

**TOWN OF KURE BEACH  
PERSONNEL POLICY**

BE IT RESOLVED by the Town Council of the Town of Kure Beach that the following policies apply to the appointment, classification, benefits, salary, promotion, demotion, dismissal, and conditions of employment of the employees of the Town of Kure Beach.

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## TOWN OF KURE BEACH PERSONNEL POLICY

### **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. This policy is established under authority of Chapter 160A, Article 7, of the General Statutes of North Carolina. All employees in the Town's service are subject to this policy.

#### *Section 2. At Will Employment*

Nothing in this policy creates an employment contract or term between the Town and its employees. No person has the authority to grant any employee any contractual rights of employment. Employees are not granted a property interest in Town employment.

#### *Section 3. Merit Principle*

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

#### *Section 4. Responsibilities of the Town Council*

The Town Council shall be responsible for establishing and approving personnel policies, the Salary Banding Compensation Plan, and may change the policies and benefits as necessary. The Town Council also shall make and confirm appointments when so specified by the General Statutes. The Town Council strictly adheres to the policy that no Town official or employee shall engage in conduct falling under the illegal workplace conditions described below. All employees shall have the right to work in an environment free from illegal workplace conditions and from retaliation based on attempting to address/remedy the same.

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*Unlawful Workplace Harassment.* Unwelcomed or unsolicited speech or conduct based on race, sex, creed, religion, national origin, age, color, or physical or mental impairment creating or resulting in a hostile work environment or circumstances involving a *quid pro quo*.

*Hostile Workplace Environment.* One that both a reasonable person would find hostile or abusive and that the particular person who is the object of the harassment perceives to be hostile or abusive. It is determined by looking at all circumstances, including frequency of the allegedly harassing conduct, its severity, whether it is physically threatening or humiliating, and whether it unreasonably interferes with an employee's work performance.

*Quid Pro Quo.* ("this for that") Harassment consists of unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct when:

1. submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or
2. submission to or rejection of such conduct by an individual is used as the basis for an employment decision affecting such individual.

*Retaliation.* Adverse treatment occurring as a result of attempting to address and/ or remedy illegal workplace conditions

An employee having a complaint of illegal workplace conditions may file the complaint directly with the Personnel Officer. The Town Council, or other person as the Council may direct, shall conduct a thorough investigation into any alleged illegal workplace conditions and report the findings and conclusions of that investigation to the Council.

The Town Council shall:

- a) approve rules and revisions to the personnel system;
- b) make changes as necessary to maintain an up to date and accurate position classification plan;
- c) prepare necessary revisions to the pay plan;
- d) determine, based on federal requirements, which employees shall be subject to the overtime provisions of the Fair Labor Standards Act;
- e) direct the establishment and maintenance of a roster of all persons and authorized positions in the municipal service, setting forth each position and employee, class title of position, salary, any changes in class title and status, and such data as may be desirable or useful; and
- f) develop and administer such recruiting programs as may be necessary to obtain an adequate supply of competent applicants to meet the needs of the Town.

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

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

### *Section 6. Departmental Rules and Regulations*

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

### *Section 7. Definitions*

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

**Bonus.** A one-time payout not added to employee's base salary, used to calculate overtime pay for FLSA classified non-exempt employees. Does not impact salary bands.

**COLA.** Annual Cost of Living salary increase added to employee's base salary and used to adjust all salary bands as determined by Town Council each budget year.

**Demotion.** Employee moved to a lower assignment in the same salary band or to a lower salary band.

**Department Head.** Department Heads are the Town Clerk, Police Chief, Fire Chief, Public Works Director, Building Inspector, Finance Officer, and Recreation Director. Other Department Heads may be designated by the Town Council. The Town Council delegates responsibility for disciplinary actions for employees in each department to the respective Department Head.

**Disciplinary action.** The warning, reprimand, suspension, demotion, or dismissal of an employee for deficiencies in work performance or personal conduct.

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**Emergency situation.** A period of time as designated by the Town Council due to proclamation of a State of Emergency or other non- usual events.

**Essential employee.** Employees designated as required to work in order to maintain minimum Town operations, particularly during emergency situations.

**Exempt employee.** An employee whose duties have been determined to be office or non-manual work directly related to management or general business operations exercising discretion and independent judgment with respect to significant matters as regulated by the federal Department of Labor Fair Labor Standards Act (FLSA).

**Fair Labor Standards Act (FLSA).** Federal law establishing standards for minimum wages, over time pay, record-keeping and child labor.

**Family Medical Leave Act (FMLA).** Federal law establishing standards for qualifying employees allowing up to 12 weeks of unpaid, job-protected leave per year with group health benefits maintained during the leave. Also referred to in the policy as Parental Leave.

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

**Grievance.** Procedure to resolve complaints by eligible employees based upon events or conditions affecting the circumstances under which they work. Does not apply to Disciplinary Actions covered by the Appeal procedure.

**Hiring Authority.** The Hiring Authority for the Department Heads shall be the Town Council. The Hiring Authority for all other employees shall be the Department Head

**Hourly pay rate.** Method of payment for part time or temporary employees.

**Non-essential employee.** Employee designated as not required to work in order to maintain minimum Town operations, particularly during emergency situations.

**Interim Appointment.** An employee requested to take on additional responsibilities for a period not to exceed 180 days.

**Merit.** Annual salary increase based on performance evaluations conducted in June of each year regardless of hire date. Merit is added to the employee's base salary but does not impact salary bands.

**Non-exempt employee.** An employee subject to all the minimum wage and overtime laws set forth by the federal Department of Labor Fair Labor Standards Act.

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

**Payroll deduction.** Deduction from an employee's compensation as either required by law or upon employee request.

**Performance evaluation.** An annual review of a full-time employee's performance in June of each year, regardless of hire date.

**Personnel Officer.** The position of Town Clerk shall also serve as the Personnel Officer with the responsibilities of administering and applying the Town's personnel policies and procedures; providing assistance to Council in the preparation and maintenance of the Town's pay plan and benefits; and performance of other personnel related duties as the Town Council directs.

**Promotion.** Employee promoted within same salary band with a minimum of 5% increase or moved to a higher salary band with a salary increase to at least the minimum of that band.

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

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

**Salary Band.** Compensation plan for all full-time employees based on supervision level required; use of judgment and or problem-solving skills required; decision making, responsibility and authority required and occupational grouping.

**Salary Adjustments.** As part of each budget session, Department Heads may budget for individual salary adjustments to compensate employee(s) for obtaining certifications or promotion. Does not impact salary bands.

**Starting salary.** All persons employed in positions approved in the salary banding compensation plan shall be employed at the minimum salary for the band in which they are employed. Dependent on qualifications, applicants may be employed above the minimum.

**Salaried employee.** Fixed compensation for service paid to a regular employee.

**Temporary employee.** An employee appointed to a position for which either the average work week required by the Town over the course of a year is less than 20 hours, or continuous employment required by the Town is less than 12 months.



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

**Transfer.** An employee reassigned to a position in the same salary band range.

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### **ARTICLE II. SALARY BANDING COMPENSATION PLAN**

#### *Section 1. Purpose*

The compensation plan shall consist of salary bands used to assign authorized full time positions and determine appropriate compensation.

Salary bands shall group employees based on overall level of:

- a) supervision required
- b) use of judgment and/or problem solving skills required
- c) decision making, responsibility and authority required
- e) occupational grouping

#### *Section 2. Composition of Salary Banding Compensation Plan*

The salary banding compensation plan shall consist of three salary bands:

- a) Salary band I includes four sub-bands that assign all full time operations, office, fire and police support positions
- b) Salary band II assigns all full time mid-management level positions
- c) Salary band III assigns all full time management level positions

#### *Section 3. Use of the Salary Banding Compensation Plan*

The salary banding compensation plan is to be used:

- a) as a guide in recruiting and placement of applicants for employment;
- b) in determining lines of promotion;
- c) in determining compensation for various types of work and level of responsibility;

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- d) in determining personnel expenditures in departmental budgets;
- e) in providing uniform assignments of positions; and
- f) in determining content of work for evaluation

### *Section 4. Administration of the Salary Banding Compensation Plan*

The respective Department Head and Personnel Officer shall allocate each position approved by the Town Council to the appropriate salary band.

The Personnel Officer shall be responsible for the administration of the salary banding compensation plan and, as advised by Department Heads, shall periodically review portions of the plan and recommend appropriate changes to the Town Council.

New full time positions shall be established upon the approval of the Town Council.

### *Section 5. Adoption of the Salary Banding Compensation Plan*

The salary banding compensation plan shall be adopted by the Town Council and shall be on file with the Personnel Officer. Copies will be available to all Town employees for review upon request. New full time positions shall be established upon the approval of the Town Council.

### *Section 6. Request for Reassignment*

Any employee who considers the assigned salary band to be improper shall submit a request in writing for reassignment with justification to his or her immediate supervisor, who shall transmit the request to the Department Head for consideration. The Department Head shall make a decision and respond accordingly, in writing, to the employee in a timely manner.

The employee may appeal the decision of the Department Head to the Personnel Officer who should discuss with the appropriate liaison, if the Department Head decision is to be overturned.

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

#### *Section 1. Definition*

The pay plan includes three salary bands each with a trainee, minimum, market mid-point, and maximum salary.

- a) Market mid-point is the current market rate of pay for employees with all of the required experience and credentials for the position as per the job description.
- b) Minimum salary is 15% below the market mid-point.
- c) Maximum salary is 50% above the market mid-point.
- d) Trainee in Bands IA & B, and bands II and III is 20% below market mid-point.  
Trainee in Band IC & D is 25% below market mid-point.

Trainee, minimum, market mid-point & maximum shall be adjusted with every cost of living increase (COLA).

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

The Personnel Officer shall be responsible for the administration and maintenance of the pay plan and may make recommendations to the Town Council on appropriate or necessary amendments.

From time to time the Town Council may make comparative studies of all factors affecting the level of compensation and make such changes as appear to be pertinent. Such adjustments may impact the employee rate of pay and the assigned salary band range.

#### *Section 3. Starting Salaries*

All persons employed in positions approved in the salary banding compensation plan shall be employed at the minimum salary for the band in which they are employed. Dependent on qualifications, applicants may be employed above the minimum of the established salary band range at the discretion of the Department Head with the consideration of the compensation of existing employees.

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### *Section 4. Trainee Designation and Provisions*

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

"Trainee" salaries may be no less than the trainee salary listed in the respective salary band. A new employee designated as "trainee" shall be regarded as a probationary employee.

If the training is not successfully completed to the satisfaction of the Department Head, the trainee shall be transferred, demoted, or dismissed, unless training had to be delayed due to availability. If the training is successfully completed, the employee shall be paid at least at the minimum rate established for the position for which the employee was trained.

### *Section 5. Probationary Pay Increases*

Employees hired, promoted, or reassigned into the minimum rate of the salary band range shall receive a salary increase within the range of approximately 6% upon successful completion of the probationary period. Employees serving a one-year probationary period shall be eligible for the pay increase upon successful completion of six months of employment. Employees hired or promoted into a pay rate 6% or more above the minimum of the salary range are not eligible for a probationary increase.

### *Section 6. Performance Evaluation*

The Department Head shall conduct performance evaluation conferences with each full time employee at least once a year. The performance evaluation conference shall consist of two-way discussions between employee and Department Head. The discussions shall cover areas of accomplishment and performance strengths, areas for improvement, training needs, and goals for the upcoming year. The overall purpose of performance evaluations will be to improve the employee's performance. A summary of these performance evaluation conferences shall be documented in writing and filed in the employee's personnel file.

Town Council shall conduct performance evaluation conferences with each Department Head at least once a year as outlined above.

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### *Section 7. Salary Adjustments*

As part of each annual budget session, the Town Council shall determine whether funds will be available for salary adjustments for all full time employees as well as define the type of adjustment, and amount or percentage.

Adjustments shall be effective the first day of the new budget year.

As part of each budget session, Department Heads may budget for individual salary adjustments for the purpose of compensating an employee for obtaining certifications or for the purpose of promotion. Department Heads should also budget for the 6% increase for any full -time employee with a probation period ending that year. These adjustments may occur throughout the year.

### *Section 8. Types of Salary Adjustments*

Salary adjustments may consist of:

1. Cost of Living Adjustment (COLA) which is added to the employee's base salary. COLA is applied to all full time employee salaries without regard to performance. COLA increases adjust each salary band.
2. Merit which is added to the employee's base salary and is determined by Department Heads based on the performance evaluation conducted in June of each year. A merit is not mandatory. A merit adjustment does not impact salary bands.
3. Bonus which is an amount that is a one-time payout not added to the employee's base salary, but is used to calculate overtime pay for non- exempt employees. A bonus adjustment does not impact salary bands.
3. Any other sort of adjustment the Town Council may elect.

### *Section 9. Salary Effect Promotions, Demotions, Transfers, Interim Appointments*

**Promotion in the same salary band or to a higher band.** When an employee is promoted within the same salary band, the Department Head will determine the increase in salary, which should be a minimum of 5%.

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### **Demotion or reassignment in the same salary band or to a lower salary band.**

When an employee is demoted (involuntary) or reassigned (voluntary) to a position, the employee will not be eligible for any salary adjustment at the next budget cycle.

**Transfers.** The salary of an employee reassigned to a position in the same salary band range shall not be changed by the reassignment.

**Temporary and Interim Appointments.** Should an employee be asked to take on additional responsibilities for a period of time not to exceed 180 days, the Department Head may compensate the employee with a one - time payment or an increase in base salary for the duration of the appointment only.

### *Section 10. Transition to a New Salary Plan*

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

- 1) No employee shall receive a salary reduction as a result of the transition to a new salary plan.
- 2) All employees being paid at a rate lower than the minimum rate established for their respective classes shall have their salaries raised to the new minimum for their classes if the employee has not completed probation and to the probation completion rate, if probation has been completed.
- 3) All employees being paid at a rate lower than the minimum rate established may have their salaries raised to the new minimum at the determination of the Town Council.
- 4) All employees being paid at a rate above the maximum rate established shall be maintained at that salary level until such time as the employees' salary range increased above the employees' current salary.

### *Section 11. Effective Date of Salary Changes*

Salary changes approved after the first working day of a pay period shall become effective at the beginning of the next pay period.

### *Section 12. Overtime Pay Provisions*

Employees of the Town can be requested and may be required to work overtime hours as

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necessitated by the needs of the Town and determined by the Department Head.

To the extent that local government jurisdictions are so required, the Town will comply with the Fair Labor Standards Act (FLSA). The Town Council shall determine, using federal guidelines, 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 in a 28-day cycle for sworn police personnel). Hours worked beyond the FLSA established limit will be compensated in either time or pay at the appropriate overtime rate. In determining eligibility for overtime in a work period, only hours actually worked shall be considered; in no event will vacation, sick leave, or holidays be included in the computation of hours worked for FLSA purposes. Compensatory leave requires approval by the Town Council when creating a balance that exceeds 100 hours. In no case should an employee's compensatory balance exceed the FLSA limit (240 hours for non-law enforcement; 480 hours for law enforcement).

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

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

### *Emergency Situations – non - exempt employees*

In emergency situations, non - exempt employees will be compensated at their usual overtime rate of time and one half for hours worked in excess of (40) forty hours per week and double time for hours worked on weekends and holidays. Police Officers are paid regular pay for hours worked up to 171 in a 28-day cycle and any hours over 171 are paid at time and one half. Fire Personnel are paid regular pay for hours up to 212 in a 28 day cycle and any hours over 212 are paid at time and one half.

### *Emergency Situations – exempt employees*

For exempt employees (Department Heads) required to work extended hours during an emergency, the Town Council shall compensate for hours worked over and above the regular workweek at their regular hourly rate.



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### *Section 13. Call-back and Stand-by Pay*

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

**Call-back.** Non-exempt employees will be guaranteed a minimum payment of two hour's wages for being called back to work outside of normal working hours. "Call-back" provisions do not apply to previously scheduled overtime work.

**Stand-by.** Non-exempt employees required to be on "stand-by" duty will be paid for five hours of straight time for each week (approximately 128 hours, excluding work time) of stand-by time they serve. Stand-by compensation for less than one full week shall be determined by the ratio of .062 hours of pay per one hour of stand-by time. Hours actually worked while on stand-by are calculated beginning when the employee reports to the work site and are added to the regular total of hours worked for the week. Stand-by time is defined as that time when an employee must remain near an established telephone.

### *Section 14. Payroll Deduction*

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

### *Section 15. Longevity Pay*

#### **Employees hired before June 16, 2015**

Full time employees shall receive longevity pay in a lump sum amount in the payroll period that is paid closest to but prior to Thanksgiving. Longevity Pay shall be awarded as follows:

<u>Years of Service</u>	<u>Amount of Pay</u>
1 - 4	\$250
5 - 9	\$350
10 - 14	\$500
15 - 19	\$600
20 plus	\$750

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### **Employees hired on or after June 16, 2015**

Town Council voted on June 16, 2015 to discontinue this benefit for new hires. Town Council then voted on June 19, 2018 to re-instate this benefit for employees hired on or after June 16, 2015, with no retroactive payments.

### *Section 16. Hourly Rate of Pay*

Employees working in a part-time or temporary capacity with the same duties as full-time employees will work at a rate in the same salary range as the full-time employees. The hourly rate for employees working other than 40 hours per week, such as police officers working an average 42 hours per week, will be determined by dividing the average number of hours worked scheduled per year into the annual salary for the position.

## ARTICLE IV. RECRUITMENT AND EMPLOYMENT

### *Section 1. Equal Employment Opportunity Policy*

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

### *Section 2. Implementation of Equal Employment Opportunity Policy*

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

### *Section 3. Recruitment, Selection and Appointment*

**Recruitment Sources.** When position vacancies occur they may be publicized, including applicable salary information and employment qualifications. In addition, notice of vacancies may be posted at designated conspicuous sites within departments. The N.C. Employment Security Commission may be used as a recruitment source. Equally qualified internal applicants may be given first priority for the position.

**Job Advertisements.** Employment advertisements shall contain assurances of equal employment opportunity and shall comply with Federal and State statutes.

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

## TOWN OF KURE BEACH PERSONNEL POLICY

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

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

**Selection.** The hiring authority shall make such investigations and conduct such examinations as necessary to assess accurately the knowledge, skills, and experience qualifications required for the position, including reference checks from former or existing employers. Criminal history backgrounds shall be conducted where job-related. All selection devices administered by the Town shall be valid measures of job performance.

**Appointment.** The Town Council shall determine the number of full time employees to be hired by each department of the town and the department head shall hire the employee and shall notify the council of such employment. The hiring authority of the department heads shall be the Town Council.

### *Section 4. Probationary Period*

An employee newly hired or promoted employee shall serve a probationary period. Employees shall serve a six - month probationary period, except that sworn police personnel and department heads shall serve a twelve- month probationary period. During the probationary period, the hiring authority shall monitor an employee's performance and communicate with the employee concerning performance progress. Before the end of the probationary period, the hiring authority shall conduct a performance evaluation conference with the employee and discuss accomplishments, strengths, and needed improvements. A summary of this discussion should be documented in the employee's personnel file. The hiring authority shall recommend in writing whether the probationary period should be completed, extended, or the employee transferred, demoted, or dismissed. Probationary periods may be extended for a maximum of three additional months.

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 the disciplinary actions section of 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.

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### *Section 5. Promotion*

It is the Town's policy to create career opportunities for its employees whenever possible. Therefore, when a current employee applying for a vacant position is best suited of all applicants, he or she may be appointed to that position. Candidates for promotion shall be chosen on the basis of their qualifications and their work records. Candidates shall apply for promotions using the same application process as external candidates.

An in-band promotion occurs when additional responsibilities of some significance are added to a job without changing the core job responsibilities and does not qualify for the next higher salary band.

Promotion to a higher salary band occurs when the employee takes on additional responsibilities that are incorporated in a higher salary band or takes on a higher level of authority.

### *Section 6. Demotion*

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. If involuntary, such demotion shall follow the disciplinary procedures outlined in this policy.

An in-band demotion occurs when additional responsibilities are removed from an employee's position and replaced with those of lesser impact without changing the core job responsibilities.

Demotion to a lower salary band occurs when additional responsibilities or a higher level of authority is removed from an employee's position which changes the core job responsibilities. The Department Head may adjust the salary to the new level of duties.

### *Section 7. Transfer*

A transfer occurs when an employee moves from one position to another similar position within the same salary band. If a vacancy occurs and an employee in another department is eligible for a transfer, the employee shall apply for the transfer using the usual application process. The Department Head wishing to transfer an employee to a different department or band shall make a recommendation to the Personnel Officer with the consent of the receiving department head. Any employee transferred without requesting the action may appeal the action in accordance with the grievance procedure outlined in this policy. An employee who has successfully completed a probationary period may be transferred into the same classification salary band without serving another probationary period.

## TOWN OF KURE BEACH PERSONNEL POLICY

### **ARTICLE V. CONDITIONS OF EMPLOYMENT**

#### *Section 1. Work Schedule*

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

#### *Section 2. Political Activity*

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

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

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

#### *Section 3. Outside Employment*

The work of the Town shall have precedence over other occupational interests of employees. All outside employment for salaries, wages, or commission and all self-employment must be reported in advance to the employee's supervisor, who in turn will

## TOWN OF KURE BEACH PERSONNEL POLICY

report it to the Department Head. The Department Head will review such employment for possible conflict of interest and then submit a record of the employment and review to the personnel file. Conflicting or unreported outside employment is grounds for disciplinary action up to and including dismissal.

### *Section 4. Dual Employment*

A full or part-time employee of the Town may simultaneously hold another position with the Town if the temporary position is a) performed on an occasional or sporadic basis, b) in a different department and/or c) in a clearly different program area from that of the full or part-time position. If these provisions are not met, the Town is liable for paying 1.5 times the pro-rated hourly salary for all hours over 40 in the week. The work of the full or part-time position shall take precedence over the temporary position.

### *Section 5. Employment of Relatives*

The Town of Kure Beach encourages, and stresses the importance of, the recruitment, selection, and advancement of employees on the basis of demonstrated work, knowledge, skills, and abilities. If relatives meet the established requirements for job vacancies based on their qualifications and performance, then they are eligible for employment with the Town of Kure Beach with certain restrictions as stated in this section. Hiring within the same department normally is prohibited for individuals of the immediate family. Exceptions to this requirement will be reviewed and approved by the appropriate Department Head and Town Council. Additionally, to avoid a conflict of interest or an appearance of conflict of interest between a Department Head and his or her immediate family member working in that department, all decisions regarding a direct benefit, e.g., initial hire or rehire, promotion, salary, performance appraisals, work assignments or other working conditions will be reviewed by the Department Head and the Council Liaison for appropriateness, and recorded in the employee's personnel file.

The term "immediate family" shall be defined as spouse, child, parent, brother, sister, grandparent, grandchild, guardian, various combinations of step, half and in-law, and adopted relationships of the employee, and others living in the same household.

The Town also recognizes that the employment of any person into a position, who is an immediate family member of individuals holding the following positions: Mayor, Mayor Pro-Tem, Commissioner, Town Attorney or Department Head, presents the potential of a conflict of interest or appearance of conflict of interest and requires additional safeguards. All employment decisions regarding the immediate family of elected officials and Department Heads require discussion of the employment decision by Council with approval by a majority vote in an open meeting with the related member abstaining from the vote (if the relationship is a Council member). The discussion may

## TOWN OF KURE BEACH PERSONNEL POLICY

be in a closed session as desired by the Council – but the decision to hire requires a majority vote in open session.

Should an immediate family member of an employee be elected to the Town Council, that Commissioner may be assigned as the Liaison to the department in which the immediate family member is employed. Additionally, for personnel actions regarding that employee, which are specific to that employee, the Commissioner is required to abstain from any Council actions.

All applicants for employment with the town are required to disclose the names of relatives currently employed by the town, as indicated on the employment application. If an employee is hired, and it is discovered the employee failed to provide this information during the hiring process, this may be grounds for termination of employment.

### *Section 6. Solicitation or Acceptance of Gifts and Favors*

No official or employee of the Town shall solicit or accept any gift, favor, or thing of value (as defined by state law, usually more than \$50) that may tend to influence such employee in the discharge of the employee's duties, or grant in the discharge of duty an improper favor, service, or thing of value.

### *Section 7. Performance Evaluation*

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

### *Section 8. Safety*

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



## TOWN OF KURE BEACH PERSONNEL POLICY

### *Section 9. 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.

#### **Drug Free Workplace**

The purpose of this policy is to institute and maintain a program for achieving a workplace free from drug and alcohol abuse. This is necessary to assure a safe workplace for employees and to provide safe, efficient services to the public.

It is the policy of the Town of Kure Beach that the unlawful manufacture, distribution, dispensation, possession or use of Prohibited Drugs is prohibited in the Workplace. It shall be a condition of employment that the employees shall abide by the terms of this policy.

#### **Compliance with Drug-Free Workplace Act of 1988**

Congress has enacted the Drug-Free Workplace Act of 1988. This requires that an organization receiving Federal grants maintain a drug-free workplace. As a condition of employment, each employee is required to abide by this policy. This prohibits the unlawful manufacture, distribution, dispensation, possession or use of controlled substances in the Workplace. A violation of this agreement is grounds for discipline up to and including dismissal.

#### **Scope**

This policy covers all applicants for employment (including rehires) and all current employees (including temporary employees).

#### **Definitions**

**Prohibited Drug** – means: (1) controlled substances that are not legally obtainable, and (2) controlled substances whose use is legal but which are not legally obtained. Examples include street drugs such as cocaine, heroin, marijuana and phencyclidine and controlled substances such as amphetamine, methamphetamine and barbiturates.

**Substance Abuse** – includes both drug and alcohol abuse.

## TOWN OF KURE BEACH PERSONNEL POLICY

### **Assistance in overcoming Substance Abuse**

#### **A. Self-Referral**

Employees with Substance Abuse problems should request assistance from the Town's Personnel Officer. Assistance will be provided on a confidential basis, and each employee will be referred to the appropriate treatment and counseling services, available through existing insurance policies. Employees who voluntarily request assistance in dealing with Substance Abuse problems may do so one time during their employment with the Town without jeopardizing their continued employment with the town.

#### **B. Town Referral**

Employees who test positive in a drug or alcohol test pursuant to this policy will be referred for counseling or treatment to overcome their Substance Abuse problem one time during their employment with the Town. Referral will be on a confidential basis, and the employee will be referred to the appropriate treatment and counseling services available through existing insurance policies. During the counseling or treatment program, the employee shall not engage in prohibited conduct set forth in this policy. Engaging in prohibited conduct shall result in disciplinary action, including suspension without pay, or termination. Following completion of the counseling or treatment, a second positive test will result in immediate termination.

Before the employee is permitted to return to work, he or she will be required to provide the Town with certification, from either an inpatient or an outpatient rehabilitation program, of fitness for duty. In addition, the employee will be required to continue with his treatment plan. The Town will monitor the employee's continued participation in the treatment program.

Undergoing treatment or counseling will normally not jeopardize an employee's employment. However, the employee may be removed from a position involving health, safety, or confidential matters. If other work within the Town cannot be found, the employee will be terminated.

#### **401.6.8 Authorized Use of Prescribed Medicine**

An employee undergoing prescribed medical treatment with any drug or controlled substance that may impair his or her physical or mental ability shall report this treatment to his or her Supervisor or Department Head, so that a determination can be made as to whether or not the employee's job assignment during the period of treatment should be temporarily changed. The employee's Supervisor and/or Department Head will make the determination in consultation with appropriate medical personnel.

## TOWN OF KURE BEACH PERSONNEL POLICY

### **Consequences for Violation of the Drug-Free Workplace Policy**

- A. Violation of this policy may result in severe disciplinary action, including termination.
- B. Employees found in possession of prohibited drugs will be terminated

After successful completion of all requirements of this section, employee will again be subjected to the testing program applicable to all employees.

### **Confidentiality**

Information generated in association with alcohol or drug testing is inherently sensitive and will be treated as confidential. In implementing this policy, care shall be taken to comply with the following requirements:

- A. All investigations, searches and testing shall be conducted as privately as is practicable.
- B. Investigations and searches shall be conducted by the Town Clerk or his/her designee. Information should normally be limited to the Town Clerk, the Department Head and the Personnel Officer.
- C. Supervisory personnel shall be cautioned not to communicate confidential information about such searches or investigations or about the results of alcohol or drug tests to persons not authorized to receive it, including family members, friends, etc.
- D. Test results shall be kept separate from personnel files.
- E. The Town, prior to taking any action, will give all employees who test positive the opportunity to explain in writing the test results. Failure of any employee to establish adequately a legal basis for the use of any drug with respect to which the employee tests positive shall continue a violation of this policy.
- F. The Town will establish and maintain any and all additional testing programs and requirements that may be necessary or appropriate to comply with applicable rules and regulations of all Government agencies.
- G. Employees engaged in Town business, involved in a Motor Vehicle accident with damages of \$1000.00 or more in which the employee is found at fault or where there is injury demanding medical treatment away from the scene of an accident, will automatically be subject to a drug and alcohol test pending a review of the incident by the Police Chief.

## TOWN OF KURE BEACH PERSONNEL POLICY

### **Drug-Free workplace Awareness Program**

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

- A. The dangers of Substance Abuse.
- B. The Drug-Free Workplace policy
- C. The availability of treatment and counseling for employees who voluntarily seek such assistance.
- D. The sanctions imposed for violations of the Drug-Free Workplace Policy.

Department Heads and other appropriate personnel will be trained in Substance Abuse recognition and the procedures for handling and assisting employees who are subject to Substance Abuse.

**Drug-Abuse** - includes abuse of Prohibited drugs and prescribed drugs not used for prescribed purposes or in a prescribed manner.

**Workplace** – includes (a) the office or the premises of the Town, (b) vehicles of the Town (does not include the employee's personal vehicles), and (c) other locations of an employee when such employee is engaged in Town business.

**Town** – refers to the employee's immediate Supervisor, Department Head and/or Town Clerk.

### **Prohibited Conduct**

The Drug-Free Workplace Policy prohibits the following:

- A. Use, possession, manufacture, distribution, dispensation, or sale of Prohibited Drugs in the Workplace or during non-working time to the extent that such conduct during non-working time impairs the employee's ability to perform on the job.
- B. Storing any Prohibited Drug or Alcohol in the Workplace.
- C. Being under the influence of a Prohibited Drug or Alcohol in the Workplace.

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- D. Falsifying, or causing a drug or alcohol test to be falsified, including switching or adulterating any urine sample submitted for testing.
- E. Refusing consent to drug or alcohol testing required pursuant to this policy.
- F. Failing, when requested by the Town, to enroll in any alcohol or drug treatment or counseling program or failing to adhere to the requirements of the program.
- G. Being convicted under any criminal drug statute for a violation of a criminal drug statute, which violation occurrence in the Workplace or during non-working time to the extent that such conviction impairs the employee's ability to perform on the job.
- H. Failing to notify the Town of any criminal drug statute conviction for a violation within 5 days after that conviction.
- I. Failing to comply with rules and regulations promulgated under any testing programs maintained by the Town pursuant to such rules and regulations.

### **Testing**

- A. The Town requires that every newly hired and rehired employee be fit for duty and free from Substance Abuse. Each offer of employment in the Public Works Department or for a position in which the employee regularly operates a motorized Town vehicle or powered equipment as a part of his/her job, whether a new hire or rehire, shall be conditioned upon the successful completion of a drug and alcohol test dependent upon the department. The test will be paid for by the Town and will be performed by an independent physician or laboratory designated by the Town. The prospective employee will be informed in advance that the drug and alcohol test will be performed. If the results of the drug and alcohol test are positive, a second confirming test will be done. Any applicant who tests positive in the pre-employment drug and alcohol tests shall not be eligible for employment unless the applicant adequately establishes a legal basis for the use of the drug or controlled substance with respect to which the applicant tested positive.
- B. Wherever the Town has reasonable suspicion that an employee has used Prohibited Drugs or alcohol in the Workplace the Town may require that the employee submit to a drug or alcohol test. The test will be paid for by the Town and will be performed by an independent physician or laboratory designated by the city. If the results of the drug and alcohol test are positive, a second confirming test will be done.

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When done, reasonable suspicion is determined on a case by case basis. These include, but are not limited to:

- a. direct observation of drug use or possession
  - b. direct observation of the physical symptoms of being under the influence of a drug such as impairment of motor functions or speech, a pattern of abnormal conduct or erratic behavior
  - c. arrest or conviction for a drug related offense or the identification of an employee as the focus of a criminal investigation into illegal drug possession, use, or distribution
  - d. information that is provided by reliable and credible sources or that can be independently corroborated
  - e. newly discovered evidence that the employee tampered with a previous drug test
- C. The Town will afford applicants and employees subject to testing the opportunity, prior to testing, to list all prescription and non-prescription drugs they have used and to explain the circumstances surrounding the use of such drugs. Failure of any employee to establish adequately a legal basis for the use of any drug with respect to which the employee tests positive shall constitute a violation of this policy.
- D. Applicants and employees subject to testing must, prior to testing, agree in writing to the testing and authorize the release of test results to the Personnel Officer.

### *Section 10. Tobacco Policy*

#### **Smoking and vaping prohibited in municipal buildings, facilities, and vehicles.**

- A) For the purpose of this section, "smoking" means inhaling, exhaling, burning or carrying any lighted cigar, cigarette or other combustible tobacco product in any manner or in any form.
- B) For the purpose of this section, vaping means the use of electronic vapor delivery systems, commonly known as "electronic cigarettes" or "e-cigarettes" in any manner or in any form.
- C) It shall be unlawful for any person to smoke or use vaping devices in any building or facility or portion of any building or facility now or hereafter owned, leased, operated, occupied, managed or controlled by the Town, including but not limited to Town Hall, the Police Department, Fire Department, all Public Works and public utilities buildings, sewer facilities, including all vacuum stations, the Community Center, Ocean Front Park and Joe Eakes Park.

## TOWN OF KURE BEACH PERSONNEL POLICY

- D) It shall be unlawful for any person to smoke or use vaping devices within 50 feet of any town- owned buildings and parks, except in designated areas.
- E) It shall be unlawful for any person to smoke or use vaping devices in any vehicle now or hereafter owned or leased by the town.

*Town Council voted on January 25, 2021 to adopt this Tobacco Use Policy and amend the Personnel Policy to include it in Article V. Conditions of Employment, Section 10.*

## TOWN OF KURE BEACH PERSONNEL POLICY

### **ARTICLE VI. EMPLOYEE BENEFITS**

#### *Section 1. Eligibility*

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

#### *Section 2. Group Health and Hospitalization Insurance*

The Town provides group health and hospitalization insurance programs for full-time employees. Information concerning cost and benefits shall be available to all employees. The Town pays 100 percent of medical, dental and vision premiums, if the insurance vendor allows it. If the vendor requires a portion of the premium to be paid by the participant, then the employee is responsible for this cost.

#### *Section 3. Group Life Insurance*

The Town may elect to provide group life insurance for each full-time employee subject to the stipulations of the insurance contract. The Town pays 100 percent of medical, dental and vision premiums, if the insurance vendor allows it. If the vendor requires a portion of the premium to be paid by the participant, then the employee is responsible for this cost. The Employees may elect to purchase additional coverage and/or to insure other family members under this plan at their expense subject to the stipulations of the insurance contract.

#### *Section 4. Other Optional Group Insurance Plans*

The Town may make other group insurance plans available to full time employees upon authorization of the Town Council.

#### *Section 5. Retirement*

Each employee who is expected to work for the Town for 1,000 hours or more annually shall join the North Carolina Local Governmental Employees' Retirement System when



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eligible as a condition of employment. Membership in the system requires an employee contribution and an employer contribution and prescribed by the Retirement System.

### *Section 6. Supplemental Retirement Benefits*

The Town provides supplemental retirement benefits for its full -time employees. Each law enforcement officer shall receive 401-K benefits as prescribed by North Carolina State Law. Each general employee shall receive supplemental benefits in the same amount as prescribed for law enforcement officers.

### *Section 7. Social Security*

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

### *Section 8. Workers' Compensation*

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

Responsibility for claiming compensation under the Workers' Compensation Act is on the injured employee, and such claims must be filed by the employee with the North Carolina Industrial Commission within two years from date of injury.

#### *Section 8.1 Smallpox Vaccination Policy*

In accordance with the Homeland Security Act any adverse reaction from a smallpox vaccination issued to an employee of the Town of Kure Beach as required, shall be covered by Worker's Compensation.

### *Section 9. Unemployment Compensation*

In accordance with Public Law 94-566 and subsequent amendments, local governments are covered by unemployment insurance. Town employees who are terminated due to a reduction in force or released from Town service may apply for benefits through the local

## TOWN OF KURE BEACH PERSONNEL POLICY

Employment Security Commission office, where a determination of eligibility will be made.

### *Section 10. Tuition Assistance Program*

Full-time employees who have completed initial probation may apply for tuition reimbursement for courses taken on their own time, which will improve their skills for their current job or prepare them for promotional opportunities within the Town service. Tuition, registration, fees, laboratory fees, and student fees are eligible expenses. Employees may be reimbursed for eligible expenses up to a total of one thousand, two hundred dollars (\$1,200) 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 Town Council.

## TOWN OF KURE BEACH PERSONNEL POLICY

### **ARTICLE VII. ON THE JOB EDUCATION AND TRAINING**

#### ***Section 1. Policy***

The Town will pay all registration fees, course material and travel expenses, as designed in Article 5-06 of the Policy Manual, for seminars, workshops, certifications and renewal, attendance at conferences and training directly related to the performance of duties and responsibilities of the employee's position.

In the event that the Department Head determines reasonable and adequate On- the-job Training programs are not available, and/or believes there is benefit to the Town for the employee to obtain a college or master's degree, a petition may be put before Town Council for payment of the expenses related to obtaining a degree. This petition needs to be approved by Town Council prior to any remittal of Town funds. The Town Council shall determine the extent and range of the expenditures to be paid.

Should the Town Council approve the petition, the employee will be required to sign an agreement to remain in full-time employment with the Town for a period of two (2) years after the receipt of the degree. In the event an employee leaves before the completion of the two (2) year period, he/she must reimburse the Town for the expense associated with receiving the degree.

Courses taken for cultural and personal enrichment are not eligible under the definition of On-The-Job training and must be taken outside of normal working hours at the employee's expense.

*For information on the tuition reimbursement benefit, reference Article VI of this policy.*

## TOWN OF KURE BEACH PERSONNEL POLICY

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

#### *Section 1. Policy*

The policy of the Town is to provide annual leave, sick leave, holiday and hardship leave to all employees classified as full-time and to provide proportionately equivalent amounts to employees having average work weeks of different lengths.

#### *Section 2. Holidays*

The Town of Kure Beach observes the NC State Holiday schedule and other such days as the Town Council may designate. Holidays are paid with full pay for employees and officers of the Town.

When any recognized holiday falls on Saturday or Sunday, the following Monday will be the designated holiday.

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

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

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

Employees required to perform work on regularly scheduled holidays may be granted compensatory time off or paid at their hourly rate for hours actually worked in addition to any holiday pay to which they are entitled. Compensatory time shall be granted whenever feasible. If a holiday falls on a regularly scheduled off-duty day for shift personnel, the employee shall receive the hours for paid holiday leave at another time.

#### *Section 5. Vacation Leave*

Vacation leave is intended to be used for rest and relaxation and may be used for medical appointments.

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### *Section 6. Vacation Leave: Use by Probationary Employees*

Employees serving a probationary period following initial employment may accumulate vacation leave but shall not be permitted to take vacation leave during the probationary period. Employees serving probationary period of one year shall be allowed to take accumulated vacation leave after six months of service.

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

Each full and part-time employee of the Town shall earn annual leave at the following schedule, prorated by the average number of hours in the workweek:

Years of Service	Days Accrued Per Year
0 - 5	12
6 - 10	15
11 - 15	18
16 - 20	21
21 – 25	24
26 plus	27

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

Vacation leave may be accumulated without any applicable maximum until December 31 of each year. However, if the employee departs from service, payment for accumulated vacation leave shall not exceed 30 days. Effective the last payroll in the calendar year, any employee with more than 30 days of accumulated leave shall have the excess accumulation removed so that only 30 days are carried forward to January 1 of the next calendar year. The excess amount removed shall be converted to sick leave and added to the employee's sick leave balance.

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.

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### *Section 9. Vacation Leave: Manner of Taking*

Employees shall be granted the use of earned vacation leave upon request in advance at those times designated by the Department Head which will least obstruct normal operations of the Town. Department heads are responsible for insuring that approved vacation leave does not hinder the effectiveness of service delivery.

### *Section 10. Vacation Leave: Payment upon Separation*

An employee who has successfully completed six months of the probationary period will normally be paid for accumulated vacation leave upon separation not to exceed 30 days, provided notice is given to the supervisor at least two weeks in advance of the effective date of resignation. Any employee failing to give the notice required by this section shall forfeit payment for accumulated leave. The notice requirement may be waived by the Town Council when deemed to be in the best interest of the Town. Employees who are involuntarily separated shall receive payment for accumulated annual leave subject to the 30-day maximum.

### *Section 11. Vacation Leave: Payment upon Death*

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

### *Section 12. Sick Leave*

Sick leave may be granted to a full time 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 also be used when an employee's immediate family member is ill and requires the employee's care.

Sick leave may be used for death in the employee's immediate family but may not exceed three days for any one occurrence. Additional leave time required for such occurrence may be charged to vacation or compensatory time when approved by the Hiring Authority.

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Sick leave may not be used to supplement Workers' Compensation Disability Leave during the waiting period before Workers' compensation benefits begin or afterward to supplement the remaining one third of salary.

"Immediate family" shall be defined as spouse, child, parent or step-parent, brother, sister, grandparent, grandchild, son-in-law or daughter-in-law of the employee or spouse of the employee, or guardian.

Notification of the desire to take sick leave should be submitted to the employee's supervisor prior to the leave or not later than 30 minutes after the beginning of the scheduled workday.

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

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

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

### *Section 13A. Sick Leave: Transfer of Sick Time from Previous Government Employer*

The Town will accept the transfer of sick leave for full-time employees from other agencies that are participants of the North Carolina Local Government Employees' Retirement System for the purpose of additional service credits at the time of retirement. The sick leave amount must be certified by the previous employer within 30 days of employment with the Town.

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### *Section 14. Sick Leave: Medical Certification*

The employee's supervisor or Department Head may require a physician's certificate stating the nature of the employee's or immediate family member's illness, the dates of physical inability to work, and the employee's capacity to resume duties for each occasion on which an employee uses sick leave. The employee may be required to submit to such medical examination or inquiry as the Department Head deems desirable and may be required to bring such certification prior to returning to work. The Department Head shall be responsible for the application of this provision to the end that:

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

Claiming sick leave under false pretense to obtain a day off with pay shall subject the employee to disciplinary action up to and including dismissal.

### *Section 15. Leave Pro-rated*

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

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

### *Section 16. Leave Without Pay*

A full-time employee may be granted a leave of absence without pay for a period of up to twelve months by the Town Council. The leave shall be used for reasons of personal disability after both sick leave and desired amount of annual leave have been exhausted, sickness or disability of immediate family members, continuation of education, maternity leave when the mother is not disabled, paternity leave, special work that will permit the



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Town to benefit by the experience gained or the work performed, or for other reasons deemed justified by the Town Council.

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

### *Section 17. Leave Without Pay: Retention and Continuation of Benefits*

An employee shall retain all unused vacation and sick leave while on Leave Without Pay. An employee ceases to earn leave credits on the date leave without pay begins.

An employee on Leave Without Pay may continue to be eligible for benefits under the Town's group insurance plans at his or her own expense, subject to any regulation adopted by the Town Council and the regulations of the insurance carrier.

### *Section 18. Workers' Compensation Leave*

An employee absent from duty because of sickness or disability covered by the North Carolina Workers' Compensation Act may not elect to use accrued sick leave or vacation during the first waiting period. The employee may also not elect to supplement workers' compensation payments after they begin provided. An employee on workers' compensation leave may be permitted to continue to be eligible for benefits under the Town's group insurance plans.

### *Section 19. Parental Leave*

Parental leave may be granted to a full-time employee for a period of up to three months for pregnancy, miscarriage, abortion, childbirth, recovery, or adoption. Employees may be granted an extension by the Town Council when medically necessary. Parental Leave is leave without pay unless the employee uses sick or vacation leave as provided by this policy. A parental leave request, including the tentative duration of the leave requested, must be submitted to the Department Head in advance of the leave.

Sick leave may be taken during the period of actual disability as certified by the attending physician of the mother, and when care of the disabled mother is required by an immediate

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family member. Vacation, compensatory time, or leave without pay may be used for other periods of the parental leave, consistent with the provisions of this policy.

### *Section 20. Military Leave*

Regular employees who are members of an Armed Forces Reserve organization or National Guard shall be granted ten workdays per year for military leave without pay. On rare occasions due to annual training being scheduled on a federal fiscal year basis, an employee may be required to attend two periods of training in one calendar year. For this purpose, only, an employee shall be granted an additional ten days of military leave during the same calendar year. If such duty is required beyond this ten workdays, the employee shall be eligible to take accumulated vacation leave or be placed in a leave without pay status, and the provisions of that leave shall apply. While taking military leave, the employee's leave credits and other benefits shall continue to accrue as if the employee physically remained with the Town during this period. Employees who are eligible for military leave have all job rights specified by the Vietnam Veterans Readjustment Act.

### *Section 21. Reinstatement Following Military Service.*

An employee called to extended active duty with the United States military forces, who does not volunteer for service beyond the period for which called, shall be reinstated with full benefits provided the employee:

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

### *Section 22. Civil Leave*

A full time town employee called for jury duty or as a court witness for the federal or state governments, or a subdivision thereof, shall receive leave with pay for such duty during the required absence without charge to accumulated leave. The employee may keep fees and travel allowances received for jury or witness duty in addition to regular compensation;

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except, that employees must turn over to the Town any witness fees or travel allowance awarded by that court for court appearances in connection with official duties. While on civil leave, benefits and leave shall accrue as though on regular duty.

### *Section 23. Hardship Leave Pool*

Full time employees may voluntarily contribute their accrued sick leave into a pool that may be used by other employees who are incapacitated due to illness or accident, or who need to miss work to assist an ailing spouse or legal dependent. These funds will be available only to employees who have exhausted all of their accrued leave.

Employees who wish to participate must contribute at least one full day's accrued sick hours but must retain at least 40 hours of accrued sick leave after contributing.

An employee leaving employment with the Town may also contribute any and/or all of his/her accumulated sick leave into the pool. Employees who do not contribute to the pool will not be eligible to use the funds in the pool for themselves unless they contributed the year before. These employees remain eligible for assistance for 1 year only if they contributed the year before.

Employees needing assistance under this pool must apply in writing to their department head for consideration. A doctor's Certificate of Need shall be required from the employee before being considered. If approved, a number of hours sufficient to completely compensate the employee for 1 full pay period, not to exceed 80, shall be granted.

No employee shall be granted more than 160 hardship leave hours within any 12-month period.

The pool may also be used for bereavement leave in the event of the death of an immediate family member, for a maximum of 3 days, if the employee has no other leave available. Although employees do not have to qualify in the same way as for sickness, they must still present a written request to their department head for consideration.

Employees who participate in the program should recognize that the sick leave hours they contribute will not be returned to them except if they qualify to receive funds from the pool.

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### **ARTICLE IX. SEPARATION AND DISCIPLINARY ACTIONS**

Separation from Town service occurs when an employee leaves the payroll for reasons listed below.

#### *Section 1. Resignations*

##### A. Voluntary Resignation With Notice

An employee may terminate services with the Town by submitting a written resignation to his/her immediate supervisor or Hiring Authority. Unused vacation leave not to exceed 240 hours for general employees and 480 hours for police and firefighter personnel shall be paid in a lump sum to the resigning employee if two (2) weeks of notice of resignation is provided. There shall be no payment for unused sick leave. Failure to provide minimum notice shall result in forfeit of payment for accumulated annual leave unless the notice is waived upon recommendation of the Department Head and approval by the Town Council. Sick leave will only be approved during the final two weeks of a notice with a physician's certification or comparable documentation

##### B. Voluntary Resignation Without Notice

An employee voluntarily terminates employment with the Town without notice by failing to come to work without notifying his/her direct supervisor or Hiring Authority. Such failure shall be deemed to be a voluntary resignation when the employee is absent without approved leave for a period of at least three (3) consecutive workdays of absence.

##### C. Separation Due to Unavailability

An employee may be separated on the basis of unavailability when the employee becomes or remains unavailable for work after all applicable leave credits and benefits have been exhausted and the Town Council does not grant a leave without pay or extend a leave without pay for reasons including, without limitation, lack of suitable temporary staffing, criticality of the position, and budgetary constraints, etc. Such a separation is not a disciplinary action and may be grieved in accordance with the procedures set forth in this policy. Unused vacation leave not to exceed 240 hours for general employees and 480 hours for police and firefighter personnel shall be paid in a lump sum to the resigning employee but there shall not be any payment made for unused sick leave. When an employee is separated while in receipt of Workers' Compensation benefits, leave shall be administered in accordance with the Workers' Compensation Leave benefit.

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*Unavailability* – i) the employee’s inability to return to all of his/her position’s essential duties and work schedule due to a medical condition prognosis, or work restrictions/limitation conforming to a healthcare provider’s written instructions or ii) the employee and Town are unable to agree on a return to work arrangement meeting both the operating needs of the Town and the employee’s needs.

*Applicable leave credits* – the approved sick and/or vacation leave and FMLA leave and job protection the employee exhausted prior to separation.

Prior to separation due to unavailability, the Personnel Officer shall meet with and notify the employee in writing of the proposed separation, the efforts undertaken to avoid separation, why those efforts were unsuccessful, the proposed date of separation, and advise the employee of his/her grievance rights.

The employee shall have the opportunity in this meeting to propose in writing alternative methods of accommodation which the Town Council shall consider and act upon within a reasonable time. If the Council finds and concludes the proposed accommodations impose an undue hardship on the Town’s operations, then it shall notify the employee in writing of that conclusion and confirm the proposed date of separation. Should the employee choose not to propose in writing alternative methods of accommodation for consideration, the separation will occur as presented.

### *Section 2. Reduction in Force.*

In the event that a reduction in force becomes necessary, consideration shall be given to the quality of each employee's performance and organizational needs in determining those employees to be retained. Employees who are separated because of a reduction in force shall be given at least two weeks’ notice of the anticipated action. No regular employee shall be separated because of a reduction in force while there are temporary or probationary 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 or probationary employee. A separation due to a reduction in force is not appealable and may not be grieved.

### *Section 3. Disability*

An employee who cannot perform the required duties because of a physical or mental impairment may be separated for disability. Action may be initiated by the employee or the Town. In cases initiated by the employee, such action must be accompanied by medical evidence acceptable to the Town Council. The Town may require an examination, at the Town's expense, performed by a physician of the Town's choice. Before an employee is

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separated for disability, a reasonable effort shall be made to determine whether the impairment is a known disability substantially limiting major life activities and if so, whether the employee can perform the essential functions of the position; such as reasonable accommodations including, without limitation, transferring the employee to a vacant position for which the accommodations do not impose an undue hardship on the Town.

### *Section 4. Disciplinary Actions*

Disciplinary Actions are defined as the warning, reprimand, suspension, demotion or dismissal of an employee for deficiencies in work performance or personal conduct.

#### **A. Disciplinary Actions with or without warning**

1. Any employee who does not respond to informal efforts by a supervisor regarding deficiencies in work performance may be subject to a disciplinary action consisting of either a warning, reprimand, suspension, demotion, or dismissal. A non-regular or probationary employee may be dismissed immediately, without engaging in the procedures set forth herein. Regular employees shall be provided the due process of a pre-dismissal hearing before being dismissed.

2. Any employee displaying detrimental personal conduct may be placed on disciplinary action of suspension, demotion or dismissal, without prior warning, in order to avoid undue disruption of work or to protect the safety of persons or property.

3. Regular employees may appeal a disciplinary action including dismissal and separation. Non-regular and probationary employees do not have a right of appeal.

4 All disciplinary suspension, demotion, or dismissal shall be at the sole discretion of the Department Head who shall make the Town Council aware of the circumstances.

5. Disciplinary Action for Department Heads shall be conducted by the Town Council.

#### **B. Failure in performance of work duties**

Failure in the performance of work duties considered as adequate grounds for disciplinary action include, without limitation, the following:

- 1) Demonstrated inefficiency, negligence, or incompetence in the performance of duties;
- 2) Careless, negligent or improper use of Town property or equipment;

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- 3) Discourteous treatment of the public or other employees;
- 4) Absence without approved leave;
- 5) Habitual improper use of leave privileges;
- 6) Habitually failing to report for duty at the assigned time and place;
- 7) Failure to follow the chain of command when addressing work-related concerns and issues;
- 8) Failure to complete work within time frames established in work plan or work standards; or
- 9) Failure to meet work standards over a period of time.
- 10) Refusing to accept a reasonable and proper assignment as directed by the supervisor or hiring authority
- 11) Acceptance of gifts in exchange for favors or influence;
- 12) Releasing confidential information to unauthorized persons;
- 13) Engaging in incompatible employment or serving a conflicting interest;
- 14) Taking part in any political activity restricted herein;
- 15) Inappropriate usage of social media resources; and
- 16) Failure to report a motor vehicle violation or a criminal charge or conviction by the first working day following the violation, charge, or conviction.

### ***C. Detrimental personal conduct***

Detrimental personal conduct includes behavior of such a serious detrimental nature that the functioning of the Town may be or has been impaired; the safety of persons or property may be or has been threatened; or the laws of any government may have been violated.

Detrimental personal conduct considered as adequate grounds for the disciplinary action of suspension, demotion or dismissal, without warning include without limitation, the following:

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- 1) Fraud in securing appointment;
- 2) Conviction of or the entry of a plea of “no contest” to a criminal charge which could adversely affect the employee’s work performance;
- 3) Misuse of Town funds or property;
- 4) Falsification of Town records for personal profit or for special privileges; and
- 5) Reporting to work under the influence of alcohol or drugs or partaking or in possession of the same while on duty or while on public property with the exception of prescribed medication taken within the limits set by a physician and when medically necessary
- 6) Possession of unauthorized firearms or other lethal weapons on the job
- 7) Willful damage or destruction of Town property;
- 8) Brutality in the performance of duties;

### *Section 5. Communication and Warning Procedures*

When an employee's job performance or personal conduct is unsatisfactory, or when incidents or inappropriate actions warrant, the Department Head should meet with the employee as soon as possible in one or more counseling sessions to discuss specific performance problems. A brief summary of these counseling sessions should be noted in the employee's file. An employee whose job performance is unsatisfactory over a period of time should normally receive at least two warnings from the Department Head before disciplinary action resulting in dismissal is taken. In each case, the Department Head should record the dates of discussions with the employee, the performance deficiencies discussed, the corrective actions recommended, and the time limits set. If the employee's performance continues to be unsatisfactory, then the Department Head should use the following steps:

- A. A final written warning from the Department Head serving notice upon the employee that corrected performance must take place immediately in order to avoid suspension, demotion, or dismissal.
- B. If performance does not improve, the Department Head may make a decision and suspend the employee for up to five days. The Department Head has sole discretion to demote or dismiss the employee and make Council aware of the circumstances.



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C. When the nature and seriousness in detrimental personal conduct warrants such action, the employee may be suspended, demoted or dismissed, without warning, at any time provided the action is not a result of unlawful discrimination or the violation of some other employment law. A non-regular or probationary employee may be dismissed immediately, without engaging in the procedures set forth herein.

Disciplinary suspensions should not normally exceed five (5) workdays for nonexempt employees. In order to retain their exempt status, disciplinary suspensions for exempt employees should normally be for one week.

### *Section 6. Pre-disciplinary Conference.*

Before suspension, demotion, or dismissal action is taken for failure in performance of work duties, the Department Head shall provide the employee with written notification of the date, time, and place of a pre-dismissal hearing. The notification shall include a statement that dismissal is being considered as a possible disciplinary action, the proposed effective date of the dismissal and notice of the reasons why dismissal is being considered. The notice shall be provided to the employee no later than two (2) business days in advance of the hearing date to provide the employee with an opportunity to respond to the allegations. At this conference, the employee may present any response to the proposed disciplinary action. The employee may not have a representative, legal or otherwise, appear thereat.

In the case of suspension, demotion or dismissal action for detrimental personal conduct, the Department Head shall provide the employee immediate verbal notice followed with written notification of the decision within two (2) business days.

The Department Head will consider the employee's response, if any, to the proposed disciplinary action, and will, within seven working days following the pre-disciplinary conference, notify the employee in writing of the final decision to take disciplinary action. The notice of the final disciplinary action shall contain a statement of the reasons for the action and notice that the employee may appeal the decision by following the grievance procedure. The notice of the final disciplinary action will contain a statement of the reason for the action.

### *Section 7. Investigatory Suspension*

Investigatory suspension may be used to provide time to investigate, establish facts, and reach a decision concerning an employee's status. Investigatory suspension of an employee shall not be used for the purpose of delaying an administrative decision on an employee's work status pending the resolution of a civil or criminal court matter involving the employee.

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An employee who has been suspended for investigatory reasons may be reinstated with up to three (3) to five (5) days' pay deducted from his/her salary. The decision to deduct pay shall be made by the Town Council at the recommendation of the Department Head and be based upon the degree to which the employee was responsible for or contributed to the reasons requiring the suspension.

The Hiring Authority may suspend the employee for part or all of the proceedings. In such cases, the Hiring Authority may:

- 1) Temporarily relieve the employee of all duties and responsibilities and place the employee on paid or unpaid leave for the duration of the suspension, or
- 2) Assign the employee new duties and responsibilities and allow the employee to receive such compensation as is in keeping with the new duties and responsibilities.

If the employee is reinstated following the suspension such employee shall not lose any benefits to which otherwise the employee would have been entitled had the suspension not occurred. If the employee is terminated following suspension, the employee shall not be eligible for any pay from the date of suspension; provided, however, all other benefits with the exception of accrued annual leave and sick leave shall be maintained during the period of suspension.

### *Section 8. Employee Appeal*

*An employee wishing to appeal a disciplinary action may do so in conformity with the applicable provisions in Article XI of this policy.*

### *Section 9. Voluntary Retirement*

#### **Employees hired before February 7, 2019**

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

The Town of Kure Beach will contribute the following towards continued health (medical, vision, dental) insurance coverage on retired employees based on:

20 + years of service	100% of health benefits paid
15-19 years of service	50% of health benefits paid
5-14 years of service	0% of health benefits paid

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The Town will pay 100 percent of above referenced benefits, if the insurance vendor allows it. If the vendor requires a portion of the premium to be paid by the participant, then the retiree is responsible for this cost. The Town does not pay any costs associated with Medicare eligibility, such as Part B.

### **Employees hired on or after February 7, 2019**

Town Council voted on February 1, 2019 to discontinue this benefit for new employees hired on or after February 7, 2019.

### *Section 10. Death*

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

### *Section 11. Reinstatement*

An employee who is separated because of reduction in force may be reinstated within one year of the date of separation, upon recommendation of the Department Head, and upon approval of the Town Council. An employee who is reinstated in this manner shall be re-credited with his or her previously accrued sick leave and be credited with previous service time for the purpose of the calculations of benefits such as annual leave accrual.

### *Section 12. Rehiring*

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

### *Section 13 Exit Interview*

Within one (1) week of an employee's separation from the Town, other than from an involuntary dismissal, the Personnel Officer shall perform an Exit Interview of the employee for the employee personnel file. A copy shall be provided to the appropriate Hiring Auth

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### **ARTICLE X. APPEALS AND GRIEVANCES**

#### *Section 1. Policy*

The Appeal and Grievance policy applies to all regular (non-temporary and non-probationary) employees. It is the policy of the Town to 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 appeal and grievance procedures shall not be subjected to retaliation or any form of harassment from supervisory, hiring authorities, or employees for exercising their rights under this policy. Anyone who violates this policy shall be subject to disciplinary action up to and including dismissal from town service.

#### *Section 2. Appeal and Grievance Defined*

An appeal is a procedure whereby eligible employees may be heard and disciplinary actions reviewed for validity and consistency with the Town's personnel policies and procedures.

A grievance is a claim or complaint by an 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 Appeals and Grievance Procedure*

The purposes of the Appeal of Disciplinary Actions and 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;

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- 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 supervisory who must maintain an effective future working relationship, and therefore, encouraging conflicts to be resolved at the lowest level possible in 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 an Appeal of Disciplinary Actions or a Grievance, the following successive steps are to be taken. 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 Appeal or Grievance is resolved. A decision to rescind a Disciplinary Action of suspension, demotion or dismissal must be approved by the Town Council before the decision becomes effective.

Prior to the submission of a formal appeal of Disciplinary Actions, requirements outlined in Section 6 Pre-Disciplinary Conference in Article IX of this policy must be met

#### A. 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.

#### B. Filing of formal Appeal of Disciplinary Action or Grievance

If no resolution to the Appeal or Grievance is reached informally, the employee who wishes to pursue an Appeal or Grievance shall present the Appeal or Grievance to the Hiring Authority in writing within fifteen (15) calendar days of either the receipt of the written Final Disciplinary Action from the Department Head or of learning of the event or condition.

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### C. Appeal of Disciplinary Action

A formal Appeal of Disciplinary Action may be filed only if the action resulted in suspension, demotion or dismissal. The formal Appeal of Disciplinary Action must be in writing and contain the employee's response to the Disciplinary Action, the charges upon which it was based, the employee's desired remedy and that the employee is requesting a hearing before the Town Council.

The Hiring Authority shall notify both the Town Council, Town Attorney and Town Clerk when receiving a formal Appeal of Disciplinary Action as a hearing is required. The appealing party and Hiring Authority shall both appear at the hearing, may be represented by legal counsel or otherwise, and may request the presence of other persons that may provide information assisting the Town Council in rendering a decision. The format or agenda of the hearing shall be determined at the direction of the Town Attorney. The Town Council shall respond in writing to the Appeal, stating the determination of decision based upon evidence presented within ten (10) calendar days after receipt of the appeal and mailed by United States Postal Service certified mail return receipt requested within five (5) days after the Town Council's decision is rendered. The Town Council decision shall be the final decision.

In the event the employee submitting a formal Appeal fails to comply with the procedures and time limitations set forth herein, the appeal is automatically dismissed, noted as such and filed in the respective employee file.

### D. Grievance

The formal Grievance must be in writing and contain a brief and clear description of what issues the employee wants addressed and the remedy the employee is seeking. In the event the Grievance does not clearly provide that information, the Hiring Authority may request clarification of the same from the employee and may extend the required time for responding to the grievance by the number of days it takes for the employee to provide the requested information. This must be documented accordingly.

### D. Response to filing

The Hiring Authority shall respond to the formal Appeal or Grievance within ten (10) calendar days after receipt of the formal written Appeal or Grievance. The Hiring Authority 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 Hiring Authority is required to cooperate to the fullest extent possible.

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The response from the Hiring Authority for each step in the formal Appeal or Grievance process shall be in writing and signed by the Hiring Authority. In addition, the employee shall sign a copy to acknowledge receipt thereof. The responder at each step shall send copies of the Appeal or Grievance-response to the Town Clerk for confidential filing.

In the event the employee submitting a formal Grievance fails to comply with the procedures and time limitations set forth herein, the appeal is automatically dismissed, noted as such and filed in the respective employee file.

### F. Appeal of Grievance decision

If the grievance is not resolved to the satisfaction of the employee by the Hiring Authority, the employee may appeal, in writing, to the Town Council if the Town Council was not the Hiring Authority within ten (10) calendar days after receipt of the response from Step 1. The Town Council shall respond to the appeal, stating the determination of decision within ten (10) calendar days after receipt of the appeal. The Town Council decision shall be the final decision.

Employees, supervisors, Department Heads, or the Town Council may use trained human resource, mediation, or facilitation professionals at any step in the process to help improve communication and understanding or to help resolve the conflict.

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

### *Section 1. Public Information*

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

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

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

- 1) The employee or his/her duly authorized agent may examine all portions of his/her personnel file except letters of reference solicited prior to employment, and information concerning a medical disability, mental or physical, that a prudent physician would not divulge to the patient.
- 2) A licensed physician designated in writing by the employee may examine the employee's medical record.
- 3) A Town employee having supervisory authority over the employee may examine all material in the employee's personnel file.
- 4) By order of a court of competent jurisdiction, any person may examine all material in the employee's personnel file.



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- 5) An official of an agency of the State or Federal Government, or any political subdivision of the State, may inspect any portion of a personnel file when such inspection is deemed by the Town Council to be necessary and essential to the pursuit of a proper function of the inspecting agency, but no information shall be divulged for the purpose of assisting in a criminal prosecution of the employee, or for the purpose of assisting in an investigation of the employee's tax liability. However, the official having custody of the personnel records may release the name, address, and telephone number from a personnel file for the purpose of assisting in a criminal investigation.
- 6) An employee may sign a written release to be placed in his/her personnel file that permits the record custodian to provide, either in person, by telephone, or by mail, information specified in the release to prospective employers, educational institutions, or other persons specified in the release.
- 7) The Town Council may inform any person of the employment, non-employment, promotion, demotion, suspension or other disciplinary action, reinstatement, transfer, or termination of a Town employee, and the reasons for that action. Before releasing that information, the Town Council shall determine in writing that the release is essential to maintaining the level and quality of Town services. The written determination shall be retained in the Town Clerk's office, is a record for public inspection, and shall become a part of the employee's personnel file.

### *Section 3. Personnel Actions*

The Town Clerk will prescribe necessary forms and reports for all personnel actions and will retain records necessary for the proper administration of the personnel system.

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

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

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

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

## TOWN OF KURE BEACH PERSONNEL POLICY

### *Section 6. Penalties for Permitting Access to Confidential Records*

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

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

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

### *Section 8. Destruction of Records Regulated*

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

### *Section 9. Official Personnel Files*

The official personnel files for the Town shall be kept in the Town Clerk's office. Any performance evaluation, written warning, suspension, promotion, transfer, pay increase, dismissal, or other employment action is not considered official unless a copy is in the official personnel file. Supervisors may keep performance notes, copies of personnel actions, and other materials in their files. The Police Department shall keep all NCIC background investigations and investigations information resulting from internal and complaint investigations. Such records kept in the Police Department are considered part of the official personnel file. However, all official personnel actions shall be kept in the central file.