suffers any other condition that meets the American with Disabilities Act definition of disability, is protected by the Act, if they can perform the essential functions of the job, with or without reasonable accommodations.

The Town shall make reasonable accommodation to the known physical or mental impairment of an otherwise qualified employee with a disability, unless the Town can demonstrate that the accommodation would impose an undue hardship on its operations.

An employee may be separated for disability when the employee cannot perform the required duties because of a physical or mental impairment and reasonable accommodations, as required by the American with Disabilities Act (ADA), cannot be made. Action may be initiated by the employee or the Town, but in all cases, it shall be supported by medical evidence as certified by a competent physician. The Town may require an examination at its expense and performed by a physician of its choice. Before an employee is separated for disability, a reasonable effort shall be made to locate alternative positions within the Town's service for which the employee may be suited.

- (e) Dismissal: Dismissals shall be preceded by an automatic three (3) day suspension without pay pending completion of an investigation or placed in a administrative leave status not exceeding 30 days. The investigation shall include an opportunity for the employee to explain their side of the situation. If performance is not substantially improved during the administrative leave status or the investigation provides sufficient cause, after a hearing of the employee by the Town Manager, the employee may be dismissed and discharged. If the Town Manager determines that a dismissal action is appropriate, such dismissal shall be effective at the end of the three (3) day suspension or the end of the administrative leave status. If a dismissal is made at the end of this period, a written summary giving the circumstances and facts leading to the dismissal shall be prepared. A copy of the summary shall be mailed to the employee by certified mail and one copy shall be filed in the employee's personnel folder.
- (f) Death: All compensation due in accordance with Article VII, Section 4 of this policy will be paid to the designated beneficiary of a deceased employee. The date of death shall be recorded as the separation date for computing compensation due.

## Section 2. Disciplinary Actions

The Town establishes rules so that each department can operate in an orderly and efficient manner in order to better serve the public. An employee who engages in activities which disrupt or impair the operation of any department, violates rules, regulations, policies or procedures or orders from a supervisor, is subject to disciplinary action. Disciplinary action may take the form of a verbal or written warning, probation, suspension, demotion, or dismissal depending on the nature of the offense and the work record of the employee in question. Disciplinary action can be taken by the Town Manager because of failure in performance of duties or failure in personal conduct. The department head shall provide the employee with a written notice including the recommended effective date, reasons for the action, and appeal rights available to the employee.

- (a) Failure in Performance of Duties

Failure in the performance of duties includes any aspects of the employee's job which are not performed as required to meet the standards set by the Town Manager or Department head.

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

- (1) Inefficiency, negligence or incompetence in the performance of duties;
- (2) Careless, negligent or improper use of Town property or equipment;
- (3) Demonstrates incapacity or inability to perform duties.

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

(b) Failure in Personal Conduct

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

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

- (1) Fraud in securing appointment;
- (2) Conduct unbecoming a public officer or employee;
- (3) Conviction of a felony or of a misdemeanor which would adversely affect performance of duties, or the entry of a plea of no contest: to either;
- (4) Misappropriation of Town funds or property;
- (5) Falsification of Town records for personal profit or to grant special privileges;
- (6) Reporting to work under the influence of alcohol or narcotic drugs or partaking of such things while on duty or while on public property, except that prescribed medication may be taken within the limits set by a physician so long as medically necessary;
- (7) Willful damage or destruction of property;
- (8) Willful acts that would endanger the lives and property of others;
- (9) Acceptance of gifts in exchange for "favors" or "influence";
- (10) Incompatible outside employment or conflict of interest;
- (11) Violation of political activity restrictions;
- (12) Insubordination;
- (13) Discourteous treatment of the public or other employees;
- (14) Absence without approved leave;
- (15) Habitual improper use of leave privileges;

- (16) Habitual pattern of failure to report for duty at the assigned time and place.

Following are explanations of various types of disciplinary actions which may be taken:

- (1) Verbal Warning: Informal counseling of an employee by the immediate supervisor, department head or Town Manager.
  - (2) Written Warning: Formal counseling of an employee by the immediate supervisor, department head or Town Manager, written and signed by both the employee and their supervisor and included in the employee's personnel file.
  - (3) Disciplinary Probation: A period, usually not to exceed 90 calendar days, during which the employee is expected to improve job performance or behavior with regard to rule infractions. An employee is informed by their immediate supervisor, department head or Town Manager of the terms and length of such disciplinary probation, written and signed by both the employee and their supervisor, and included in the employee's personnel file.
- (c) Disciplinary Suspension: A period of time, usually one to ten days, during which an employee is not permitted to work and is not paid. An employee placed on suspension is informed of same by their immediate supervisor, department head, or Town Manager, written and signed by both the employee and their supervisor, indicating the dates of the suspension, and included in the employee's personnel file.
- (d) Immediate Disciplinary Suspension: Such suspension may be enacted without pay and without notice by the Town Manager, department heads, and/or Town Board of Commissioners for causes related to personal conduct in order to avoid undue disruption of work, to protect the safety of persons or property, or for other serious reasons. When such occurs, the employee shall be told to leave Town property at once and remain away until further notice. A written summary giving the circumstances and facts leading to the suspension shall be prepared with one copy being sent to the employee by certified mail and a copy filed in the employee's personnel folder.

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

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

Demotion: Failure in personal conduct may be cause for the employee to be demoted as a disciplinary action. An employee demoted as a disciplinary action, is informed of same by their immediate supervisor, department head, in writing and signed by both the employee and their supervisor, indicating the effective date, and included in the employee's personnel file.

Dismissal: Termination of employment at the instigation of the Town. An employee demoted or dismissed for causes relating to personal conduct shall be given a statement of the charges, be allowed to respond in writing, have a hearing and no sooner than the day following the hearing, be given a prompt written statement of the hearing, and the decision of the Town Manager. A copy of the statement shall be signed by the employee and supervisor and one (1) copy shall be filed in the employee's personnel file.

### Section 3. Employee Appeal

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

### Section 4. Reinstatement

An employee who resigns while in good standing or who is dismissed because of a reduction in force may be reinstated within one (1) year of the date of separation, with the approval of the Town Board of Commissioners. An employee who enters extended active duty with the Armed Forces of the United States, the Public Health Service or with a Reserve component of the Armed Forces will be granted reinstatement rights commensurate with Chapter 43 of Public Law 93-508.

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

## Article VIII. Grievance Procedure

### Section 1. Policy

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

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

### Section 2. Grievance Defined

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

### Section 3. Purposes of the Grievance Procedure

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

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

### Section 4. Procedure

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



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

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

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

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

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

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

The filing of a lawsuit by an employee on an issue while there is a grievance on the same issue will end the appeal(s) under the Town's grievance procedure.

## Section 5. Grievance and Adverse Action Appeal Procedure for Discrimination

When an employee, former employee, or applicant, believes that any employment action discriminates illegally (i.e. is based on age, sex, race, color, national origin, religion, creed, political

affiliation, or non-disqualifying disability, marital status, or veteran status), he or she has the right to appeal such action using the grievance procedure outlined in this Article (Section 4 above).

While such persons are encouraged to use the grievance procedure, they shall also have the right to appeal directly to the Town Manager. Employment actions subject to appeal because of discrimination include promotion, training, classification, pay, disciplinary action, transfer, layoff, failure to hire, or termination of employment. An employee or applicant should appeal an alleged act of discrimination within thirty calendar days of the alleged discriminatory action, but may appeal for up to six months following the action. Nothing in this policy is intended to discourage or prevent an employee, former employee or applicant from filing a formal charge of discrimination or other illegal action with the appropriate state or federal agency having jurisdiction.

## **Article IX. Insurance/Retirement/Benefits**

All employee benefits outlined in this policy including Article III (Pay Plan), Article VI (Types of Leave), and this Article IX (Employee Benefits) are contingent on the financial condition of the Town and the provision for such funding in each Annual Budget.

### Section 1. Insurance Benefits

The Town offers group hospitalization, dental insurance, short term disability, and life insurance. Such provisions and costs shall be as determined by the Town Board and budgeted. Optional dependent coverage shall be provided at the expense of the employee. Employees are eligible for the above benefits after the completion of thirty (30) days of employment.

### Section 2. Unemployment Insurance

In accordance with Public Law 94-566 and Chapter 1124 of the Session Laws of 1977 of the North Carolina General Assembly, local governments are covered by unemployment insurance effective January 1, 1978. Town employees who are laid off or released from the Town service may apply for unemployment compensation through the local office of the Employment Security Commission who will determine the employee's eligibility for this benefit.

### Section 3. Old Age and Survivor's Insurance

The Town, to the extent of its lawful authority and power, has extended social security benefits for its eligible employees and eligible groups and classes of such employees. Each Town employee shall be included in the Social Security program as a condition of employment.

### Section 4. Workers' Compensation

All employees are covered with workers' compensation insurance as required by the General Statutes of North Carolina.

### Section 5. Credit Union Membership

Employees of the Town of Biltmore Forest are eligible for membership in the Local Government Federal Credit Union or its successor.

### Section 6. Retirement Benefits & 401K Contribution

Each full-time employee who has completed at least one (1) month of continuous employment with the Town and works 1000 or more hours per year participates in the following retirement programs:

- (a) North Carolina Local Governmental Employees' Retirement System (LGERS).

All eligible employees will participate in the North Carolina LGERS in accordance with the rules and regulations adopted by the State of North Carolina. Employees contribute 6% of their salary to this plan. The Town contributes to the retirement system for its eligible employees as provided by law and also makes available the death benefit option offered therein.

(b) Supplemental Retirement Plan of North Carolina 401(k).

The Town contributes amounts equal to five percent (5%) of each eligible employee's base salary to the Supplemental Retirement Plan of North Carolina-401(k) as administered for the State of North Carolina. All rules and regulations of the Plan apply.

Section 7. Separation Allowance/Law Enforcement 401K

Law Enforcement Employees of the Town of Biltmore Forest receive a Town contribution of five (5%) into a 401K, and those law enforcement employees who meet the following requirements shall receive, beginning on the last day of the month in which he or she retires, a special separation allowance equal to eighty-five hundredths percent (0.85%) of the average final compensation as determined by the LGERS. To determine the amount of this special separation allowance, multiply eighty-five hundredths percent (0.85%) times the employee's most recent final base compensation, then multiply this product by the number of creditable years of service as determined by LGERS. The resulting product equals the annual payment of the separation allowance. This amount divided by 12 is the amount that will be paid on the last day of each month. The requirements for this separation allowance are as follows:

1. The employee must be eligible to retire at full benefits from the LGERS; and
2. The employee must not have attained sixty-two (62) years of age; and
3. At least 50% of creditable service is as a law enforcement employee and must be employed in a law enforcement position with the Town of Biltmore Forest at time of retirement. No employee shall receive the Special Separation Allowance if he/she retires on disability; and
4. Payment of this Separation Allowance shall cease at the death of the employee or on the last day of the month in which he/she attains sixty-two (62) years of age, or on the last day of the month in which he/she receives social security, or upon the first day of employment of the employee by any North Carolina governmental body. Should the special separation allowance for law enforcement officers, now required by law, be rescinded, this separation allowance shall be rescinded all at the same time; and
5. The Special Separation Allowance does not replace any benefits to which a retired employee may be entitled from state, federal, or private retirement systems.

Section 8. 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 up to a maximum of \$4,000.00 per fiscal year. Satisfactory completion of the courses will be required for reimbursement. Requests for tuition assistance shall be submitted to the Department Head prior to course registration and are subject to the review and approval of the Town Manager, subject to availability of funds.

#### Section 9. Fitness Membership Subsidy

Town staff are encouraged to maintain a healthy and active lifestyle. To that end, the Town may choose to offer a fitness subsidy and/or discounted membership to the YMCA of Western North Carolina. The cost of this subsidy and/or discounted membership shall not exceed \$30.00 per month and is made available to all full-time employees only.

## Article X. Personnel Records and Reports

### Section 1. Personnel Records Maintenance

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

In accordance with GS 160A-168(b), the following information with respect to each Town employee as a matter of public record:

- (a) Name;
- (b) Age;
- (c) Date of original employment or appointment to Town service;
- (d) The terms of any contract by which the employee is employed whether written or oral, past and current, to the extent that the Town has the written contract or a record of the oral contract in its possession;
- (e) Current position title;
- (e) Current salary;
- (f) Date and amount of most recent change in salary;
- (g) Date of most recent promotion, demotion, transfer, suspension, separation, or other change in position classification;
- (h) Date and general description of the reasons for each promotion within the Town;
- (i) Date and type of each dismissal, suspension, or demotion for disciplinary reasons taken by the municipality. If the disciplinary action was a dismissal, a copy of the written notice of the final decision of the municipality setting forth the specific acts or omissions that are the basis of the dismissal; and

### Section 2. Access to Personnel Records

As required by G. S. 160A-168, any person may have access to the information listed in Section 1 of this Article, except item (i), for the purpose of inspection, examination, and copying, during the regular business hours, subject only to such rules and regulations for the safekeeping of public records as the Board of Commissioners may adopt. Access to such information shall be governed by the following provisions:

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

- (c) An individual examining a personnel record may copy the information. Any available photocopying facilities may be provided and the cost may be assessed to the individual.
- (d) Any person denied access to any record shall have a right to compel compliance with these provisions by application to a court for a writ of mandamus or other appropriate relief.

### Section 3. Confidential Information

All information contained in a Town employee's personnel file, other than the information listed in Section 1 of this Article, except that Article XI, Section 1 (i) "current mailing address" shall be confidential), shall be maintained as confidential (in accordance with the requirements of G. S. 160A-168 and shall be open to public inspection only in the following instances:

- (a) the employee or his duly authorized agent may examine all portions of his personnel file, except, (1) letters of reference solicited prior to employment, and (2) information concerning a medical disability, mental or physical, that a prudent physician would not divulge to his patient.
- (b) A licensed physician designated in writing by the employee may examine the employee's medical record.
- (c) A Town employee having supervisory authority over the employee may examine all material in the employee's personnel file.
- (d) By order of a court of competent jurisdiction, any person may examine all material in the employee's personnel file.
- (e) An official of an agency of the State or Federal government, or any political subdivision of the State, may inspect any portion of a personnel file when such information is deemed by the department head to be necessary and essential to the pursuance of a proper function of the inspecting agency, but no information shall be divulged for the purpose of assisting in a criminal prosecution of the employee or for the purpose of assisting in an investigation of the employee's tax liability. However, the official having custody of such records may release the name, address, and telephone number from a personnel file for the purpose of assisting in a criminal investigation.
- (f) An employee may sign a written release, to be placed with his personnel file, that permits the person with custody of the file to provide, either in person, by telephone, or by mail, information specified in the release to prospective employers, educational institutions, or other persons specified in the release.
- (g) Each individual requesting access to confidential information will be required to submit satisfactory proof of identity.

- (h) A record shall be made of each disclosure and placed in the employee's file (except of disclosures to the employee and the supervisor).

#### Section 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 file may place in the file a statement relating to the material they consider to be inaccurate or misleading. The employee may seek the removal of such material in accordance with established grievance procedures.

#### Section 6. Penalty for Permitting Access to Confidential File By Unauthorized Person

G. S. 160A-168 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's personnel file, except as expressly authorized by the designated custodian, is guilty of a misdemeanor and upon conviction shall be fined in an amount not to exceed five hundred dollars.

#### Section 7. Penalty for Examining and/or Copying Confidential Material Without Authorization

G. S. 160A-168 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 in the discretion of the court but not in excess of five hundred dollars.

#### Section 8. Destruction of Records Regulated

No public official may destroy, sell, loan, or otherwise dispose of any public record except in accordance with G. S. 121-5, without the consent of the State Department of Cultural Resources. Whoever unlawfully removes a public record from the offices where it is usually kept, or whoever alters, defaces, mutilates or destroys it will be guilty of a misdemeanor and upon conviction will be fined not less than ten dollars, not more than five hundred dollars as provided in G. S. 132-3.



## **Article XI. Implementation Of Policy**

### Section 1. Conflicting Policies Repealed

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

### Section 2. Separability

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

### Section 3. Violations of Policy Provisions

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

### Section 4. Effective Date

This policy shall become effective upon adoption.

### Section 5. Amendments

This policy may be amended by action of the Board of Commissioners and by a formal action appropriately approved. Notice of any suggested amendment to the policy, or any portion thereof, shall be provided to employees and opportunities for employee comment and reaction shall be made available prior to the amendments going to the Board of Commissioners for action. Proposed amendments should be posted on bulletin boards in all employee work locations and/or in employee newsletters. Any revisions or amendments adopted in conformance with this procedure shall become effective as of the date of such adoption.