

**THE ERWIN BOARD OF COMMISSIONERS
MARCH 2025 REGULAR WORKSHOP
MONDAY, MARCH 24, 2025 @ 6:00 P.M.
ERWIN MUNICIPAL BUILDING BOARDROOM**

AGENDA

1. MEETING CALLED TO ORDER

- A. Invocation
- B. Pledge of Allegiance

2. AGENDA ADJUSTMENTS /APPROVAL OF AGENDA

3. NEW BUSINESS

- A. Discussion with Erwin Historical Society (**Page 2**)
- B. Updated Personnel Policy and Drug and Alcohol Policy (**Page 5**)
- C. BOA 2025-07 (**Page 77**)
- D. Golf Cart Text Amendment (**Page 78**)
- E. Residential Height Regulation Text Amendment (**Page 86**)
- F. Mixed Uses and their Buildings Text Amendment (**Page 87**)
- G. Utility Text Amendment (**Page 89**)
- H. Stormwater Grant Project Ordinance Amendment (**Page 94**)
- I. Police Vehicles (**Page 96**)
- J. Proposed Fire Inspection Contract (**Page 97**)

4. CLOSED SESSION

- A. Pursuant to General Statute 143-318.11(a) (6) for the Purpose of Discussing Personnel
- B. Pursuant to General Statute 143-318.11(a) (3) for the Purpose of Preserving the Attorney-Client Privilege

5. GOVERNING COMMENTS

6. ADJOURNMENT

Erwin Board of Commissioners

REQUEST FOR CONSIDERATION

To: The Honorable Mayor and Board of Commissioners

From: Snow Bowden, Town Manager

Date: March 24, 2025

Subject: Discussion with Erwin Historical Society

The Erwin Historical Society President, Zena Truelove Gore, will be at our workshop meeting to discuss some of the short, medium and long-term needs of the Erwin Historical Society. The members of the Erwin Historical Society manage and run the Erwin History Museum. The Erwin History Museum is in a building that is owned and maintained by the Town of Erwin. The members of society have a few small requests that we can make work in our budget such as internet access. They would like to discuss a few options to improve the section of the building where they are currently located. They would also like to present their plans to help the Erwin Historical Society grow. A good example would be the programming events they plan to offer this year to help expand their base and get more people involved in learning about the history of Erwin. I have attended two of these events and I have to say that they were well done, and I saw a lot of newer faces at these events.

MINUTES OF APRIL 07, 1988 MEETING CONTINUED:OLD BUSINESS: NoneNEW BUSINESS: PRESENTATION OF TREE CITY USA AWARD - PAULINE RALPH

Mrs. Pauline Ralph, Chairperson of the Erwin Tree Board, recognized the Tree Board members which included Eula Beard, Faye McDonald, Stephanie Wood, D. G. Gomedella, Commissioner Billy Hobbs, Gay Wilson, Martha Brock, Ex-Officio member Mayor Cecil Moore, Town Manager Richard Hicks, and Gena Hicks.

Mrs. Ralph explained and brought up-to-date the accomplishments of the Erwin Tree Board for the past two years. She told of events and various things that have earned us the Tree City USA Flag, plaque (1986) and the current second award 1987 Leaf.

Mrs. Ralph thanked all of those persons who have been supportive of the Tree Board in this project.

Mrs. Ralph as Chairperson of the Erwin Tree Board, presented the second Tree City USA Award (1987) to Mayor Moore along with the leaf decals that will be displayed on the Town of Erwin signs as you enter the town.

APPROVAL OF MINUTES - MARCH 03, 1988

The Board unanimously approved a motion by Commissioner David A. Ennis, seconded by Commissioner Lib Pate, to approve the minutes of March 03, 1988 as received. 5 for and 0 against.

REQUEST FOR CONSTRUCTION OF LOCAL HISTORY ROOM----
W. H. HARRINGTON

Mr. W. H. (Bill) Harrington, an Erwin resident, was spokesman for a group of citizens, requesting the construction of a history room for Erwin. He gave a brief history of the Town of Erwin and Erwin Mills. He presented a picture of William A. Erwin, 1856-1932, Founder and President - Erwin Cotton Mills, Founder - Town of Erwin, Erwin, North Carolina. Mr. Harrington requested that this picture be the first donation to the history room.

Mr. Harrington stated that while we are looking for the future, let's preserve the past. The group were requesting that the Town build a room 20' x 35' to be added onto the Erwin Public Library. Also, if the Board would build this addition, they would raise the money to equip it (display cases and things such as this that we need).

Mrs. Ernie Godwin suggested using this room also as a meeting room for the library.

Mrs. Eula Beard and Mr. Bob Kelly also spoke in favor of the history room.

MINUTES OF APRIL 07, 1988 MEETING CONTINUED:

Mayor Moore and Commissioner Hobbs both assured those present that the history room would be one of the top priorities to look at in the FY 1988-89 Budget.

EXISTING PUBLIC WORKS FACILITY

In discussing the existing public works facility, Mr. Hicks stated that there were some problems with access in and out of the building, and that there was not adequate storage for a lot of the equipment.

Mr. Hicks recommended that the town hire an architect-developer to develop an overall site plan, to work on the existing building to upgrade the looks of the building, and provide a storage facility for the street sweeper and possibly one or two more items.

Mrs. Norma Burns of Burns' Studio, presented a master plan for a first phase proposal and also a plan for future additions to the facility.

After a lengthy discussion, the Board unanimously approved a motion by Commissioner Billy W. Hobbs, seconded by Commissioner David A. Ennis, to authorize Mayor Moore to enter into a contract with Burns' Studio for a master plan for the public works facility. 5 for and 0 against.

REQUEST FOR REZONING - MR. AND MRS. DAVID AVERY
RAIFORD ROAD

After discussion, the Board unanimously approved a motion by Commissioner Billy W. Hobbs, seconded by Commissioner James W. Wilson, to accept the request for rezoning the property of Mr. and Mrs. David Avery, located on Raiford Road, from R-15 to R-8, at Planning Board's recommendation. 5 for and 0 against.

REQUEST FOR REZONING - FREDDIE FAIRCLOTH
WEST "E" STREET EXTENSION

After discussion, the Board unanimously approved a motion by Commissioner David A. Ennis, seconded by Commissioner Lib Pate, to accept the Planning Board's recommendation to rezone the property of Freddie Faircloth, located on West "E" Street Extension, from R-15 to RD. 5 for and 0 against.

REQUEST FOR REZONING - TOM STEWART
PROPERTY JOINING CAPE FEAR RIVER

After discussion, the Board unanimously approved a motion by Commissioner Billy W. Hobbs, seconded by Commissioner Lib Pate, to accept the request for rezoning Tom Stewart's property as approved by the Planning Board from Conservation to R-20. Property joining Cape Fear River. 5 for and 0 against.

Erwin Board of Commissioners

REQUEST FOR CONSIDERATION

To: The Honorable Mayor and Board of Commissioners

From: Snow Bowden, Town Manager

Date: March 24, 2025

Subject: Updated Personnel Policy

Our Town Clerk/HR Director Lauren Evans worked closely with Erika Phillips from the MAPS group to prepare a few updates to our current Personnel Policy. Our current personnel policy was updated a few years ago, so there were only a few minor changes to our existing policy and proposed in a new policy. The proposed changes are in red font in the proposed updated plan. All the proposed changes are in line with the appropriate governing regulation.

Highlights:

- More defined “At-will employment”
 - More defined pay plan
 - Workplace harassment updates
 - Retiree health insurance
 - Parental leave allowance (unpaid time off)
 - Drug and Alcohol policy
 - Workers’ Compensation updates
 - Vacation/sick/other leave updates
-
- The Town of Erwin recently approved an updated technology use policy that has already been implemented



PERSONNEL POLICY

**TOWN OF ERWIN
PERSONNEL POLICY**

BE IT RESOLVED by the Town Board of Commissioners of the Town of Erwin 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 Erwin.

<u>Title</u>	<u>Page</u>
ARTICLE I. GENERAL PROVISIONS.....	5
SECTION 1. PURPOSE OF THE CHAPTER	5
SECTION 2. AT-WILL EMPLOYMENT	5
SECTION 3. MERIT PRINCIPLE	5
SECTION 4. RESPONSIBILITIES OF THE TOWN BOARD OF COMMISSIONERS	5
SECTION 5. RESPONSIBILITIES OF THE TOWN MANAGER.....	6
SECTION 6. RESPONSIBILITIES OF THE HUMAN RESOURCE DIRECTOR	6
SECTION 7. RESPONSIBILITIES OF DEPARTMENT HEADS AND SUPERVISORS	7
SECTION 8. RESPONSIBILITIES OF EMPLOYEES	8
SECTION 9. APPLICATION OF POLICIES, PLAN, RULES, AND REGULATIONS.....	8
SECTION 10. DEPARTMENTAL RULES AND REGULATIONS	8
SECTION 11. DEFINITIONS	8
ARTICLE II. POSITION CLASSIFICATION PLAN.....	10
SECTION 1. PURPOSE	10
SECTION 2. COMPOSITION OF THE POSITION CLASSIFICATION PLAN.....	10
SECTION 3. USE OF THE POSITION CLASSIFICATION PLAN	10
SECTION 4. ADMINISTRATION OF THE POSITION CLASSIFICATION PLAN.....	10
SECTION 5. ADOPTION OF THE POSITION CLASSIFICATION PLAN	11
SECTION 6. REQUEST FOR RECLASSIFICATION.....	11
ARTICLE III. THE PAY PLAN	112
SECTION 1. DEFINITION	112
SECTION 2. ADMINISTRATION AND MAINTENANCE.....	112
SECTION 3. STARTING SALARIES.....	112
SECTION 4. TRAINEE DESIGNATION AND PROVISIONS	13
SECTION 5. MERIT PAY	13
SECTION 6. MERIT PAY BONUS	13
SECTION 7. SALARY EFFECT OF PROMOTIONS, DEMOTIONS, TRANSFERS, AND RECLASSIFICATIONS	13
SECTION 8. SALARY EFFECT OF SALARY RANGE REVISIONS.....	14
SECTION 9. TRANSITION TO A NEW SALARY PLAN	14
SECTION 10. EFFECTIVE DATE OF SALARY CHANGES.....	14
SECTION 11. FAIR LABOR STANDARDS ACT AND OVERTIME COMPENSATION	15
SECTION 12. REST PERIODS AND BREAKS.....	16
SECTION 13. BREAK TIME FOR NURSING MOTHERS.....	16
SECTION 14. CALL-BACK AND STAND-BY PAY	16
SECTION 15. PAYROLL DEDUCTION	17
SECTION 16. HOURLY RATE OF PAY	17
SECTION 17. LONGEVITY PAY	17
SECTION 18: PAYMENT OF TRAVEL EXPENSES.....	18

SECTION 19: CERTIFICATION SALARY INCREASES	18
SECTION 20: REIMBURSEMENT OF TRAINING EXPENSES.....	18
SECTION 21. PAY FOR “INTERIM” ASSIGNMENT IN A HIGHER LEVEL CLASSIFICATION.....	18
ARTICLE IV. RECRUITMENT AND EMPLOYMENT	20
SECTION 1. EQUAL EMPLOYMENT OPPORTUNITY STATEMENT.....	20
SECTION 2. RECRUITMENT, SELECTION, AND APPOINTMENT	20
SECTION 3. PROBATIONARY PERIOD	21
SECTION 4. PROMOTION.....	22
SECTION 5. DEMOTION	22
SECTION 6. TRANSFER.....	22
ARTICLE V. CONDITIONS OF EMPLOYMENT.....	24
SECTION 1. WORK SCHEDULE	24
SECTION 2. POLITICAL ACTIVITY.....	24
SECTION 3. OUTSIDE EMPLOYMENT	24
SECTION 4. DUAL EMPLOYMENT	25
SECTION 5. EMPLOYMENT OF RELATIVES	25
SECTION 6. WORKPLACE HARASSMENT PROHIBITED	26
SECTION 7. EXPECTATION OF ETHICAL CONDUCT- GIFTS AND FAVORS	27
SECTION 8. PERFORMANCE EVALUATION.....	27
SECTION 9. SAFETY	28
SECTION 10. SUBSTANCE ABUSE POLICY	28
SECTION 11. SMOKING AND TOBACCO USE	28
SECTION 12. USE OF TOWN PROPERTY AND EQUIPMENT	29
SECTION 13. SOCIAL MEDIA POLICY.....	29
SECTION 14. IMMIGRATION LAW REQUIREMENTS	30
SECTION 15. CREDENTIALS AND CERTIFICATIONS	30
SECTION 16. WEAPONS POLICY.....	30
SECTION 17. GENETIC INFORMATION NON-DISCRIMINATION ACT	31
SECTION 18. DIRECT DEPOSIT.....	31
SECTION 19. ATTENDANCE AND TARDINESS	31
SECTION 20. CONFIDENTIAL INFORMATION.....	32
SECTION 21. TECHNOLOGY USE POLICY.....	32
ARTICLE VI. EMPLOYEE BENEFITS	33
SECTION 1. ELIGIBILITY	33
SECTION 2. GROUP HEALTH AND HOSPITALIZATION INSURANCE.....	33
SECTION 3. GROUP LIFE INSURANCE.....	33
SECTION 4. OTHER OPTIONAL GROUP INSURANCE PLANS.....	33
SECTION 5. RETIREMENT.....	33
SECTION 6. SUPPLEMENTAL RETIREMENT BENEFITS	34
SECTION 7. LAW ENFORCEMENT SEPARATION ALLOWANCE.....	34
SECTION 8. RETIREE HEALTH INSURANCE	35
SECTION 9. SOCIAL SECURITY	35
SECTION 10. WORKERS’ COMPENSATION	35
SECTION 11. UNEMPLOYMENT COMPENSATION.....	36
SECTION 12. TUITION ASSISTANCE PROGRAM	36

ARTICLE VII. HOLIDAYS AND LEAVES OF ABSENCE	37
SECTION 1. POLICY	37
SECTION 2. HOLIDAYS	37
SECTION 3. HOLIDAYS: EFFECT ON OTHER TYPES OF LEAVE	37
SECTION 4. HOLIDAYS: COMPENSATIONS WHEN WORK IS REQUIRED OR REGULARLY SCHEDULED OFF FOR SHIFT PERSONNEL	37
SECTION 5. VACATION LEAVE	38
SECTION 6. VACATION LEAVE: USE BY PROBATIONARY EMPLOYEES	38
SECTION 7. VACATION LEAVE: ACCRUAL RATE	38
SECTION 8. VACATION LEAVE: MAXIMUM ACCUMULATION	38
SECTION 9. VACATION LEAVE: MANNER OF TAKING	39
SECTION 10. VACATION LEAVE: PAYMENT UPON SEPARATION	39
SECTION 11. VACATION LEAVE: PAYMENT UPON DEATH	39
SECTION 12. SICK LEAVE	39
SECTION 13. SICK LEAVE: ACCRUAL RATE AND ACCUMULATION	40
SECTION 14. TRANSFER OF SICK LEAVE FROM PREVIOUS EMPLOYER	40
SECTION 15. SICK LEAVE: MEDICAL CERTIFICATION	40
SECTION 16. LEAVE PRO-RATED	41
SECTION 17. LEAVE WITHOUT PAY	41
SECTION 18. WORKERS' COMPENSATION LEAVE	42
SECTION 19. FAMILY MEDICAL LEAVE	43
SECTION 20. LEAVE WITHOUT PAY AND RETENTION AND CONTINUATION OF BENEFITS	45
SECTION 21. MILITARY AND OTHER USERRA LEAVE	45
SECTION 22. REINSTATEMENT FOLLOWING MILITARY SERVICE	46
SECTION 23. CIVIL LEAVE	47
SECTION 24. SHARED LEAVE POLICY	47
SECTION 25. INCLEMENT WEATHER POLICY	47
SECTION 26. PERSONAL LEAVE	47
SECTION 27. PARENTAL SCHOOL LEAVE	48
SECTION 28. BEREAVEMENT LEAVE	48
SECTION 29. EMPLOYMENT OF THE QUARTER LEAVE	48
SECTION 30. ADMINISTRATIVE LEAVE	49
ARTICLE VIII. SEPARATION AND REINSTATEMENT	50
SECTION 1. TYPES OF SEPARATIONS	50
SECTION 2. RESIGNATION	50
SECTION 3. REDUCTION IN FORCE	50
SECTION 4. DISABILITY	50
SECTION 5. VOLUNTARY RETIREMENT	51
SECTION 6. DEATH	51
SECTION 7. DISMISSAL	51
SECTION 8. REINSTATEMENT	51
SECTION 9. REHIRING	51
ARTICLE IX. DISCIPLINARY ACTIONS	52
SECTION 1. POLICY	52
SECTION 2. PROCEDURE	52

SECTION 3. NON- DISCIPLINARY SUSPENSION	53
SECTION 4. RIGHTS OF APPEAL	54
SECTION 5. ADMINISTRATIVE GUIDELINES.....	54
ARTICLE X. GRIEVANCE PROCEDURE AND ADVERSE ACTION APPEAL.....	57
SECTION 1. POLICY	57
SECTION 2. GRIEVANCE DEFINED.....	57
SECTION 3. PURPOSES OF THE GRIEVANCE PROCEDURE	57
SECTION 4. PROCEDURE	58
SECTION 5. ROLE OF THE HUMAN RESOURCES OFFICER.....	59
SECTION 6. GRIEVANCE AND ADVERSE ACTION APPEAL PROCEDURE FOR DISCRIMINATION	60
ARTICLE XI. RECORDS AND REPORTS	61
SECTION 1. PUBLIC INFORMATION	61
SECTION 2. ACCESS TO CONFIDENTIAL RECORDS	61
SECTION 3. PERSONNEL ACTIONS.....	62
SECTION 4. RECORDS OF FORMER EMPLOYEES.....	62
SECTION 5. REMEDIES OF EMPLOYEES OBJECTING TO MATERIAL IN FILE	62
SECTION 6. PENALTIES FOR PERMITTING ACCESS TO CONFIDENTIAL RECORDS.....	63
SECTION 7. EXAMINING AND/OR COPYING CONFIDENTIAL MATERIAL WITHOUT AUTHORIZATION	63
SECTION 8. DESTRUCTION OF RECORDS REGULATED	63
ARTICLE XII. IMPLEMENTATION OF POLICIES	64
SECTION 1. CONFLICTING POLICIES REPEALED.....	64
SECTION 2. SEPARABILITY	64
SECTION 3. AMENDMENTS	64

ARTICLE I. GENERAL PROVISIONS

Section 1. Purpose of the Chapter

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

Section 2. At-Will Employment

The Town of Erwin is an at-will employer. The employment relationship between the Town and the employee is terminable at the will of either at any time with or without cause and with or without advance notice. No employee, officer or representative of the Town has any authority to enter into any agreement or representation, verbally or in writing, which alters, amends, or contradicts this provision or the provisions in these policies or to grant any employee contractual rights of employment. Nothing in this policy creates an employment contract or term between the Town and its employees.

None of the benefits or policies set forth in these policies is intended, because of their publication, to confer any rights or privileges upon employees or entitle them to be or remain employed by the Town.

All Town positions are subject to budget review and approval each year, and salary advancement is subject to annual funding and approval by the Board.

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

Section 3. Merit Principle

All appointments and promotions shall be made solely on the basis of merit. All positions requiring the performance of the same duties and fulfillment of the same responsibilities shall be assigned to the same class and the same salary range. No applicant for employment or employee shall be deprived of employment opportunities or otherwise adversely affected as an employee because of such individual's race, religion, color, sex, national origin, sexual orientation, age, veteran status, marital status, political affiliation, non-disqualifying disability, genetic information, or on the basis of actual or perceived gender as expressed through dress, appearance or behavior.

Section 4. Responsibilities of the Town Board of Commissioners

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

Section 5. Responsibilities of the Town Manager

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

The Town Manager shall supervise or participate in:

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

Section 6. Responsibilities of the Human Resource Director

The Town Manager shall designate an employee to perform this role or perform this role themselves and delegate any or all of the responsibilities listed below. If delegated, the employee responsible for the Human Resources function shall make recommendations to the Town Manager on the following:

- a) policies and revisions to the personnel system for the Town Manager's consideration;
- b) changes as necessary to maintain an up-to-date and accurate position classification plan;
- c) necessary revisions to the pay plan;

- d) which positions shall be subject to the overtime provisions of the FLSA;
- e) **establish and maintain** of a roster of all persons **and authorized positions** in the municipal service, **setting forth each authorized position, position number, class title, salary range, any changes in class title, and other such data as may be useful;**
- f) development and administration of such recruiting programs as may be necessary to obtain an adequate supply of competent applicants to meet the needs of the Town;
- g) development and/or coordination of training and educational programs for Town employees;
- h) development and recommendation of such administrative procedures as are necessary to implement these policies provided the administrative procedures are not in conflict;
- i) periodic evaluations of the operation and effect of the personnel provisions of this policy;
- j) actions that are needed to address barriers to effective employee communication, productivity, engagement, and morale; and
- k) such other duties as may be assigned by the Town Manager that is not inconsistent with this policy.

Section 7. Responsibilities of Department Heads and Supervisors

Department directors and supervisors shall meet their responsibilities as directed by the Council and/or the Town Manager, being guided by this Policy and Town ordinances. The Town will require all department directors and supervisors to meet their responsibilities by:

- a) dealing with all employees fairly and equitably and upholding the principles of equal employment opportunities;
- b) developing and motivating employees to reach their fullest potential through continued education and training;
- c) making objective evaluations of individual work performance and discussing these evaluations with each employee to bring about needed improvements;
- d) keeping employees informed of their role in accomplishing the work of their unit and conditions or changes affecting their work;
- e) making every effort to resolve employee problems and grievances and advising employees of their rights and privileges;
- f) cooperating and coordinating with other staff members in workflow and distribution of information;
- g) making proper performance documentation and maintaining current files; and

h) abiding by the provisions of these policies and ensuring employees abide by the same.

Section 8. Responsibilities of Employees

Employees of the Town shall be expected to conduct themselves both on and off the job to reflect favorably upon the Town and fellow employees. Employees are expected to:

- a) ask questions and learn their full scope of responsibilities and perform those diligently;
- b) recognize and follow the chain of command in addressing work concerns and problems;
- c) show courtesy and respect and work cooperatively with other employees;
- d) provide excellent customer service to citizens and visitors; and;
- e) learn and follow these personnel policies along with any departmental policies and procedures.

Section 9. Application of Policies, Plan, Rules, and Regulations

The personnel policy and all rules and regulations adopted pursuant thereto shall be binding on all Town employees. The Town Manager, Town Attorney, members of the Town Board of Commissioners, 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 10. Departmental Rules and Regulations

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

Section 11. Definitions

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

Full-time employee. An employee who is in a position for which an average work week equals 40 hours, and continuous employment of at least 12 months, are required by the Town.

Part-time employee. An employee who is in a position for which an average work week of at least 20 hours and less than 40 hours and continuous employment of at least 12 months are required by the Town.

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

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

Limited service employee. A person hired by the Town to perform designated services. Many work on a seasonal or short-term basis. Limited service employees are paid on an hourly basis only for hours actually worked and appointed to a position for which either the average workweek required by the Town over the course of a year is less than 20 hours of continuous employment required by the Town is less than 12 months. They are not eligible for benefits except those mandated by State and Federal governments. If work continues for more than 12 months, hours worked in a 12-month period cannot exceed 1000 hours.

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

Intern. A student of an accredited institution of higher education, or a former student who has graduated in the past six months from an accredited institution of higher education, who is employed by the town in a nonpermanent unpaid position for a duration of nine months or less that provides training and experience in the primary area of focus agreed upon by the town manager and the student.

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

ARTICLE II. POSITION CLASSIFICATION PLAN

Section 1. Purpose

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

Section 2. Composition of the Position Classification Plan

The classification plan shall consist of:

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

Section 3. Use of the Position Classification Plan

The classification plan is to be used:

- A. as a guide in recruiting and examining applicants for employment;
- B. in determining lines of promotion and in developing employee training programs;
- C. in determining salary to be paid for various types of work;
- D. in determining personnel service items in departmental budgets; and
- E. in providing uniform job terminology.

Section 4. Administration of the Position Classification Plan

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

Section 5. Adoption of the Position Classification Plan

The position classification plan shall be adopted by the Town Board of Commissioners and shall be on file with the Human Resources Director. Copies will be available to all Town employees for review upon request. New positions shall be established upon recommendation of the Town Manager and approval of the Town Board of Commissioners, after which the Town Manager shall either allocate the new position into the appropriate existing class or revise the position classification plan to establish a new class to which the new position may be allocated.

Section 6. Request for Reclassification

Any employee who considers the position in which classified to be improper shall submit a request in writing for reclassification to such employee's immediate supervisor, who shall immediately transmit the request through the department head to the Town Manager. Upon receipt of such a request, the Town Manager shall study the request, determine the merit of the reclassification, and make a decision to revise the classification and pay plan where necessary.

ARTICLE III. THE PAY PLAN

Section 1. Definition

The pay plan includes the basic salary schedule and the “Assignment of Classes to Grades and Ranges” adopted by the Board of Commissioners. Each position is assigned a classification title and each title is assigned to a salary grade with a specific salary range. Positions are assigned to grades within the pay plan based on the duties and responsibilities assigned. Positions with more complex tasks, more responsibility, or requiring more technical knowledge are assigned to higher salary grades. Salary ranges are set based on two components: competitiveness with the market and internal equity with similar positions and occupational groups. The salary schedule consists of rates of pay for minimum or beginning, maximum, and may include intervening rates of pay for all classes of positions and a designation of the standard hours in the workweek for each position.

Section 2. Administration and Maintenance

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

The pay plan is intended to provide equitable compensation for all positions, reflecting differences in the duties and responsibilities, the comparable rates of pay for positions in private and public employment in the area, changes in the cost of living, the financial conditions of the Town, and other factors. To this end, each budget year the Town Manager, or the Human Resources Director, shall make comparative studies of all factors affecting the level of salary ranges, including the consumer price index, anticipated changes in surrounding employer plans, and other relevant factors, and will recommend to the Town Board of Commissioners such changes in salary ranges as appear to be pertinent. Such changes shall be made in the salary ranges such that the hiring rate, all intervening rates, and the maximum change according to the market.

Periodically, the Town Manager shall recommend that individual salary ranges be studied and adjusted as necessary to maintain market competitiveness. Such adjustments will be made by increasing or decreasing the assigned salary grade for the class and adjusting the rate of pay for employees in the class when the action is approved by the Town Board of Commissioners.

Section 3. Starting Salaries

All persons employed in regular positions approved in the position classification plan, including temporary employees (such as Reserve Police Officers) employed to perform the same duties as full and part-time regular positions, shall be employed at the minimum salary for the classification in which they are employed. However, exceptionally well-qualified applicants may be employed above the minimum of the established salary range upon approval of the Town Manager.

Section 4. Trainee Designation and Provisions

Applicants being considered for employment or Town employees who do not meet all of the requirements for the position for which they are being considered may be hired, promoted, demoted, or transferred by the Town Manager to a “trainee” status. In such cases, the department head must prepare a plan for training, including a schedule. “Trainee” salaries may be no more than two grades below the minimum salary established for the position for which the person is being trained. A new employee designated as a “trainee” shall be regarded as a probationary employee. **A trainee period may extend from three to eighteen months.**

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

Section 5. Probationary Pay Increases

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~~Subject to the availability of funds, employees hired, promoted, or reclassified into the minimum rate of the pay range shall receive a salary increase within the pay range of up to 5% upon successful completion of the probationary period, upon completion of six months of satisfactory service if the employee is not on probation. Employees serving a twelve-month probationary period may be considered for this increase after six months of employment. Employees hired or promoted more than 15% above the hiring rate of the payable are not eligible for a probationary increase.~~

Section 5. Merit Pay

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

Section 6. Merit Pay Bonus

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

Section 7. Salary Effect of Promotions, Demotions, Transfers, and Reclassifications

Promotions. ~~The purpose of the promotion pay increase is to recognize and compensate the employee for taking on increased responsibility.~~ When an employee is promoted, the employee’s salary shall normally be advanced to the minimum rate of the new position, or to a salary that provides an increase of at least 5% over the employee’s salary before the promotion, ~~whichever is greater.~~ ~~In the event of highly skilled and qualified employees, shortage of qualified applicants, or other reasons related to the merit principle of employment, the Town Manager may set the salary at an appropriate rate in the range of the position to which the employee is promoted that~~

best reflects the employee's qualifications for the job and relative worth to the Town, taking into account the range of the position and relative qualifications of other employees in the same classification. In no event, however, shall the new salary exceed the maximum rate of the new salary range.

Demotions. A demotion is a move to a position in a lower salary grade. Demotions can be either voluntary, where the employee chooses to take a position in a lower salary grade, or involuntary/disciplinary, resulting from inefficiency in performance or as a disciplinary action. When an employee is voluntarily demoted to a position for which qualified, the salary shall be set at the rate in the lower pay range which provides a salary commensurate with the employee's qualification to perform the job and is consistent with the placement of other employees within the same classification. If the demotion is the result of discipline, the salary shall be decreased at least 5% and may be no greater than the maximum of the new range.

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

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

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

Section 8. Salary Effect of Salary Range Revisions

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

Section 9. Transition to a New Salary Plan

The following principles shall govern the transition to a new salary plan, subject to the availability of funds:

1. No employee shall receive a salary reduction resulting from 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 at least to the new minimum rate for their classes.
3. All employees being paid at a rate above the maximum rate established for their respective

classes shall be maintained at that salary level until such time as the employees' salary range is increased above the employees' current salary.

Section 10. Effective Date of Salary Changes

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

Section 11. Fair Labor Standards Act and Overtime Compensation

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

The Town will comply with the Fair Labor Standards Act (FLSA). The Town Manager **and Human Resources Director** shall determine which jobs are "non-exempt" and are therefore subject to the Act in areas such as hours of work and work periods, rates of overtime compensation, and other provisions.

Non-exempt employees

Employees are expected to work during all assigned periods exclusive of breaks or mealtimes. Employees are not to perform work at any time that they are not scheduled to work unless they receive approval from their Department Head or Town Manager, except in cases of emergency. **This includes working through lunch, coming in early, or staying late after the employee's normal working hours.**

Supervisors are responsible for ensuring that overtime hours are authorized, recorded, and properly documented for compensatory time off or overtime pay in accordance with the established record keeping forms and instructions.

It is the policy of the Town that non-exempt employees may receive compensatory time at the appropriate overtime rate, in lieu of cash payments, in accordance with the provisions of the FLSA.

Non-exempt employees will be compensated at a straight time rate for hours up to the FLSA established limit for their position. For most positions, the limit is 40 hours in a 7-day period. Sworn Police and uniformed Fire employees have longer pay cycles for determining the eligibility of overtime—Police up to 171 hours worked in a 28-day cycle / Fire 212 hours in a 28-day cycle.

Hours worked beyond the FLSA established limit will be compensated in either time off or pay at the appropriate overtime rate. Compensatory leave requires approval by the Manager when creating a balance that exceeds 100 hours. 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. Non-exempt employees separating from employment shall be paid for their compensatory time balances.

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 compensated – pay or time off at a time and a half rate – in accordance with the FLSA.

When employees are required to work long and continuous hours, the Board may approve compensation at time and a half or double time for those hours worked and/or grant time off with pay for rest and recuperation to ensure safe working conditions.

Exempt employees

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

The Town intends to make deductions from the pay of exempt employees for authorized reasons and prohibits improper pay deductions. Exempt employees who wish to question deductions they believe to be improper may use the Town’s Grievance procedure, as explained in this policy. If the deduction is found to be improper, the Town will reimburse the employee for lost pay.

In a declared disaster or emergency situation requiring long and continuous hours of work, exempt employees may be compensated at a rate of up to double time and/or be granted time off with pay for rest and recuperation to ensure safe working conditions for the duration of the emergency period, at the approval of the Board.

Section 12. Rest Periods and Breaks

Due to the variation in work schedules and needs among departments, the Town makes no attempt to define a uniform policy for rest periods or breaks. Department supervisors may establish appropriate rest period practices which best serve the Town’s interest within the work units under their supervision. Such practices shall be subject to the review of the Department Head and shall be limited to one rest period or break in the morning and one in the afternoon, no longer than 15 minutes each. Each employee’s regular workday schedule will include a meal break of at least 30 minutes, but not more than one hour, near the middle of their shift. The meal breaks are unpaid time, and the two 15-minute rest periods are paid time. If an employee must miss a meal break due to an emergency situation, the supervisor will make a reasonable effort to accommodate a meal break later in the shift.

Section 13. Break Time for Nursing Mothers

Pursuant to the Fair Labor Standards Act, the Town will provide a break time for any employee to express fresh milk for her nursing child for one year after the child’s birth each time such employee has the need to express milk. The Town will provide an employee with a place other than a bathroom that is shielded from co-workers and the public, which may be used by an employee to express breast milk.

Section 14. Call-back and Stand-by Pay

The Town provides a continuous twenty-four hour 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 by the Town Manager.

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

Stand-by. Stand-by time is defined as that time when an employee must remain near an established telephone or otherwise substantially restrict personal activities in order to be ready to respond immediately to calls for service. Non-exempt employees required to be on “stand-by” duty will be paid for five *hours* of work for each week of stand-by time they serve. Stand-by compensation for less than one full week shall be determined by the ratio of .04 hours of pay per one hour of stand-by time. Actual hours worked while on stand-by are calculated beginning when the employee reports to the worksite and are added to the regular total of hours worked for the week.

Section 15. Payroll Deduction

Deductions shall be made from each employee’s salary, as required by law (see Human Resources Director for details of deductions). Additional deductions may be made upon the request of the employee on a determination by the Town Manager as to the capability of payroll equipment, **associated increase in workload**, and the appropriateness of the deduction.

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 officer working an average of 42 hours per week, will be determined by dividing the average number of hours scheduled per year by the annual salary for the position.

Section 17. Longevity Pay

Subject to availability of funds, full-time and part-time employees of the Town are compensated for years of service by payment of a longevity supplement based on the following table:

Years of Service	Longevity Amount
Less than 5 years of service	\$200
5 - 9 years of service	1.00%
10 - 14 years of service	1.25%
15 - 19 years of service	1.50%
20 - 24 years of service	1.75%

25+ years of service	2.00%
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Years of service are calculated on a calendar year basis as of June 30 of each year. Longevity pay will be issued on the last regular pay period in November or on a date in November designated by the Town Manager.

Section 18. Payment of Travel Expenses

Expenses incurred as a part of the job for the Town will be reimbursed at the rate set by the IRS, and meals and lodging reimbursed at actual reasonable costs or an established per diem. When anticipated that the per diem will be exceeded, the Board may elect to increase the rate before the travel is incurred. To receive a cash advance the appropriate travel authorization form must be completed by the employee and submitted to the Manager no later than 5 working days prior to the date upon which travel will commence.

All travel claims must be supported by detailed documentation, usually in the form of receipts or similar vouchers.

The Manager may deny reimbursement of any questionable, unsupported, or excessive expense claim submitted by the employee.

Each trip to a destination outside the state must be authorized by the Manager.

Section 19. Certification Salary Increases

Subject to the availability of funds, employees who achieve certifications above those required by their classifications or which are directly related to higher skills or different potential tasks may be rewarded with a pay increase in an amount recommended by the Town Manager. The bonus may be either in the form of a salary increase within the range or a one-time payment, not added to the base pay. Employees are eligible for these increases for achieving certifications directly related to their work, such as code enforcement, utility plant operations, utility collection, distribution system operations, inspections, and advanced or specialized law enforcement training.

Section 20. Reimbursement of Training Expenses

An employee who enters a voluntary but job-related training program or educational course, with the prior approval of the Town Manager, may be reimbursed for expenses such as tuition and books upon successful completion of the program. The Board may set annual limits for the amount of reimbursement. If the employee leaves employment with the Town within twenty-four months thereafter, the employee shall reimburse the Town for such expenses.

Section 21. Pay for Interim Assignments in a Higher Level Classification

An employee who is formally designated by the Town Manager to perform the duties of a position that is assigned to a higher salary grade than that of the employee's regular classification for a period of at least one month shall receive a pay increase for the duration of the interim assignment. The employee shall receive a salary adjustment to the minimum level of the job in which the

employee is acting or an increase up to 10%, whichever is greater. The salary increase shall be temporary, and the employee shall go back to the salary he or she would have had if not assigned to the interim role upon completion of the assignment.

Criteria involved in determining if an employee is officially serving in an interim assignment is made by the Town Manager and will be based on:

- A. The difference between the existing job and that being filled on a temporary basis, and
- B. The degree to which the employee is expected to fulfill all the duties of the temporary assignment.

ARTICLE IV. RECRUITMENT AND EMPLOYMENT

Section 1. Equal Employment Opportunity Statement

The Town of Erwin fosters, promotes, and maintains a consistent recruitment program to promote equal opportunity and to identify and attract the most qualified applicants for all vacancies. This intent is achieved through consistency in announcing position vacancies, evaluating applicants on the same criteria, providing reasonable accommodations as needed, and by applying consistent testing methods when applicable. The Town shall select employees on the basis of the applicant's qualification for the job and award them with respect to compensation and opportunity for training and advancement, including promotions, without regard to race, religion, color, sex, national origin, sexual orientation, age, veteran status, marital status, political affiliation, non-disqualifying disability, genetic information, or on the basis of actual or perceived gender as expressed through dress, appearance or behavior. 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 with or without reasonable accommodation.

All personnel responsible for recruitment and employment will continue to review regularly the implementation of this personnel policy and relevant practices

It is a violation of Town policy to retaliate in any way against an employee who assists, participates in, or supports this policy or anyone making a bona fide complaint under this policy or who participates or assists in any EEOC, OSHA, or other internal or external processes protected by law.

Section 2. Recruitment, Selection, and Appointment

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

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

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

Application Reserve File. Applications for candidates not selected shall be kept in an inactive reserve file for a period of two years, in accordance with Equal Employment Opportunity Commission guidelines.

Medical Examination, Physician's Certification, and Drug Testing. Prospective or current employees may be required to submit to a medical and/or psychological examination or inquiry to determine if they are able to perform the essential duties and responsibilities of the job.

Candidates for Town employment will also be required to pass a drug test prior to employment and may be required to take a drug or alcohol test based on reasonable suspicion of use or impairment on duty. Employees in designated safety-sensitive positions will be subject to random drug testing.

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

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

Section 3. Probationary Period

An employee appointed or promoted to a permanent position shall serve a probationary period. Employees shall serve a six-month probationary period, except that employees in sworn police personnel and department heads shall serve a twelve-month probationary period. During the probationary period, supervisors shall monitor an employee's performance and communicate with the employee concerning performance progress. Employees serving twelve-month probation shall have a probationary review at the end of six months and before the end of twelve months.

An important purpose of the probationary period is to allow the appointee to adjust to the new job. Likewise, it serves as a trial period during which the employee demonstrates their ability to perform the work, accept additional responsibility, demonstrate good work habits, and work well with the public and fellow employees. Before the end of the probationary period, the supervisor shall conduct a performance evaluation conference with the employee and discuss accomplishments, strengths, and needed improvements. A summary of this discussion should be documented in the employee's personnel file. The supervisor shall recommend in writing whether the probationary period should be completed, extended, or the employee transferred, demoted, or dismissed. Probationary periods may be extended for a maximum of six additional months.

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

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

Section 4. Promotion

Promotion is the movement of an employee from one position to a vacant position in a class assigned to a higher salary range. It is the Town's policy to create career opportunities for its employees whenever possible. Therefore, when a current employee applying for a vacant position is best suited to all applicants, that applicant shall be appointed to that position. The Town will balance three goals in the employment process: 1) the benefits to employees and the organization of promotion from within; 2) providing equal employment opportunity and a diversified workforce to the community, and 3) obtaining the best possible employee who will provide the most productivity in that position.

Therefore, except in rare situations where previous Town experience is essential or exceptional qualifications of an internal candidate so indicate, the Town will consider external and internal candidates for selection rather than automatically promote from within. Candidates for promotion shall be chosen on the basis of their qualifications and their work records. Internal candidates shall apply for promotions using the same application process as external candidates.

Department Heads are responsible for developing staff capacity to provide back-up for coworkers and higher-level positions, prepare staff and the organization for smooth transitions, and ensure capability to cover interim absences and vacancies.

Section 5. Demotion

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

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

Section 6. Transfer

A transfer is the movement of an employee from one position to a position in a class in the same salary grade. If a vacancy occurs and an employee in another department is eligible for a transfer, the employee shall apply for the transfer using the usual application process. The Department Head wishing to transfer an employee to a different department or classification shall make a recommendation to the Town Manager with the consent of the receiving department head. Any employee transferred without requesting the action may appeal the action in accordance with the grievance procedure outlined in this chapter. An employee who has successfully completed a

probationary period may be transferred into the same classification without serving another probationary period.

ARTICLE V. CONDITIONS OF EMPLOYMENT

Section 1. Work Schedule

Department Heads shall establish work schedules, with the approval of the Town Manager, which meets the departmental operational needs 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. Employees 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 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 or 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 a 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;
- F. Display any political advertisement in or on Town property; or
- G. Be a candidate for nomination or election to office under the Town Charter.

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

Section 3. Outside Employment

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

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

- a) employment with organizations or in capacities that are regulated by the employee or employee's department; or
- b) employment with organizations or in capacities that negatively impact the employee's perceived integrity, neutrality, or reputation related to the performance of the employee's Town duties (such as working for a company where significant Town purchases are ordered by the employee).

This section does not apply to volunteers performing work for the Town, nor to volunteer activities of employees.

Off-the-job injuries: An employee who sustains an injury or illness in connection with outside employment and is receiving Workers' Compensation from that employer shall not be entitled to receive Town Workers Compensation benefits or use accrued Town sick leave.

In cases where off-the-Town-job employment-related injury or illness results in temporary disability, an employee must either:

- a) request and obtain a leave of absence without pay;
- b) request and use accrued vacation leave or compensatory time; and,
- c) may be subject to termination by the Town due to lack of availability for work.

Section 4. Dual Employment

A full or part-time employee of the Town may simultaneously hold another position with the Town if the temporary position is in a different department and clearly different program area from that of the full or part-time position. However, the work of the full or part-time position shall take precedence over the temporary position, and such work will not count toward the calculation of overtime for pay or time off.

Section 5. Employment of Relatives

The Town prohibits the hiring, promotion, and employment of immediate family in full or part-time positions within the Town if such employment would result in one family member supervising another or if one member will occupy a position of influence over another member's employment or any condition of employment. Examples of potential influence include but are not limited to hiring, promotions, salary administration, internal audit, and disciplinary action.

"Immediate family" is defined as spouse, child, parent, sibling, grandparent, grandchild, aunt, or uncle of the employee or spouse of the employee, or guardian, to **include in-law and step relationships**.

The Town also prohibits the employment of any person into a permanent position who is an immediate family member of individuals holding the following positions: Mayor, Mayor Pro Temp, Town Board of Commissioners Member, Town Manager, Town Clerk, or Town Attorney. Otherwise, the Town will consider employing family members or related persons in the service of the Town, provided that such employment does not:

- a) result in a relative supervising relative;
- b) result in a relative auditing the work of a relative;
- c) create a conflict of interest with either relative and the Town; or
- d) create the potential or perception of favoritism.

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

Section 6. Workplace Harassment Prohibited

The Town of Erwin prohibits, **and will not tolerate**, harassment by supervisors and co-workers in any form on the basis of race, religion, color, sex, national origin, sexual orientation, age, veteran status, marital status, political affiliation, non-disqualifying disability, genetic information, or on the basis of actual or perceived gender as expressed through dress, appearance or behavior. Harassment is defined as conduct that culminates in tangible employment action or is sufficiently severe or pervasive to create a hostile work environment, including bullying.

Harassment complaints or allegations **will be investigated promptly and where it is determined that such inappropriate conduct has occurred, the Town will act immediately to eliminate the conduct and impose such corrective action as is necessary, including disciplinary action up to and including dismissal.**

A particular form of harassment, sexual harassment, is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when 1) submission to or rejection of such conduct is made either explicitly or implicitly a term or condition of an individual's employment; 2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or 3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Harassment, other than sexual, is verbal or physical conduct that denigrates or shows hostility or aversion towards an individual because of race, color, religion, gender, national origin, age, or disability, which has the purpose or effect of creating an intimidating, hostile, or offensive work environment or unreasonably interferes with an individual's work performance or otherwise adversely affects an individual's employment opportunities. Harassing conduct includes, but is not limited to, epithets, slurs, negative stereotyping, or threatening, intimidating, hostile acts. Written or graphic material which denigrates or indicates hostility or aversion toward an individual or group is prohibited from display on the employer's premises, or circulation in the workplace.

Any employee who feels harassed or who knows of or suspects the occurrence of forbidden harassment is responsible for informing the Human Resources Director or the Town Manager in writing of the facts regarding such harassment so that management may promptly and thoroughly conduct an investigation.

Employees are expected to report claims of harassment in good faith and the information provided to be truthful to the best of their knowledge. The Town will endeavor to keep complaints, investigations and resolutions confidential to the extent possible, but the Town cannot compromise its obligation to investigate complaints.

Supervisors and Department Heads who receive a harassment complaint are to contact the Human Resources Director immediately. If an investigation confirms that unlawful harassment occurred, the Town will take immediate corrective action, including disciplinary action up to and including immediate termination of employment of the harassing party as is appropriate.

Employees making complaints of sexual harassment are protected against retaliation by alleged harassers or other employees. Employees witnessing harassment shall also report such conduct to an appropriate Town administrative official.

Section 7. Expectation of Ethical Conduct- Gifts and Favors

The proper operation of Town government requires that public officials and employees be independent, impartial, and responsible to the people; that governmental decisions and policy be made in the proper channels of the governmental structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government.

As stewards of public resources and holders of the public trust, Town employees are expected to uphold the highest standards of ethical conduct while fulfilling their job duties and responsibilities.

Employees shall not accept gifts, loans, or things of value (more than \$25) from organizations, business firms, or individuals with whom they have official relationships because of Town business. These limitations do not prohibit the acceptance of articles of negligible value, which are distributed generally, nor prohibit employees from accepting social courtesies that promote good public relations, nor prohibit employees from obtaining loans from public lending institutions. It is particularly important that inspectors, contracting officers, and enforcement officers guard against relationships that might be construed as evidence of favoritism, coercion, unfair advantage, or collusion.

Section 8. Performance Evaluation

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

The supervisor shall conduct performance evaluation conferences with employees prior to the completion of the probationary period and at least once each year thereafter. The performance evaluation conferences shall consist of two-way discussions between the employee and supervisor(s). The discussions should cover areas of accomplishment and performance strengths, areas for improvement, training needs, and goals for the upcoming year. The overall purpose of performance evaluation will be to improve the employee's performance. Through open communications with the supervisor, the employee should obtain a clear understanding of what is expected related to job performance and a periodic assessment of their job strengths and areas

for improvement. A summary of these performance evaluation conferences shall be documented in writing.

Section 9. Safety

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

Section 10. Substance Abuse Policy

The Town is committed to a drug-free workplace to maintain a safe and healthy working environment for employees and a productive, effective workforce for the citizens. The Town prohibits employees reporting to work impaired by alcohol, illegal drugs, intentionally and inappropriately used prescriptions, over-the-counter drugs, or other chemicals and substances. 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. All employees shall comply with the Town's Substance Abuse Policy.

The Town:

- A. prohibits employees from being under the influence of legal or illegal substances while on duty,
- B. is authorized to conduct pre-employment drug tests for all full-time and part-time positions,
- C. is authorized to random drug tests for full-time and part-time positions designated as safety-sensitive positions
- D. is authorized to conduct drug and alcohol tests based on a reasonable suspicion that the employee in any Town position is under the influence of substances on the job, and
- E. Where authorized by federal law, is authorized to conduct both random and post-accident drug tests for any employees subject to federal Department of Transportation drug-testing regulations.

Section 11. Smoking and Tobacco Use

Tobacco use (smoking and/or use of tobacco products) is prohibited within municipal buildings and in municipal vehicles.

Department Directors are authorized to designate outside areas at least twenty (20) feet away from any entry into those municipal buildings under the control of such department to accommodate employees who use tobacco products.

Section 12. Use of Town Property and Equipment

Town equipment, materials, tools, and supplies shall not be available for personal use and are not to be removed from Town property except in the conduct of official Town business. No employee shall purchase for personal use any equipment or supplies through Town purchase accounts.

Vehicles: An employee shall care for vehicles and equipment owned by the Town in the same responsible manner in which the employee should care for their own. Vehicles are to be used for official Town business, and personal use of Town vehicles and use of Town gasoline in privately owned vehicles is strictly prohibited. Under extraordinary circumstances such as weather-related emergencies (snowstorms, hurricanes, or flooding events), the Town Manager may temporarily authorize the use of Town vehicles for commuting to and from work or for shuttle runs to pick up employees whose personal vehicles are not suited for use in such conditions.

No Town-operated vehicle shall be permitted to idle for prolonged periods of time. Situations where idling is permitted and prohibited are spelled out in administrative procedures available from the Manager.

Telephones, Email, and Internet: Usage of Town telephones and computers for personal communications and Internet connections or email for personal reasons should be brief. Employees should not access pornographic sites or access personal networking sites through Town equipment, or use Town phones for personal long-distance calls.

Under North Carolina law, an email sent or received by the Town is considered a public record and is subject to inspection upon request.

Surrender of property: An employee who is terminated shall be required to return all items of equipment, including uniforms, owned by the Town. The return of such equipment in good condition may precede the issuance of an employee's final paycheck.

Section 13. Social Media Policy

The Town recognizes that employees may choose to use social media sites (such as networking sites, personal email, personal websites, blogs, comment boards, chat rooms, and other social media resources) off the job. We value employee interest in engaging in these forms of personal expression, as long as they are on the employee's own time and utilizing their own computer resources.

However, employees should be mindful that they are representatives of the Town of Erwin at all times, and their actions, whether on or off duty, can affect the Town and its ability to serve the citizens effectively. Specifically, when utilizing the internet, social media sites, or personal email on the employee's own time and using personal computer resources, employees should be mindful and respectful to others in regard to what they post. Personal posts should not create a

harassing, demeaning, or hostile work environment for any employee, interfere with another employee's work, or erode the public's confidence in the Town organization. Embarrassing or inappropriate posts or comments about other Town employees, officials, customers, or citizens are prohibited under this policy, as are pictures of the employee or co-workers in Town uniform without permission of the Town Manager. Employees are also cautioned not to purport to represent the Town on personal networking sites.

Finally, accessing social media sites is not a job requirement for most positions, and such assessing is prohibited while on Town time unless it is necessary for the completion of legitimate work purposes. Requests for access to any social media site using Town equipment should be requested in writing to the Town Manager's office by the department head.

Section 14. Immigration Law Requirements

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

Section 15. Credentials and Certifications

Some duties assigned to positions in local government service may be performed only by persons who are duly licensed, registered, or certified as required by the relevant law, rule, or regulation. Employees in such classifications are responsible for maintaining current, valid credentials as required by law, rule, or regulation and must inform their supervisor immediately of any change in certification or license. Failure to obtain or maintain the required credentials as a basis for immediate dismissal without prior warning.

The Town will periodically check the driving records of employees to assure that appropriate licenses are still valid. Employees with marginal records (points or violations) may be removed from the operation of vehicles at the discretion of the Manager and may be terminated if a non-driving position is not available.

An employee who is dismissed shall be given a written statement of the reason for the action and their appeal rights.

Section 16. Weapons Policy

No person employed by the Town, either paid or volunteer, is permitted to possess any firearm or other dangerous weapon while performing duties, including while on Town property or any Town-owned vehicle or in any personal vehicle used by the employee to perform duties. (Law enforcement officers are exempt from this policy while performing their law enforcement tasks.)

Violation of this policy will result in mandatory disciplinary action, up to and including dismissal for the first offense.

Section 17. Whistle Blower Protection

~~The Town prohibits discrimination or retaliatory action against an employee because the employee, in good faith, files or threatens to file a claim or complaint, initiate an investigation, testify or provide information to any person with respect to the Workers' Compensation Act, the North Carolina Wage and Hour Act, the Occupational Safety and Health Act, or the Mine Safety and Health Act. In addition, this policy covers NC General Statute 95-28.1, which prohibits discrimination against any person in possession of sickle cell trait or hemoglobin C trait, the Nation a Guard Reemployment Rights Act, the Pesticide Board, or Chap 90, Article 5F relating to Control of Potential Drug Paraphernalia Products.~~

Section 17. Genetic Information Non-Discrimination Act

Pursuant to the Genetic Information Non-Discrimination Act of 2008 (hereinafter "GINA"), the Town of Erwin does not and will not discriminate against applicants, employees, former employees, and all such individuals and members with regard to genetic information that may have been inadvertently or otherwise obtained by the Town. Furthermore, the Town will take every action possible to avoid requesting, purchasing, requiring, or in any way discriminating or retaliating against an active employee or former employee with regard to genetic information.

From time to time, the Town may request specific healthcare information from an applicant, which could result in the Town requiring genetic information. The Town will take every possible action to avoid obtaining genetic information. To that end, the Town will include the following language in all requests for any medical information to an applicant, employee, former employee, or healthcare provider:

The Genetic Information Nondiscriminatory Act of 2008 (GINA) prohibits employers and other entities covered by GINA Title II from requesting or requiring the genetic information of employees or their family members. In order to comply with this law, we are asking that you not provide any genetic information when responding to this request for medical information. "Genetic Information" as defined by GINA, includes an individual's family medical history, the results of an individual's family medical history, the results of an individual's or family member's genetic test, the fact that an individual or individuals family members sought or seek genetic services, and genetic information of a fetus carried by an individual or an individual's family member or an embryo lawfully held by an individual with family members receiving assistive reproductive services.

Section 18. Direct Deposit

The Town may determine that employees will be paid by electronic transfer of funds to their designated bank account(s). If Direct Deposit is used, employees will receive written or electronic documentation of their wages, deductions, and leave balances each pay period.

Section 19. Attendance and Tardiness

The Town depends on employees to provide needed services every day. Regular attendance is mandatory and is part of the work standards for all jobs. Excessive absenteeism or chronic attendance/tardiness can lead to disciplinary action up to and including termination. All regular full-time employees, both non-exempt and exempt, are expected to work a 40-hour (or assigned) workweek.

Employees are required to call their supervisor in advance to advise them when illness prevents reporting to work or when the employee expects to be late for work due to unusual and/or unavoidable circumstances.

If an employee is away from the job for 3 consecutive workdays without notice, it may be presumed that the employee has resigned and forfeited any claim to terminal pay for the accumulated vacation.

Section 20. Confidential Information

Employees are prohibited from disclosing confidential information concerning the property, government, or affairs of the Town. Nor shall they, under any circumstance, use such information to advance the financial or other private interest of themselves or others.

Section 21. Technology Use Policy

Employees are expected to use Town technology resources responsibly, professionally, and respectfully. An employee's access to technology resources is a function of the business need of their position and is not a general employee benefit. All Town technology resources, electronic communication devices, and all information and records transmitted by, received on, captured by, or stored on technology resources are the property of the Town of Erwin and, as such, may be monitored, audited and inspected for proper use without advance notice to any user. Employees have no privacy rights when using Town information technology resources. Information that is stored on or transmitted to or from Town technological resources may be subject to disclosure pursuant to the North Carolina Public Records Law.

The Town prohibits the inappropriate use of technology resources. Prohibited use includes, but is not limited to, inappropriate content; defaming activity; illegal activity; content that violates the Town's harassment, workplace violence, or other related policies; any use that violates federal, state, or local law or regulation. In addition, the Town prohibits employees from viewing pornography, as defined by G.S. 143-805(b), via a government network or government-issued electronic devices owned, leased, maintained or otherwise controlled by the Town. Exceptions to this policy may be determined for employees as allowed in the course of their official duties such as investigating crimes and other law enforcement purposes, etc.

Improper use of technology resources or violations of this policy will subject the employee to disciplinary action up to and including termination of employment.

Employees should refer to the Town's Technology Use policy for more information regarding the appropriate use of technology resources.

ARTICLE VI. EMPLOYEE BENEFITS

Section 1. Eligibility

As an integral part of a comprehensive, competitive compensation program, the Town offers a variety of benefits. Specific benefit programs will vary from time to time and the type, level, eligibility, and cost of such programs are subject to change at any time at the sole discretion of the Town. To that end, the Town will periodically review employee benefits and may, with or without notification, modify, delete, or add benefits at its own discretion as may be deemed necessary.

All full-time and part-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. Temporary employees are eligible only for legally mandated benefits such as workers' compensation and FICA.

The following benefit sections provide a brief summary and are not intended to be an all-inclusive benefit description. Employees may contact the Human Resources Director for more detailed information regarding benefits, eligibility, coverage, and costs.

Section 2. Group Health and Hospitalization Insurance

The Town provides group health and hospitalization insurance programs for regular full-time and part-time employees and their eligible family members, according to benefit plan terms, conditions, and restrictions.

Regular employees who are scheduled to work 20 hours or more per week on a continuous year-round basis may, if they so desire, purchase available group health insurance through the Town for themselves and qualified dependents. A pro-rated amount of the cost of coverage paid for a full-time employee shall be paid by the Town, with the remainder of the cost being paid by the employee. This pro-rated amount shall be based on regularly scheduled hours.

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. Employees may elect to purchase additional coverage and/or to ensure 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 employees upon authorization of the Town Manager or Town Board of Commissioners.

Section 5. Retirement

The Town provides a retirement income plan for regular employees under the North Carolina Local Governmental Employees' Retirement System. All regular employees assigned to work

more than 1,000 hours in any 12-month period are required to participate as of the first day of employment. Currently, employees contribute 6% of salary (deducted from employee paycheck), while the Town pays an amount determined annually by the Local Governmental Employees' Retirement System and as approved by the North Carolina General Assembly. The retirement plan is known as a "defined benefit plan" meaning that an eligible employee can count on a guaranteed percentage of income at retirement. The percentage will depend on your average final compensation, years of service, and the age at the time of drawing benefits.

Section 6. Supplemental Retirement Benefits

The Town may provide supplemental retirement benefits for its full and part-time employees. Each law enforcement officer shall receive 401-K benefits as prescribed by North Carolina State Law. Each general employee may receive supplemental benefits as approved by the Town Board of Commissioners.

Section 7. Law Enforcement Separation Allowance

Every sworn law enforcement officer, as defined by G.S. 128-21(11d) or G.S. 143-166.50(a)(3), employed by a local government employer who qualifies under this section shall receive, beginning in the month in which the officer retires on a basic service retirement under the provisions of G.S. 128-27(a), an annual separation allowance equal to eighty-five hundredths percent (0.85%) of the annual equivalent of the base rate of compensation most recently applicable to the officer for each year of creditable service. The allowance shall be paid in equal installments on the payroll frequency used by the employer. To qualify for the allowance, the officer shall:

1. Have completed 30 or more years of creditable service, or have attained 55 years of age and completed five or more years of creditable service; and
2. Not have attained 62 years of age; and
3. Have completed at least five years of continuous service as a law enforcement officer immediately preceding a service retirement, as defined by N.C. G.S. 143-166.41(a)(3) and 143-166.41(b)
4. Notify the Town of any new employment involving state, local or federal law enforcement duties. Such notification shall include the nature and extent of the employment, any change in employment status, and any discontinuation of employment, within five (5) days of the new employment, change or discontinuation.

Such allowance shall terminate at death, or on the last day of the month prior to which the officer attains 62 years of age, or upon the first day of re-employment in a sworn position by any federal, state, or local law enforcement department, agency, or institution, whether in North Carolina or elsewhere in a job scheduled for 1,000 or more hours per year.

This section does not affect the benefits to which an individual may be entitled from State, local, federal, or private retirement systems. The benefits payable under this section shall not be subject to any increases in salary or retirement allowances that may be authorized by local government employers or for retired employees of local governments.

The governing body of each local employer shall determine the eligibility of employees for the benefits provided herein.

The Town may, at its discretion, offer a lump sum separation buyout to a law enforcement officer who leaves employment prior to reaching the officer's eligibility for a separation allowance under this Article. The lump-sum separation buyout shall be paid from funds available and shall not exceed the total that would otherwise be paid in separation allowance payments under G.S. 143-166.41 or G.S. 143-166.42. (2018-22, s. 1.)

Section 8. Retiree Health Insurance

Town of Erwin employees hired prior to July 1, 2013 and who retires from Town service with unreduced benefits from the North Carolina Local Government Employees' Retirement System are eligible for retiree health insurance benefits as follows:

- a) Employees retiring with 30 years or more of creditable service, with a minimum of 10 years of service with the Town of Erwin, may continue individual coverage on the group health insurance plan of the Town at no charge until they become eligible for Medicare.
- b) Employees retiring with 25 – 29 years of creditable service, with a minimum of 10 years of service with the Town of Erwin, may continue individual coverage on the group health insurance plan of the Town and pay 25 % of the cost, and the Town will pay the remaining 75% of the cost until they become eligible for Medicare.
- c) Employees retiring with 20 – 24 years of creditable service, with a minimum of 10 years of service with the Town of Erwin, may continue individual coverage on the group health insurance plan of the Town and pay 50 % of the cost, and the Town will pay the remaining 50% of the cost until they become eligible for Medicare.

Employees hired after July 1, 2013, and before July 1, 2025, who retire from Town service with full, unreduced benefits from the North Carolina Local Government Employees' Retirement System may continue to receive retiree health insurance benefits on the Town's group insurance plan (if allowed by the carrier) by paying the full employee rate until they become eligible for Medicare.

Employees hired after July 1, 2025, will no longer be eligible for the Town's post-employment group health benefits. Employees will continue to be eligible for COBRA coverage for the continuation of benefits.

Section 9. 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 10. 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 so that appropriate action may be taken at once.

Responsibility for claiming compensation under the Workers' Compensation Act is on the injured employee. **The Human Resources Director will assist the employee in filing the claims.** Claims must be filed by the employee with the North Carolina Industrial Commission within two years from the date of injury.

Under NC Workers' Compensation law, the Town has the right to direct medical care for employees who suffer work related injuries or illnesses.

A disability of over seven calendar days is required before payment of Workers' Compensation salary benefits begin under the Workers' Compensation Act. An employee may use accrued sick or vacation leave during the first seven calendar day waiting period. If the work-related disability exceeds seven calendar days, the employee will be placed on Workers' Compensation Leave. During recovery from an accident, an employee may be able to work on light-duty assignments for all or part of the workday. Failure to report to a modified or light-duty assignment may result in disciplinary action and/or the workers' compensation salary supplement may be stopped.

Before returning to work, a statement from the attending physician should be submitted to the Human Resources Director giving permission for the employee to resume regular duties. Upon return to work, the employee's salary will be computed on the basis of the last salary plus any salary increase to which the employee would have been entitled based upon performance and other compensation policies.

This provision also applies to reactions to smallpox vaccinations administered to Town employees under Section 304 of the Homeland Security Act. Such reactions shall be treated the same as any other workers' compensation claim as regards leave and salary continuation. Eligible employees with an adverse reaction will have any medical expenses covered similar to other workers' compensation injuries.

Section 11. Unemployment Compensation

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

Section 12. 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 eligible expenses up to a total of five hundred dollars (\$500) per fiscal year. Satisfactory completion of the courses will be required for reimbursement. Requests for tuition assistance shall be submitted to the Human Resources Director prior to course registration and are subject to the review and approval of the Town Manager, as well as subject to the availability of funds.

ARTICLE VII. HOLIDAYS AND LEAVES OF ABSENCE

Section 1. Policy

The policy of the Town is to provide annual leave, sick leave, and holiday leave to all full-time and part-time employees and to provide proportionately equivalent amounts to employees having average workweeks of different lengths. Employees shall accrue leave proportionately with each payroll. **In all cases, an employee with a compensatory leave balance shall use compensatory leave prior to use of sick or vacation leave.**

Section 2. Holidays

The Town of Erwin observes the same holiday schedule as designated by the North Carolina State Government Holiday Schedule, currently with twelve paid holidays per year. The following are the designated holidays with full pay for employees of the Town:

New Year's Day	Labor Day
Martin Luther King Jr. Birthday	Veteran's Day
Good Friday	Thanksgiving Thursday & Friday
Memorial Day	Christmas (three days)
Independence Day	

Christmas holidays will coincide with North Carolina State government days observed.

When any recognized holiday falls on a Saturday, the preceding Friday shall be observed as the holiday. When any recognized holiday falls on Sunday, the following Monday shall be observed as the holiday.

In order to receive a paid holiday, an employee must have worked the day before and the day after the holiday(s) or have been given approved leave.

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 a designated holiday shall receive time and a half pay for each hour worked on the holiday and shall receive straight-time hours of pay equivalent to the workweek equivalent average day (8.4 hours for Police) in compensation for the holiday.

If a holiday falls on a regularly scheduled off-duty day for shift personnel, the employee shall receive straight-time hours of pay equivalent to the workweek equivalent average day (8.4 hours for Police) in compensation for the holiday.

This section of the policy will be in effect as of July 1, 2013.

Section 5. Vacation Leave

Vacation leave is intended to be used for rest and relaxation, school appointments, and other personal needs. It may be used for medical appointments.

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

Section 6. Vacation Leave: Use by Probationary Employees

Employees serving a probationary period following initial employment may accumulate vacation leave but shall not be permitted to take vacation leave during ~~the first six months of employment probationary period~~. This provision may be waived by the Town Manager for special circumstances such as a death in the family or other family emergency. Employees who have preplanned family vacations, family weddings, etc., at the time of employment may be allowed to use leave without pay for such events.

Section 7. Vacation Leave: Accrual Rate

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

Years of Service	Days Accrued Per Year
0 – 2 years	10
3 – 9 years	12
10 – 14 years	15
15 – 19 years	18
20 + years	21

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 first payroll in the calendar year, any employee with more than 30 days of accumulated leave shall have the excess accumulation transferred to sick leave so that only 30 days are carried forward to the next calendar year. Employees are not eligible to receive pay for vacation time not taken.

Employees are cautioned not to retain excess accumulated vacation leave until late in the year. Because of the necessity to keep all functions in operation, large numbers of employees cannot

be granted vacation leave at any one time. If an employee has excess leave accumulation during the latter part of the year and is unable to take such leave because of staffing demands, the employee shall receive no special consideration either in having vacation leave scheduled or in receiving any exception to the maximum accumulation.

Section 9. Vacation Leave: Manner of Taking

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

Section 10. Vacation Leave: Payment upon Separation

An employee who has successfully completed six months of the probationary period will normally be paid for accumulated vacation leave upon separation (leave from work) not to exceed 30 days, provided notice is given to the supervisor at least two weeks in advance of the effective date of resignation (4 weeks for department heads).

Any employee failing to give the notice required by this section shall forfeit payment for accumulated leave. The notice requirement may be waived by the Town Manager when deemed to be in the best interest of the Town. Employees who are involuntarily separated shall receive payment for accumulated annual leave subject to the 30-day maximum. **Employees dismissed for criminal conduct may be determined ineligible to receive vacation payout.**

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 this Article.

Section 12. Sick Leave

Sick leave **benefits are a privilege granted to employees by the Town, not a right, and may be used only for the purposes described in this policy. Abuse of sick leave privileges will subject the employee to disciplinary action.**

Sick leave may be granted to a probationary or regular employee absent from work for any of the following reasons: sickness, bodily injury, required physical or dental examinations or treatment, or exposure to a contagious disease when continuing work might jeopardize the health of others. **Sick leave is not intended to provide time off for recreation, personal reasons, or to extend vacations.**

Sick leave may also be used when an employee must care for a member of his or her immediate family who is ill but may not be used to care for healthy children when the regular caregiver is sick. For the purposes of this benefit, "immediate family" is defined as the spouse, child, parent,

sibling, grandparent, grandchild, aunt, or uncle of the employee or spouse of the employee, or guardian. This also includes various combinations of “step” and adopted relationships.

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

Notification of the desire to take sick leave should be submitted to the employee’s supervisor prior to the leave or according to departmental procedures. If an employee is unable to report to work, the employee must notify their supervisor as soon as practical after the beginning of the regular scheduled workday, or no later than two (2) hours after the beginning of the scheduled workday. The employee is responsible for keeping their Department Head informed on a regular basis of the status of their return to work. The Town may require that employees obtain a physician’s statement attesting to the employee’s capacity to resume work duties. Failure to properly notify the Department Head or provide necessary medical documentation may result in disciplinary action.

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 and part-time employees working other than the basic work schedule shall be pro-rated 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 a reduction in force.

However, employees who resign in good standing or are dismissed from employment because of a reduction in force and are reinstated within 3 years shall be credited with their previously accumulated sick leave. Employees who are dismissed from employment for reasons other than a reduction in force or who are not reinstated within 3 years shall lose all sick leave credits.

Section 14. Transfer of Sick Leave from Previous Employer

~~The Town will accept the transfer of sick leave for employees from other employers who are participants of the Local or State Employees Retirement System. The sick leave will be treated as though it were earned with the Town of Erwin. The sick leave amount must be certified by the previous employer.~~

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

Section 15. Sick Leave: Medical Certification

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

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

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

Section 16. Leave Pro-rated

Holiday, annual, and sick leave earned by full-time and part-time employees with fewer or more hours than the basic workweek 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 workweek (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 workweek.
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 17. Leave Without Pay

A full or part-time employee may be granted a leave of absence without pay for a period of up to twelve months by the Town Manager. The leave shall be used for:

- reasons of personal illness or injury after both sick leave and desired amount of compensatory time and/or annual leave have been exhausted,
- sickness or disability of immediate family members,
- continuation of education,
- special work that will permit the Town to benefit from the experience gained or the work performed,
- or for other reasons deemed justified by the Town Manager.

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

Failure to report at the expiration of a leave of absence, unless an extension has been requested, shall be considered a resignation.

The employee ceases to earn leave credits or holidays on the date the leave without pay begins. The employee may continue to be eligible for benefits under the Town's group insurance plans at this or her own expense through COBRA election, subject to any regulations of the insurance carrier.

Section 18. Workers' Compensation Leave

Under the North Carolina Workers' Compensation Act, employees may be compensated for absence from work due to injury or illness covered by the Act, subject to the following leave provisions:

- 1) There is a mandatory seven (7) calendar day waiting period before Workers' Compensation salary benefits begin. For this initial 7-day waiting period, employees may elect to use accrued sick leave, vacation leave, or compensatory time. Beginning the 8th calendar day following the injury or illness, employees who have not returned to work shall be placed in a Workers' Compensation Leave Without Pay status.
- 2) Employees out of work on Workers' Compensation Leave receiving workers' compensation benefits will not accrue vacation leave, sick leave, or paid holidays and their local government retirement and 401k benefits are not paid during this period. Employees will retain all accumulated sick and vacation leave.
- 3) An employee on Workers' Compensation leave may be eligible for health benefits for three months. After three months the employee may elect to continue health benefits by electing COBRA. Other insurance and payroll deductions are the responsibility of the employee and the employee must make those payments for continued coverage of that benefit.
- 4) Upon reinstatement, an employee's salary will be computed on the basis of the last salary plus any salary increase to which the employee would have been entitled during the absence covered by Workers' Compensation benefits.
- 5) After returning to work, employees shall be required to use sick or vacation leave for any additional absences for doctor visits, physical therapy, and other required medical care except where any full or partial workday absence may be eligible for Workers' Compensation payment.
- 6) The Town of Erwin's personnel policies shall continue to apply to an employee on Workers' Compensation leave in the same manner as they would apply to an employee who continues to work or is absent while on some other form of leave.
- 7) An employee is prohibited from moonlighting or performing other outside work during any kind of leave including workers' compensation leave.
- 8) The ability to return to work will be assessed individually, on a case-by-case basis. The Town will engage in an interactive process with the employee to carefully analyze whether accommodations requested are reasonable while not creating an undue hardship to the Town. If business necessity requires the Town to fill the position prior to the employee's return to work, the employee will receive priority consideration for qualified job openings for 6 months after their medical release to work.

- 9) Before an employee may return to work from a Workers' Compensation injury at full or light duty, the employee must provide a physician's note or Fitness for Duty certification to his/her supervisor indicating that he/she is released and capable of resuming duties, and what, if any restrictions are in place. The decision to allow an employee back on light duty and to determine the location of the light duty rests with the Town.
- 10) When worker's compensation leave extends long enough for the waiting period to be reimbursed, the employee shall return the reimbursement check to the Town and have leave hours reinstated for all time covered by paid leave. In such cases, the Town will pay the employee for any unpaid time that is owed the employee.

Section 19. ~~Short Term Disability and~~ Family Medical Leave

Provided that the Town has 50 or more full-time equivalent employees, the Town will grant up to 12 weeks of family and medical leave per twelve (12) months to eligible employees in accordance with the Family and Medical Leave Act of 1993 (FMLA). Until such time as the Town reaches that threshold, leave may be granted in a manner similar to FMLA as described below.

The leave may be paid (coordinated with the Town's vacation, compensatory time, and sick leave policies), unpaid, or a combination of paid and unpaid. As in the sick leave policy, sick leave is available only upon the documented disability of an employee or when an employee must care for a covered family member who is disabled. Sick leave may not be used to care for a healthy newborn or healthy children.

Unpaid leave will only be granted when the employee has exhausted all appropriate types of paid leave, including compensatory time. Additional time away from the job beyond the 12-week period may be approved in accordance with the Town's Leave without Pay policy.

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

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

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

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

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

An employee taking leave for the birth of a child may use paid sick leave for the period of actual disability, based on medical certification. The employee shall then use all paid vacation or leave without pay for the remainder of the 12-week FMLA period.

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

During a single 12-month period, the employee is entitled to a combined total of 26 weeks of all types of FMLA.

Military Caregiver Leave: An employee whose spouse, son, daughter, parent, or next of kin is a current service member who is undergoing treatment, therapy, recuperation, or outpatient treatment or has temporary disability retirement for injury or illness sustained in the line of duty, is eligible for 26 weeks of leave in a single 12-month period. During a single 12-month period, the employee is eligible for a total of 26 weeks of all types of FMLA leave. The request for the use of leave must be made in writing by the employee and approved by the Town Manager.

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

“Military Exigency” is a specific qualifying exigency arising out of the fact that the employee’s spouse, son, daughter, or parent is a military service member (reserve or National Guard) under a call or order to federal active duty in support of a contingency operation. Qualifying events are:

1. Deployment of a service member with seven or fewer days' notice;
2. Military ceremonies and events such as family assistance or informational programs related to the family member’s active duty or call to active duty;
3. Urgent, immediate childcare or arranging for alternative childcare for the children of service members;
4. Attending school or daycare meetings relating to the child of the service member;
5. Making financial or legal arrangements related to a family member’s active duty status or call to active duty; or
6. Post-deployment activities for a period of ninety days after the termination of the service member’s active duty status.

Medical and Family Leave Certification

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

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

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

Section 20. Leave without Pay and Retention and Continuation of Benefits

When an employee is on leave without pay under family medical leave as described above (maximum of 12 weeks in a year/ 26 if military caregiver leave), the Town will continue the employee's health benefits during the FMLA leave period at the same level and under the same conditions as if the employee had continued to work. If an employee chooses not to return to work for reasons other than a continued serious health condition, the Town will require the reimbursement of the amount paid for the employee's health insurance premium during the FMLA leave period.

Employees on leave without pay for non-family leave qualifying reasons will be required to pay for their health premiums beginning with the first full month of absence, subject to any regulation adopted by the Town Board and the regulations of the insurance carrier.

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

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

Section 21. Military and other USERRA Leave

The Town will fully comply with the requirements of the 1994 Uniformed Services Employment and Re-Employment Rights Act (USERRA) and related federal regulations. Employees taking leave under USERRA shall be eligible to take accumulated vacation leave, accrued compensatory time, or be placed in a leave without pay status, and the provisions of that leave shall apply. While taking USERRA leave, the employee's unused leave balances will be retained and any seniority-based benefits such as leave accrual rates will continue to accrue.

Employees performing USERRA duty of more than 30 days may elect to continue the Town's health care for up to 24 months but will be responsible for paying the insurance premiums up to 102% of the premium costs. Employees whose USERRA duty is less than 31 days will have their health insurance coverage paid as if they were at work with the Town.

Military Training

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. If the compensation received while on military leave is less than the salary that would have been earned during the same period as a Town employee, the employee shall receive partial compensation equal to the difference in base salary earned on active duty and the salary that would have been earned during the same period as a Town employee. The effect will be to maintain the employee's salary at the normal level during this period. To claim differential pay, the employee must submit a copy of his/her military orders, pay vouchers, leave and earnings statement and/or other appropriate documentation evidencing performance and compensation pertinent to the military duty.

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 these ten workdays, the employee shall be eligible to take accumulated vacation leave or be placed on 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 22. Reinstatement Following Military Service

An employee who is called to active duty with the United States military forces, and who returns to work in less than five years will be returned to the same or like position he or she occupied prior to the active duty enlistment with full seniority, status, leave accrual rates and pay as if there had been no break in employment. A military discharge form "DD214" with an honorable discharge must be submitted with the notification of intent to return to work.

Time limits for employees to reapply for return to work after release from military service are:

- a) less than 31 days absence - employee must report to employer by the next business day.
- b) 31 days - 180 days absence - notification to the supervisor must be submitted within 14 days.
- c) more than 180 days absence - notification to the supervisor must be submitted within 90 days.

All reporting deadlines are extended for two years if the employee is injured during USERRA service

If the employee 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 23. Civil Leave

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

Employees in court for their own case or appearing voluntarily as a witness in another person's case must use annual leave or leave without pay for their time in court.

Section 24. Shared Leave Policy

Town employees may donate accumulated vacation leave to the sick leave account of an eligible employee who has exhausted all paid leave due to an extended medical leave. Guidelines for the program are available in procedures developed by the Manager.

Section 25. Inclement Weather Policy

The Town has responsibility for emergency services, including law enforcement. Adequate staff is required to operate these critical services seven days per week and 24 hours per day in all weather. Department heads should designate which staff are in critical positions required to report to work regardless of weather or other hazardous conditions.

In the event it becomes necessary to open Town offices late or to close early due to severe inclement weather, it is the Town's intent that employees receive their regular pay for the day.

Specific policies concerning inclement weather notification and leave are available from the Manager.

Section 26. Personal Leave

Town employees that are considered full-time employees will receive 16 hours of Personal Leave Time once a year. The 16 hours of leave time must be used within a year of receiving the Personal Leave Time. It cannot roll over to the next year. Personal Leave Time will not be paid out in the instance of an employee leaving his or her employment with the Town of Erwin either voluntarily or involuntarily. The intention behind this leave time is to allow our full-time employees to take time off to get tasks completed which need to be taken care of during normal business hours, including the involvement in and attendance of school activities for their child(ren). Personal Leave

Time cannot be used to extend a holiday weekend and cannot be used in cohesion with any other type of leave.

Personal leave is subject to the following conditions:

1. The leave must be taken at a time mutually agreed upon by the employee and the Town;
2. The Town may require the employee to request the leave in writing at least 48 hours prior to the time of the desired leave; and
3. No more than 4 hours of personal leave may be taken at one time.

Personal Leave requests must be approved by an employee's Department Head. Personal Leave Time requests can be denied by a Department Head if it is not feasible for that employee to be off at the requested time.

Section 27. Parental School Leave

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

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

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

Section 28. Bereavement Leave

Regular, full-time employees will receive up to three (3) days leave at full pay each calendar year to attend the funeral of an immediate family member (spouse, parent, children, sibling, grandparent, grandchildren plus the various combinations of half, step, in-laws and adopted relationships that can derived from those named). Additional time to settle affairs of the family may be taken with the approval of the Department Head and should be charged to vacation or sick leave, accrued compensatory leave, or leave without pay.

Section 29. Employee of the Quarter Leave

Town employees awarded the Employee of the Quarter shall be given one day's worth of leave. The 8 hours (12 hours for Police Patrol) must be used within the next quarter of receiving the award and must be used to take a whole day of leave. The time cannot be split into increments or to extend a holiday. It cannot roll over and will not be paid out in the instance of an employee leaving his or her employment with the Town of Erwin either voluntarily or involuntarily.

Employee of the Quarter Leave is subject to the following conditions:

1. The leave must be taken at a time mutually agreed upon by the employee and the Town;
2. The Town may require the employee to request the leave in writing at least one week prior to the time of the desired leave; and

Employee of the Quarter Leave requests must be approved by an employee's Department Head. Employee of the Quarter Leave time requests can be denied by a Department Head if it is not feasible for that employee to be off at the requested time.

Section 30. Administrative Leave

A Town employee may be placed on administrative leave with or without pay pending investigations including but not limited to motor vehicle accidents, alleged inappropriate actions on the job, or any other matter deemed necessary by the Town. Administrative leave is not to be construed as disciplinary action.

ARTICLE VIII. SEPARATION AND REINSTATEMENT

Section 1. Types of Separations

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

Section 2. Resignation

An employee may resign by submitting the reasons for resignation and the effective date in writing to the immediate supervisor as far in advance as possible. In all instances, the minimum notice requirement is two weeks. 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 Manager.

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

Section 3. Reduction in Force

If a reduction in force becomes necessary, consideration shall be given to the quality of each employee's performance, organizational needs, and seniority 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 permanent 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.

Section 4. Disability

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

Employees who meet the requirements of the North Carolina Local Governmental Employees Retirement System may qualify for a disability retirement. Information about this option is available from the Retirement System.

Section 5. Voluntary Retirement

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

Section 6. Death

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

Section 7. Dismissal

An employee may be dismissed in accordance with the provisions and procedures of Article IX.

Section 8. Reinstatement

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

Section 9. Rehiring

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

ARTICLE IX. DISCIPLINARY ACTIONS

Section 1. Policy

A non-probationary employee may be reprimanded, suspended, demoted or dismissed as provided below; however, nothing contained herein shall replace, change or modify the employment-at-will status as first stated in Article 1 of these policies.

The Town generally administers a progressive disciplinary procedure in which discipline is administered in proportion to the degree of severity and frequency of unacceptable employee behavior. Progressive discipline is intended to allow the employee the opportunity to correct deficiencies in work behavior by clarifying and prescribing to the employee the appropriate behavior. All disciplinary actions are subject to the approval of the Town Manager.

Employees may be disciplined for improper personal conduct or unsatisfactory performance of job duties, as described in this Article. The Town may also discipline employees for performance problems and/or conduct not specifically identified in this Article.

Probationary employees who have not attained regular status and temporary employees may be dismissed immediately for unsatisfactory job performance or improper personal conduct violations. There is no right of appeal. Appropriate documentation of the dismissal will be included in the employee's personnel file.

Section 2. Procedure

Whenever, in the supervisor's judgment, employee performance, attitude, work habits, or personal conduct falls below the acceptable level, the supervisor shall inform the employee promptly and specifically of such performance problem(s) and give counsel and assistance. A reasonable period of time for improvement may be allowed before initiating disciplinary action and is within the discretion of the supervisor.

The Town generally follows the principles of progressive discipline. However, the supervisor, in consultation with the Town Manager, may determine the appropriate level of discipline, separate and apart from the progressive discipline, taking into consideration the particular incident. Disciplinary actions will be recorded in the employee's personnel file.

Disciplinary action may consist of any of the following, not necessarily in this order:

- Written Warning
- Written Warning with Condition(s) of Continued Employment
- Suspension
- Demotion
- Dismissal

Written Warning(s)

A documented discussion of specific work-related concerns indicating unacceptable personal conduct or performance deficiencies will be made with corrective measures to be followed. The receipt of a written warning should be acknowledged in writing by the employee. If the employee refuses to properly acknowledge the receipt of any written warning, the supervisor issuing the

written warning shall note the employee's refusal on the employee disciplinary report and have an additional supervisor sign the disciplinary report as a witness to the fact that the employee refused to sign the disciplinary report.

Written Warning with Condition(s) of Continued Employment

If an employee continues to perform his or her duties in an unsatisfactory manner, after the receipt of a written warning about deficiencies in the employees' work performance, or if the employee engages in improper personal conduct that involves a mitigating factor or a combination of mitigating factors deemed by management to warrant disciplinary action short of dismissal, the employee may be issued a written warning that contains conditions with which the employee must comply in order to maintain his or her employment with the Town. These conditions of employment may include, but are not limited to, performance requirements as well as a defined goal for the employee to attain in order to demonstrate that the employee is conducting him/herself in a manner that meets the expectations of the Town of Erwin.

The issuance of a written warning by the Town to an employee is for the convenience of the Town and is not a precondition of an adverse employment action. An employee may have an adverse employment action (including but not limited to suspension, demotion or dismissal) taken against them without prior written warning by the Town.

Suspension

If the behavioral infraction is extremely serious to the Town, other employees, or the public, the employee may be suspended without warning.

Demotion

An employee may also be demoted for unsatisfactory performance or for improper personal conduct without prior warnings(s). Before an employee is demoted for either reason, the supervisor shall submit a written summary of facts and circumstances leading to the decision to the Town Manager for approval to proceed. The report should include previous disciplinary action taken, previous written warnings and other documents that support the decision.

Dismissal

The supervisor recommending dismissal shall discuss the recommendation with the Town Manager. The Town Manager shall schedule and conduct a meeting with the employee in which the employee will receive notice of the recommended dismissal, including specific reasons for the recommendation, and summarize the information supporting that decision. The employee shall have an opportunity to respond to the recommended dismissal, to refute information supporting the dismissal action and to offer information or arguments to support his/her position. During this meeting no outside parties may participate. The Town Manager, or Human Resources Director, shall transmit to the employee written notice of the dismissal.

Section 3. Non-Disciplinary Suspension

During the investigation, hearing or trial of an employee on any criminal charge, or during an investigation related to alleged detrimental personal conduct, or during the course of any civil action involving an employee when suspension would, in the opinion of the Town Manager, be in the best interest of the Town, the employee may be suspended for part or all of the proceeding as a non-disciplinary action. In such cases, the Town Manager may temporarily relieve the

employee of all duties and responsibilities and place the employee on unpaid or paid leave for the duration of the suspension. If the employee is reinstated following the suspension such employee shall not lose any compensation or 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 unpaid suspension.

Section 4. Rights of Appeal

In the case of a demotion or dismissal, a regular employee can appeal to the Town Manager in writing within seven (7) workdays following the effective date of the personnel action that is under appeal. The Town Manager will review the written reports utilized by the supervisor to take the personnel action under appeal and may request additional information and documentation to consider the appeal. The Town Manager may request meetings with the employee as well as others involved.

In deciding the issue on appeal, the Town Manager may confirm or modify the recommendation of the supervisor and enter such order as the Town Manager may deem appropriate. The Town Manager's written decision shall be forwarded to the employee within ten (10) workdays from the date the written appeal was received. The decision entered by the Town Manager shall be final.

Section 5. Administrative Guidelines

As mentioned above, the Town will determine the appropriate level of discipline for both unsatisfactory job performance and conduct issues. Examples of both unsatisfactory job performance and improper personal conduct which could result in discipline are listed below.

(A) Unsatisfactory Job Performance

Unsatisfactory job performance occurs when an employee fails to meet job requirements or performance standards as established by the Town Manager. This policy does not require that progressive warnings address the same type of unsatisfactory performance.

The following list is illustrative, and is not an exhaustive or exclusive list, of the types of unsatisfactory job performance that may lead to the termination of an individual's employment with the Town:

- 1) Inefficiency or incompetence or negligence in performing duties;
- 2) Poor manner of work performance;
- 3) Failure to produce work of acceptable quality, quantity or accuracy;
- 1) Physical or mental incapability for performing duties after reasonable accommodation;
- 2) Careless, negligent or improper use of Town property;
- 3) Failure to maintain harmonious working relationships with fellow employees and the public;
- 4) Habitual pattern of failure to report for duty at the assigned time and place;
- 5) Absence without approved leave;

- 6) Improper use of sick or other leave privileges;
- 7) Failure to complete work within time frames established;
- 8) Repeated or serious incident of unsafe behavior at work;
- 9) Failure to obtain/maintain current license or certificate required as a condition of the job;
- 10) Failure to wear/use appropriate safety equipment or otherwise to abide by safety rules.

(B) Improper Personal Conduct

An employee who engages in a single act of improper personal conduct is subject to dismissal from employment with the Town of Erwin regardless of whether the employee has previously received a warning of any kind during his/her career with the Town.

The following list is illustrative, and is not an exhaustive or exclusive list, of the types of improper personal conduct that will lead to the termination of an individual's employment with the Town:

- 1) Conduct unbecoming a Town employee;
- 2) Fraud, theft or other illegal activities;
- 3) Conviction of a felony or the entry of a plea of nolo contendere thereto;
- 4) Willful misuse or gross negligence in the handling of Town funds or missing Town funds;
- 5) Personal use of Town equipment or supplies;
- 6) Falsifying records for personal profit, to grant special privileges or to obtain employment;
- 7) Engaging in any action that would in any way seriously disrupt or disturb the normal operations of the Town;
- 8) Willful acts that would endanger the lives or property of others;
- 9) Willfully damaging Town property;
- 10) Possessing unauthorized weapons, alcoholic beverages, or illegal substances on the job;
- 11) Violence or other aggressive, threatening, intimidating, bullying or disruptive behaviors whether by means of communication devices or by means of physical visits to the grounds or home of the targeted individual, for the purpose of harassing an individual;
- 12) Insubordination;
- 13) Accepting gifts for "favors" or "influence";
- 14) Without proper authorization, disseminating or otherwise releasing in any manner information that is lawfully maintained by the Town as confidential information;

- 15) Professional misconduct;
- 16) Leaving the work area repeatedly for excessively long periods without proper authorization;
- 17) Willful violations of Federal/State law or regulations or Town policies;
- 18) Violation of the Town's policies prohibiting sexual harassment, unlawful discrimination, retaliation, workplace violence, and/or substance abuse;
- 19) Providing or maintaining false or improper records/documents;
- 20) Providing an untruthful statement or statements during an administrative investigation conducted by the Town and/or otherwise attempting to impede the ability of the Town to conduct an accurate and complete administrative investigation.

ARTICLE X. GRIEVANCE PROCEDURE AND ADVERSE ACTION APPEAL

Section 1. Policy

The Town of Erwin is committed to providing employees an effective and responsive grievance process. 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 grievance procedures shall not be subjected to retaliation or any form of harassment from supervisors or employees for exercising their rights under this policy. Supervisors or other employees who violate this policy shall be subject to disciplinary action up to and including dismissal from Town service.

Section 2. Grievance Defined

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

Section 3. Purposes of the Grievance Procedure

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

1. Providing employees with a procedure by which their complaints can be considered promptly, fairly, and without reprisal;
2. Encouraging employees to express themselves about the conditions of work that affect them as employees;
3. Promoting a better understanding of policies, practices, and procedures which affect employees;
4. Increasing employees' confidence that personnel actions taken are in accordance with established, fair, and uniform policies and procedures; and
5. Increasing the sense of responsibility exercised by supervisors in dealing with their employees.
6. Encouraging conflicts to be resolved between employees and supervisors who must maintain an effective future working relationship, and therefore, encouraging conflicts to be resolved at the lowest level possible 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 a grievance, the following successive steps are to be taken unless otherwise provided. The number of calendar days indicated for each step should be considered the maximum unless otherwise provided, and every effort should be made to expedite the process. However, the time limits set forth may be extended by mutual consent. The last step initiated by an employee shall be considered to be the step at which the grievance is resolved. A decision to rescind a disciplinary suspension, demotion, or dismissal must be approved by the Town Manager before the decision becomes effective.

No Representation. Since the grievance conference is not a legal process, but a facilitated discussion between two persons, neither the grievant nor the Town may be represented by legal counsel or any other person at the grievance conference.

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

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

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

If the grievance is with an employee's supervisor, the grievance is to be presented directly to the Department Head. If the employee's grievance is with the Department Head, the grievance is to be presented directly to the Human Resource Director. If the employee's grievance is with the Town Manager, the grievance is to be made to the Human Resource Director, who will act as the mediating party in resolving the grievance.

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

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

Department Heads. In the case of department heads or other employees where the Town Manager has been significantly involved in determining disciplinary action, including dismissal, the Town may wish to obtain a neutral outside party to either:

1. Provide mediation between the grieving department head and the Town Manager (see definition of mediation in "informal resolution" above); or
2. Consider an appeal and make recommendations back to the Town Manager concerning the appeal. Such parties might consist of human resource professionals, attorneys, mediators, or other parties appropriate to the situation.

The Town Manager's decision shall be the final decision. The Town Manager would notify the Town Board of Commissioners of any impending legal action.

Section 5. Role of the Human Resources Director

Throughout the grievance procedure, the roles of the Human Resources Director shall be as follows:

- A. to advise parties (including employees, supervisors, and Town Manager of their rights and responsibilities under this policy, including interpreting the grievance and other policies for consistency of application;
- B. to be a clearinghouse for information, applicable forms, and decisions in the matter, including maintaining files of all grievance documents;
- C. to give notices to parties concerning timetables of the process, etc.;
- D. to assist employees and supervisors in drafting statements;
- E. to facilitate the resolution of conflicts in the procedures or of the grievance at any step in the process; and
- F. to help locate mediation or other resources as needed.

The Human Resources Director shall also determine whether or not additional time shall be allowed to either side in unusual circumstances if the parties cannot agree upon extensions when needed.

If the Human Resources Director has direct involvement with the situation surrounding the grievance in a manner that diminishes perceived neutrality, the Town Manager or another person appointed by the Town Manager may assume the role described in this section.

Section 6. Grievance and Adverse Action Appeal Procedure for Discrimination

When an employee, former employee, or applicant believes that any employment action discriminates illegally (i.e., is based on an individual's race, religion, color, sex, national origin, sexual orientation, age, veteran status, marital status, political affiliation, non-disqualifying disability, genetic information, or on the basis of actual or perceived gender as expressed through dress, appearance or behavior), they have the right to appeal such action using the grievance procedure outlined in this Article. While such persons are encouraged to use the grievance procedure, they shall also have the right to appeal directly to the Town Manager. Employment actions subject to appeal because of discrimination include a promotion, training, classification, pay, disciplinary action, transfer, layoff, failure to hire, or termination of employment. An employee or applicant should appeal the alleged act of discrimination within thirty calendar days of the alleged discriminatory action.

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:

- 1) Name;
- 2) Age;
- 3) Date of original employment;
- 4) Terms of any contract by which the employee is employed whether written or oral, past and current, to the extent that the Town has the written contract or a record of the oral contract in its possession;
- 5) Current position title;
- 6) Current salary;
- 7) The office to which the employee is currently assigned;
- 8) Date and amount of each increase or decrease in salary with the Town;
- 9) Date and type of each promotion, demotion, transfer, suspension, separation, or other change in position classification with the Town;
- 10) Date and general description of the reasons for each promotion with the Town;
- 11) Date and type of each dismissal, suspension, or demotion for disciplinary reasons taken by the Town
- 12) for dismissals due to disciplinary reasons, a copy of the written notice of the final decision of the Town setting forth the specific acts or omissions that are the basis of the dismissal.

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.

For the purposes of this subsection, the term "salary" includes pay, benefits, incentives, bonuses, deferred, and all other forms of compensation paid by the Town.

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 their duly authorized agent may examine all portions of the employee's personnel file except letters of reference solicited prior to employment and information concerning a medical disability, mental or physical, that a prudent physician would not divulge to the patient.
2. A licensed physician designated in writing by the employee may examine the employee's medical record.
3. A Town employee having supervisory authority over the employee may examine all material in the employee's personnel file.

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

The Town Board of Commissioners shall establish procedures for all personnel files containing information other than the public information mentioned above whereby an employee who objects to the material may seek to have the material removed from the file or may place in the file a statement relating to the material.

Section 3. Personnel Actions

The Town Manager will prescribe necessary forms and reports for all personnel actions and will retain records necessary for the proper administration of the personnel system. There shall be one set of official personnel files, centrally located as designated by the Town Manager. Any document not located there is not an official part of that employee's personnel record.

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

Section 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.

ARTICLE XII. IMPLEMENTATION OF POLICIES

Section 1. Conflicting Policies Repealed

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

Section 2. Separability

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

Section 3. Amendments

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

Adopted this day _____ - _____, 20

Town of Erwin Drug and Alcohol Policy

PURPOSE:

The Town of Erwin has a responsibility to all employees to provide a safe work environment that is free of controlled substances and alcohol as well as a responsibility to the public to ensure that its safety and trust in the Town of Erwin is upheld. The Town intends to maintain a workplace free of the problems associated with the illegal use of drugs and/or controlled substances and the abuse of alcohol. This Policy serves to provide notice regarding the expectations and procedures for testing job applicants and employees for the use of controlled substances and alcohol.

PLEASE NOTE THAT CERTAIN EMPLOYEES MAY BE SUBJECT TO DIFFERENT DRUG TESTING REQUIREMENTS. IN THE EVENT OTHER LAWS ARE INCONSISTENT WITH THIS POLICY, THE STRICTER LAW WILL APPLY.

PROHIBITED CONDUCT

The Town of Erwin has adopted a policy that prohibits the following behaviors by employees:

- Town employees shall not, under any circumstances, report to work, work, or operate Town-owned, leased, rented or personal vehicles while on Town business, with any presence of controlled substances, or certain legal prescription drugs if such legal prescription drugs would impair the employee's ability to drive. It is the responsibility of the employee to take reasonable care in the use of prescription drugs and to be aware of any impairing side effects such prescription drugs may cause.
- Town employees shall not, under any circumstances, report to work, work, or operate Town-owned, leased, rented or personal vehicles while on Town business, while under the influence of or with the smell of alcohol on their breath.
- Town employees shall not consume, use, store or possess alcohol or any controlled substance while working, in reporting to work, while on work premises, or in Town-owned, leased, rented or personal vehicles while on Town business.
- Town employees shall not manufacture, dispense, sell, distribute, or provide alcohol or any controlled substance, while working, in reporting to work, while on work premises, or in Town-owned, leased, rented or personal vehicles while on Town business. (Exceptions for employees whose job duties require them to sell and distribute alcohol.)

SCOPE AND APPLICATION

This policy covers all applicants for employment and all employees, whether full-time, part-time, temporary, or otherwise, of the Town of Erwin.

COMPLIANCE

Records concerning any employee's involvement with this Policy shall be confidential and only released in conformance with North Carolina law, in particular with relation to drug testing laws, public records, health care information, and employee privacy laws. Information related to Town-

required tests will not be provided to other employers or agencies without the written permission of the person whose records are sought.

Any drug or alcohol test should be treated as if it were a “search and seizure” and as such, is to be reasonable, conducted in a legal manner, and only as intrusive as necessary. The Town reserves the right to conduct searches or inspections of property assigned to an employee whenever the Town Manager or his or her designee determines that the search is reasonable pursuant to this Policy. Town employees shall have no expectation of privacy in their workspaces or assigned vehicles for purposes of alleged, suspected, apparent or actual violation of this policy, and shall consent to drug testing pursuant to this policy as a condition of continued employment. Nothing in this policy is intended to violate the First, Fourth and/or the Fourteenth Amendment rights of Town employees.

The terms used herein should be given the meaning provided by applicable North Carolina and/or Federal law, or if not applicable, their ordinary meaning. The terms “drug” and “illegal drug” are both included in the definition of Controlled Substance, and should be read as though they have the same definition unless otherwise noted. Unless otherwise required by law, the Town considers the use of legal but un-prescribed drugs to be “illegal.”

DRUG SCREENING CRITERIA

The Town of Erwin may request that an employee and/or applicant undergo a drug and/or alcohol screening under the following circumstances:

1. PRE-EMPLOYMENT. Applicants who have been offered employment with the Town of Erwin will be required to undergo a pre-employment drug screening test as part of the hiring process. The Town will withdraw an offer of employment made to any applicant whose drug screen test reveals the presence of illegal drugs or prescription drugs without a valid prescription.
2. POST-ACCIDENT or INCIDENT. All employees will be tested for the presence of controlled substances and/or alcohol following an on-the-job accident, incident or unsafe practice, when the supervisor or department head determines there is a reasonable possibility that alcohol or drugs could have been a contributing factor. For example, post-accident testing should be done if:
 - a. There is a reasonable basis, based on the elements of reasonable suspicion, that alcohol or drugs may have been a contributing factor to the accident, incident or unsafe practice; or
 - b. The accident involves a fatality or bodily injury requiring immediate professional medical attention away from the scene of the accident, if circumstances indicate such bodily injury may have been caused by the employee; or
 - c. If a vehicle involved receives disabling damage to the extent that it must be towed; or
 - d. If the employee receives a citation under state or local law for a moving traffic violation arising from the accident; or
 - e. If significant property damage is involved and if circumstances suggest that the employee may have contributed to the accident/incident.

A post-accident alcohol test should be administered as soon as possible, but in no event more than eight (8) hours following the accident. A post-accident drug test should also be administered as soon as possible, but in no event more than 32 hours following the accident. If the tests cannot be performed in the specified time frame, the reasons for the failure to test should be documented by the supervisor and given to the Human Resources Director.

3. REASONABLE SUSPICION TESTING. When there is reasonable suspicion from a supervisor or department head, based on the totality of the circumstances, that an employee's behavior or appearance during a specific period of time may indicate he/she is in violation of this Policy, reasonable suspicion testing will be performed. Reasonable suspicion must be based on specific, objective facts or reasonable inferences that would cause a reasonable person to suspect that the employee is under the influence of alcohol or illegal drugs while at work. Circumstances which constitute a basis for determining reasonable suspicion may include, but are not limited to:

- a. Direct observation by a person known to the employee's supervisor as reliable of prohibited drug or alcohol use;
- b. Specific, clearly stated observations concerning the appearance, behavior, speech or body odor of the employee, including but not limited to observations related to slurred speech, uncoordinated movement, odor of marijuana or alcohol about the person or incoherence;
- c. Specific, clearly stated observations of conduct or erratic, irrational behavior while at work such as a physical or verbal altercation or sudden deterioration in work performance;
- d. Possession of drugs or alcohol;
- e. Arrests, citations, and prosecutions associated with drugs or alcohol;
- f. A report of prohibited drug or alcohol use provided by a reliable and credible source, whether on or off the job. Attempts should be made to independently corroborate such a report, particularly if it is made anonymously.
- g. Evidence that an employee is involved in the unauthorized possession, sale, solicitation or transfer of drugs or alcohol while working;
- h. A pattern of unexplained and unusual vehicle or personal accidents or injuries;
- i. Evidence that an employee or applicant has tampered with his/her alcohol or drug test or has attempted to compromise the test sample or the testing process; and
- j. A prior history of confirmed violations of this or similar policies by the employee during Town employment.

Reasonable suspicion alcohol testing should be done within two (2) hours of the observed behavior or appearance. If a test cannot be done within eight (8) hours, it should not be done. A reasonable suspicion controlled substance test should be done no later than 32 hours from the observed behavior or appearance. If a reasonable suspicion test cannot be conducted within the specified time frame, the reasons for the failure to test should be documented by the supervisor and given to the Human Resources Director.

4. **RANDOM TESTING.** An employee entrusted with preserving public health/safety or the safety of other employees has a special responsibility to maintain physical and mental fitness for duty at all times while on the job. Testing may be conducted on a random basis on employees that hold safety-sensitive positions, chosen by a method that provides an equal probability that every employee will have an equal chance of being selected. For purposes of this policy, a safety sensitive position is a position in which the essential duties of the employee carry with it a heightened risk of injury or danger to themselves or any person(s) under their control. Employees whose names are randomly selected from the pool must be tested just before, during or just after performing job responsibilities. Safety sensitive positions include:

- a. All sworn law enforcement personnel;
- b. All fire employees designated as first responders;
- c. Positions requiring the consistent and frequent operation of heavy equipment, machinery or motor vehicles as a primary task;
- d. Positions working around large equipment with potential for hazards;
- e. Positions requiring the handling of hazardous materials, the mishandling of which may place the employee or the general public at risk of serious injury;
- f. Positions required to drive citizens or clients;
- g. Other positions as required by law, or as designated by the Town Manager due to the specific safety-sensitivity of individual jobs.

5. **RETURN-TO-DUTY AND FOLLOW-UP TESTING.** Employees who have violated this Policy and are returning to work, or otherwise have been referred to counseling or rehabilitation as a result of a positive drug or alcohol test may be required to undergo drug and/or alcohol screening tests prior to returning to work, and at any time after their return to duty for a period of up to five years. Employees subject to follow-up testing pursuant to the Federal Motor Carrier Safety Act will be tested at least six (6) unannounced times within the first year back to work.

TESTING DETAILS

Drug tests require an employee to provide a urine sample or other legally acceptable testing specimen. The collection, analysis and reporting processes are strictly controlled to ensure privacy, sanitation, accuracy and confidentiality. With respect to the results of a drug test, a “positive” test means a test result showing the presence of drugs or controlled substances at a level specified to be a positive test pursuant to then-current law.

Alcohol tests will be conducted from a saliva, breath, blood specimen, or other legally acceptable testing mechanism. Generally speaking, a blood alcohol concentration of 0.04 higher is considered a positive alcohol test. A blood alcohol concentration of 0.02 or greater may require a confirmation test pursuant to applicable law.

An employee will be notified in writing of any confirmed positive test result. An employee with a confirmed positive result must be notified of their right to retesting per North Carolina and Federal law. Employees have the right to retest a confirmed positive sample at their own expense.

All cost of testing will be the responsibility of the Town. However, the cost of return to duty, follow-up, or employee requested retesting will be the responsibility of the employee.

A confirmed positive test result may result in disciplinary action up to and including termination. Factors which may be considered in determining an appropriate action include the nature of the position to which assigned, the employee's work history, the extent of performance deficiencies, the seriousness of accidents or incidents, and existence of past disciplinary actions, and the trusted position of the Town as an employer and provider to the public. Mandatory EAP referral, leave without pay and/or disciplinary action, up to and including termination may result. Employees who continue employment while undergoing counseling or rehabilitation will be required to meet all established standards of conduct and job performance as well as fully cooperate and participate in their rehabilitation program and adhere to recommendations of the Town Manager. Employees are encouraged to voluntarily request counseling or rehabilitation before substance abuse leads to disciplinary or other work-related problems.

Due to the magnitude of potential adverse consequences of the use of controlled substances and alcohol, which can range from personal injury or equipment damage to death of co-workers or the public, any violations of this policy will subject the employee to disciplinary action, up to and including termination. The Town reserves the right to immediately terminate any employee who is found in violation of this Policy. An employee who refuses to participate in, cooperate with, or abide by the rules of this policy may also be immediately terminated from employment with the Town.

IMPAIRMENT OR OTHER BEHAVIOR OFF THE JOB

Any employee whose job duties require operation of a motorized vehicle, hazardous machinery or use of hazardous materials who is CHARGED with a controlled substances or alcohol related offense (including DWI) must notify the appropriate supervisor or department head within one work day of arrest, arraignment or indictment. Any employee who is required to have a driver's license for the performance of their job duties will be placed either in a non-disciplinary or a disciplinary suspension without pay status until their license is returned after the automatic ten-day revocation. An employee's failure to notify his/her supervisor or department head may result in disciplinary action, up to and including termination. Under no circumstances shall an employee operate a Town vehicle or equipment without a valid operator's license.

Any employee CONVICTED of a controlled substance or alcohol related offense must notify the appropriate supervisor or department head within one workday of conviction. Failure to notify management may result in disciplinary action, up to and including termination. If an employee's job functions require a valid driver's license and the employee's license is revoked, the employee shall be subject to disciplinary action, up to and including termination. Failure to notify the supervisor or department head of any revocation shall result in disciplinary action, up to and including termination. Under no circumstances will an employee operate a Town vehicle or equipment without a valid operator's license.

Any employee convicted of an off the job controlled substance or alcohol related offense which could directly, or indirectly, affect his/her credibility or ability to carry out effectively the duties and responsibilities of his/her position with the Town of Erwin, shall be subject to review by the Town Manager and possible disciplinary action, up to and including termination.

RELIEF FROM DUTY

An employee will normally be placed on non-disciplinary leave without pay while awaiting results of a post-accident or reasonable suspicion drug test (since the employee is considered to be awaiting disciplinary action if the test is positive).

FAILURE TO COOPERATE

Employee compliance with the Town of Erwin Drug and Alcohol Policy is mandatory. Failure or refusal to fully cooperate and participate in the program, sign any required documents or submit to a drug and/or alcohol screening test will be grounds for termination of employment. Failure or refusal to cooperate means that an employee fails to report for a test, refuses to provide a sample, purposely provides an insufficient sample, refuses to sign the confirmation test certification, or otherwise engages in conduct that clearly obstructs the testing process, such as purposefully avoiding the time limits described in the above policy. An employee who leaves a testing site before a test can be administered or who unnecessarily leaves the scene of an accident before a required test is administered or fails to remain readily available for testing may be deemed to have refused to cooperate.

SUMMARY

No part of this policy is intended nor shall be construed to affect the Town of Erwin' right to manage its workplace, to discipline its employees or to change the "at will" nature of employment with the Town. Since it is impossible to anticipate every situation which may arise under this policy, the Town Manager should be contacted to resolve any situation not addressed herein

**BUDGET ORDINANCE AMENDMENT
BOA 2025 – 07
FISCAL YEAR 2024-2025**

BE IT ORDAINED by the Governing Board of the Town of Erwin, North Carolina that the following amendments are made to the annual budget ordinance for the fiscal year ending June 30, 2025.

Section 1. This Budget Ordinance Amendment seeks to Increase Revenues and Increase Expenditures by \$123,738. This amendment seeks to increase the Police Capital Outlay budgeted account to cover the purchase of two new Police vehicles including upfit cost.

Section 2. To amend the General Fund: The Revenues are to be changed as follows:

Account	Description	Current Approp.	Increase/Decrease	Amended Appropriation
10-3010-031	Prior Yr Ad Valorem	\$5,000	(+) \$7,500	\$ 12,500
10-3290-000	Interest Earned	\$120,000	(+) \$69,000	\$ 189,000
10-3010-024	Ad Valorem – 2024	\$1,554,536	(+) \$2,240	\$ 1,556,776
10-3170-000	Penalties & Interest	\$6,000	(+) \$2,150	\$ 8,150
10-3350-000	Other Revenues	\$4,754	(+) \$5,450	\$ 10,204
10-3450-000	Sales and Use Tax	\$1,018,000	(+) \$29,080	\$ 1,047,080
10-3650-020	Recreation Misc.	\$15,000	(+) \$5,328.00	\$ 20,328
10-3680-000	Christmas Parade Rev.	\$0	(+) \$2,990	\$ 2,990

Section 3. To amend the General Fund: The Expenditures are to be changed as follows:

Account	Description	Current Approp.	Increase/Decrease	Amended Appropriation
10-5100-740	Capital Outlay Equip.	\$67,609	(+) \$123,738	\$191,347

Section 4. Copies of this budget amendment shall be furnished to the Clerk, the Governing Board, the Budget Officer and the Finance Director for their direction.

Adopted this 3rd day of April 2025.

Randy L. Baker, Mayor

ATTEST:

Lauren Evans, Town Clerk

Erwin Board of Commissioners

REQUEST FOR CONSIDERATION

To: The Honorable Mayor and Board of Commissioners

From: Snow Bowden, Town Manager

Date: March 24, 2025

Subject: Golf Cart Text Amendment

Town Staff has prepared several updates to our existing golf cart ordinance. These updates are in line with other municipalities that allow golf carts on their municipal streets. These updates are all in line with North Carolina General Statutes. The proposed \$25 fee is an increase from the current \$10 fee and can be discussed later or kept at \$10. Town Staff have compared our fees to other surrounding municipalities and have found that the \$10 fee is rather low. The proposed updated ordinance does require golf carts to have seat belts, which our current ordinance does not require. North Carolina General Statutes require seat belts for golf carts that operate on municipal roads. In the proposed updates there is a more defined penalty section for people that violate this ordinance.

Before we can approve these proposed changes, we will need to schedule a public hearing since this would require a text amendment to our Town Code.

Attachments:

- Current golf cart ordinance
- Proposed updated golf cart ordinance

ARTICLE XIV. GOLF CARTS

Sec. 32-384. Purpose; definitions.

- (a) *Purpose.* The purpose of this article shall be to establish a golf cart ordinance within the town to promote the health, safety and welfare of persons operating carts within the town.
- (b) *Definitions.* For the purpose of this section, the following words and phrases shall have the following meanings:

Driver's license means a valid license issued to operate a motor vehicle issued by this state or any other state.

Financial responsibility means liability insurance coverage on a golf cart in an amount not less than required by state law for motor vehicles operated on public highway in the state.

Golf cart means a vehicle designed and manufactured for operation on a golf course for sporting or recreational purposes and that is not capable of exceeding speeds of 20 mile per hour.

Operator means only persons over 16 years of age and holding a driver's license may operate a golf cart.

(Ord. of 8-8-2008, §§ A, B)

Sec. 32-385. Rules and regulations.

- (a) Carts may be driven on roads only from dawn to dusk, unless the cart is equipped with two operating headlights (one on each side of the front of the golf cart) and two operating tail lights with brake lights (one on each side of the rear of the cart) which are visible from a distance of 500 feet.
- (b) Carts must be equipped with rear vision mirror and a rear triangle reflector of the same type required by state law.
- (c) Cart drivers must have a valid driver's license in their name.
- (d) Cart drivers will stay to the far right of the traveled portion of the road and yield the right-of-way to overtaking vehicles.
- (e) The number of occupants in a golf cart shall be limited to the number of persons for whom individual seating is installed and provided on the golf cart. The operator and all occupants shall be seated in the golf cart and no part of the body of the operator or occupant shall extend outside the perimeter of the golf cart while the golf cart is in motion.
- (f) All applicable state laws shall be adhered to, including the possession and use of alcoholic beverages.
- (g) The operator of the golf cart shall comply with all traffic rules and regulations adopted by the state and the town which governs the operation of motor vehicles.
- (h) Carts will adhere to all traffic flow patterns and will operate on the right side of the roadway.
- (i) Carts shall not be operated on sidewalks.
- (j) Carts shall not be operated on private property, without the permission and consent of the property owner.
- (k) No cart may be operated on the following streets: Denim, Old Post, 13th Street US 421. These roads may be crossed at a proper intersection.

(l) Chicora Club Road and all roads in Chicora Country Club are exempt from this article.

(Ord. of 8-8-2008, § 1)

Sec. 32-386. Inspection and fees.

The inspection by the chief of police, or designee, will cover the following safety requirements and every cart operating on town streets must have the following safety equipment:

- (1) Permits/stickers issued to operators/owners of golf carts by the town police department.
- (2) Each owner must have proof of ownership, and liability insurance, and a completed waiver of liability, releasing the town, its employees, and affiliates from all liability that may arise as a result of operating a cart inside the town. A current waiver of liability must be on file with the town police department, and must be renewed annually.
- (3) All carts must meet the requirements or minimum standards of safety equipment as set forth in section 32-385.
- (4) All cart operators must present a valid driver's license.
- (5) Permits/stickers will be issued annually, and are valid from July 1 of each year. The following fees shall apply:

Inspection by police department (includes permit/sticker)	\$10.00 annually
Re-inspection by police department (if a cart fails the initial inspection)	\$5.00

- (6) Lost or stolen permit/stickers are the responsibility of the owner. A police report must be filed in the event of a lost or stolen permit/sticker. The chief of police will have the discretion in determining whether a permit/sticker may be re-issued in this instance. If no record can be found of a previous application, or the receipt of a permit/sticker, the chief of police may direct the applicant to reapply, and also resubmit any and all fees necessary, before a replacement permit/sticker is issued.
- (7) Any person who operates a cart in the town and fails to receive and properly display a town permit/sticker will be subject to all applicable state laws, in addition to being in violation of this article.
- (8) Cart owners must complete the attached registration form, waiver of liability form and provide a copy of the proof of liability insurance prior to the cart being inspected. The completed forms and proof of insurance will be maintained by the town police department.

(Ord. of 8-8-2008, § 2)

Town of Erwin Golf Cart Ordinance

Article XIV Golf Carts

Sec. 32-384. - Purpose, definitions

(A) DEFINITIONS

(1) GOLF CART. A vehicle designed and manufactured for operation on a golf course for sporting or recreational purposes that is not capable of exceeding speeds of 20 mph. N.C.G.S 20-4.01(12a)

(2) OPERATE. To drive or to be in physical control of a golf cart that is moving or has its key inserted and in the on position.

Section- 32-385 Rules and Regulations

(B) REGULATION OF GOLF CARTS ON STREETS, ROADS, AND HIGHWAYS.

(a) Notwithstanding the provisions of G.S. 20-50 and G.S. 20-54, a city may, by ordinance, regulate the operation of golf carts, as defined in G.S. 20-4.01(12a), on any public street, road, or highway where the speed limit is 35 miles per hour or less within its municipal limits or on any property owned or leased by the city.

(b) By ordinance, a city may require the registration of golf carts, charge a fee for the registration, specify who is authorized to operate golf carts and specify the required equipment, load limits, and the hours and methods of operation of golf carts.

~~Section 32-386 Inspection and fees~~— Registration and Permit Requirements

(1) Registration and Permit required. To operate a golf cart in the corporate limits of the Town of Erwin under this section, the golf cart must be registered annually with the Erwin Police Department using an application furnished by the Police Department. A twenty-five dollar (\$25.00) per year registration fee must be paid to the Town before a registration sticker is issued. The registration sticker must be displayed on the body of the golf cart where it is visible. Low-speed vehicles subject to state regulation and licenses will be exempt from permits and inspection, but the Town of Erwin requests low-speed vehicle owners to register with the Town and obtain a sticker free of charge so the Town can maintain an accurate count of low-speed vehicles in Erwin.

(2) Basic requirements. In order to register a golf cart and secure an annual permit, the owner and golf cart must meet the following basic requirements:

(a). All golf cart operators must be over 16 years of age and possess a valid driver's license, except any driver or operator 18 years of age or older with a medical or physical condition that prevents that individual from being able to obtain a valid North Carolina driver's license. Any driver or operator with such a medical or physical condition must have certification from an appropriate medical professional that they can safely operate a golf cart. Any driver or operator that is exempt from the requirement of a valid North

Carolina license must still present and have a valid North Carolina Identification card on record and while operating a golf cart.

(b). The owner must possess and maintain liability insurance in an amount not less than required by North Carolina law for traditional motor vehicles operated on a public street or highway.

(c). The golf cart must have an identifiable vehicle identification number.

(3) Required safety features. In order to register a golf cart and secure an annual permit, a golf cart must have the following safety features installed:

a. Two operating front headlights or an equivalent light bar, visible from a distance of at least 250 feet; if operating at night.

b. Two operating tail lights, with brake lights and turn signals, visible from a distance of at least 250 feet. If operating at night.

c. A rear vision mirror;

d. A horn

e. Stop lamps

f. At least one triangle reflector;

g. A parking brake;

h. A seat belt assembly is installed at each designated seating position.

i. A windshield; and

j. Must be limited to a maximum of 3 rows of seats.

k. Any modification to the golf cart must comply with all safety requirements of this section and must be inspected by the appropriate Town staff prior to operation.

(4) Unobstructed views. No golf cart shall be registered, approved for use, or operated on the city's streets if the operator's view is materially obstructed, obscured, or impaired by any sign, poster, sticker, or other non-transparent material placed upon any front windshield, or side or rear window.

(5) Inspection. Prior to the issuance of a permit, designated town staff shall inspect the golf cart for compliance with the requirements of this section. No golf cart shall be registered and permitted unless it is in compliance with all requirements.

(6) Acknowledgment. Prior to the issuance of a permit, the owner shall sign an acknowledgment that he or she has read and understands the provisions of this section.

(7) Disqualified vehicles. All-terrain vehicles, 4-wheel utility vehicles, go-karts, and other similar utility vehicles that are not manufactured for operation on a golf course, and/or a golf cart which has been modified so that it no longer meets the definition of a golf cart may not be registered as a golf cart under this section or shall such vehicles be operated on the public roads, streets, and highways within

the town unless such vehicles are registered and permitted under the motor vehicle laws of North Carolina.

(8) Exceptions:

- a. The operation of golf carts on private property, with the consent of the owner
- b. The operation of golf carts within private, gated, or limited access communities, unless the streets of the community are dedicated for public use and maintained by the town;
- c. The use of a golf cart in connection with a parade, a festival, or other special event provided the consent of the sponsor is obtained, the police department is notified, and provided the golf cart is only used during such event; and
- d. The use of town vehicles by town personnel, or other governmental agencies and/or public service agencies on official business.

Section 36-387 Operation on Public Streets and Roads:

(D) It is unlawful to operate a golf cart on any public street or road within the City except in accordance with the following regulations:

(1) The golf cart may only be operated on town streets and roads that have a posted speed limit of 35 miles per hour or less.

(2) Golf Carts may not be operated on the following NC DOT maintained roadways: Denim Dr. US 421 Hwy (East and West Jackson Blvd.), NC 217 Hwy (North and South 13th St.), Old Post Road, Chicora Road and Iris Bryant Rd.

(3) Golf carts may cross a road with a posted speed limit greater than 35 mph. However, once this segment of road has been transversed, the golf cart is still required to travel only on or along a roadway with a speed limit of 35 mph or less. Golf carts must cross in a manner that is the most direct route in order to decrease crossing distance, i.e. no riding along a road or crossing at an angle. Under no circumstance is a golf cart allowed to cross a control access facility other than at bridges which cross over or under a control access facility.

(4) A golf cart must display a valid city-issued golf cart annual registration sticker.

(5) All golf cart operators must be over 16 years of age and possess a valid driver's license, except any driver or operator 18 years of age or older with a medical or physical condition that prevents that individual from being able to obtain a valid North Carolina driver's license. Any driver or operator with such a medical or physical condition must have certification from an appropriate medical professional that they can safely operate a golf cart. Any driver or operator that is exempt from the requirement of a valid North Carolina license must still present and have a valid North Carolina Identification card on record and while operating a golf cart.

(6) No golf cart may be operated at a speed greater than reasonable and prudent for the existing conditions, and in no instance at a speed greater than 20 miles per hour.

(7) No golf cart may be operated in a careless or reckless manner

(8) The driver and passengers must be properly seated while the golf cart is in motion, the seating capacity with seat belts shall not be exceeded. Both the golf cart operator and all passengers will wear seat belts in accordance with state law. Child safety seats will be used as necessary in accordance with state law as well

(9) Golf carts must be operated to the extreme right of the roadway and must yield to all vehicular and pedestrian traffic

(10) Golf carts may not be operated or parked on any sidewalk, except for golf carts operated by governmental or public service agencies for official purposes.

(11) Golf carts must be operated in accordance with all applicable state and local laws and ordinances, including all laws, regulations, and ordinances pertaining to the possession and use of alcoholic beverages and other impairing substances.

(12) Golf carts may only be parked in the same manner and at the same places designated for the parking of motor vehicles or in parking spaces specifically dedicated for golf cart parking.

(13) Golf carts may only park in handicapped parking spaces if the driver has a valid handicapped placard or sticker and the same is clearly posted or displayed in the golf cart.

(14) Golf carts may not be used for the purpose of towing another cart, trailer or vehicle of any kind, including a person on roller skates, skateboard, or bicycle.

(15) The possession of open containers of alcohol and/or consumption of alcohol by the driver and/or passengers of a golf cart is prohibited.

(16) Golf carts may not be used as a taxicab or bus or for the commercial carrying of passengers or the hauling of freight.

(17) All golf carts are required to maintain liability insurance at the same level as required for automobiles.

(18) Golf carts shall not be operated on or across any public or private properties without the permission of the property owner.

(19) During an emergency situation or at a special event, any police officer supervising or controlling traffic may direct that golf carts be operated only on or upon certain streets or locations as directed by the officer.

Section 36-387 (E) PENALTIES (NEW SECTION)

(1) In addition to constituting a misdemeanor or infraction as provided by G.S. 14-4, violation of any provision of this ordinance shall subject the offender to a civil penalty in the amount of \$

25.00 for the first offense, \$50.00 and a 30 day permit suspension for the second offense and \$100 and a one year permit revocation from the date of the offense for the third offense.

(2) Operating a golf cart under the influence of an impairing substance (i.e., alcohol or drugs) on a public street or road is a violation of state law, and is punishable as provided therein. The charging officer does not have the discretion to issue a civil citation for violation of this subsection.

(3) The town may refuse to register and issue a permit for the operation of a golf cart or may revoke a previously issued permit if the registered golf cart and/or the owner of the golf cart is involved in three or more violations of this section within a three-year time period. Said revocation and/or denial of a permit shall be effective for one year.

(4) the Chief of Police or designee may immediately revoke a permit for the following:

- (a) Failure to maintain required insurance;
- (b) Failure to maintain required safety equipment in good working order;
- (c) Violations of State Laws; and or
- (d) Failure to pay fines for violation of this chapter.

Section 36-388 (F) LIABILITY DISCLAIMER (NEW SECTION)

(1) This section is adopted to address the interest of public safety. Golf carts are not designed or manufactured to be used on the public streets and the town in no way advocates or endorses their operation on public streets or roads. The town, by regulating this operation, is addressing obvious safety issues, and the adoption of this section is not to be relied upon as a determination that operation on public streets is safe or advisable if done in accordance with this section. All persons who operate or ride upon golf carts on public streets or roads do so at their own risk and peril and must be observant of and attentive to the safety of themselves and others, including their passengers, other motorists, bicyclists, and pedestrians. The Town has no liability under any theory of liability and the Town assumes no liability, for permitting golf carts to be operated on the public streets and roads under the special legislation granted by the state legislature.

Erwin Board of Commissioners

REQUEST FOR CONSIDERATION

To: The Honorable Mayor and Board of Commissioners

From: Dylan Eure, Town Planner

Date: March 24, 2025

Subject: Residential Height Regulation Text Amendment

The Town of Erwin Staff wishes to amend its ordinances specifically Chapter 36 Article VII-A Section 36-185 Subsection B (4), Article VII Section 36-175 Subsection B (4), Article VI-A Section 36-156 Subsection B (4), and Article VI Section 36-147 Subsection B (4) for the purpose of decreasing height limitations for high-density residential developments.

Current Regulation:

(4) Maximum building height: 35 feet.

The maximum height of any structure shall be the same as required by the underlying zoning district unless otherwise stated herein. Non-residential buildings located within the areas identified Medium Intensity, High Intensity, Downtown, and Employment Center Land Use Classifications are exempt from the district height requirement if they conform to the following:

- a. Highest point of the building shall not exceed 80 feet.

Proposed Regulation:

(4)Maximum building height: 35 feet.

The maximum height of any structure shall be the same as required by the underlying zoning district unless otherwise stated herein. Non-residential buildings, two-family, multifamily, and townhomes located within the areas identified Medium Density, High Intensity, Downtown, and Employment/ Industry Land Use Classifications are exempt from the district height requirement if they conform to the following:

- a. Highest point of residential townhomes and two-family dwellings shall not exceed 40 feet.
- b. Highest point of residential multifamily shall not exceed 65 feet.
- c. Highest point of nonresidential building shall not exceed 80 feet.

Erwin Board of Commissioners

REQUEST FOR CONSIDERATION

To: The Honorable Mayor and Board of Commissioners

From: Dylan Eure, Town Planner

Date: March 24, 2025

Subject: Mixed Uses and their Buildings Text Amendment

The Town of Erwin Staff wishes to amend Chapter 36 within Article XV Section 36-416 to allow for multi/mixed-use facilities to be constructed in appropriate zoning classifications.

Current 36-416:

Sec. 36-416. - Relationship of building to lots.

Every building hereafter erected, moved, or structurally altered shall be located on a lot and in no case shall there be more than one principal building and its customary accessory building on a lot except in the following cases:

- (1) Multifamily dwellings in appropriate zoning districts.
- (2) An approved planned unit development or complex of residential or commercial buildings in an appropriate zoning district.
- (3) Institutional or industrial uses such as a school campus, hospital campus, industrial parks, research parks, etc.

Proposed 36-416:

Sec. 36-416. - Relationship of buildings **and uses to lots.**

Every building hereafter erected, moved, or structurally altered shall be located on a lot and in no case shall there be more than one principal building/**use** and its customary accessory building on a lot except in the following cases:

- (1) Multifamily dwellings in appropriate zoning districts.
- (2) An approved planned unit development or complex of residential or commercial buildings in an appropriate zoning district.

(3) Institutional or industrial uses such as a school campus, hospital campus, industrial parks, research parks, etc.

(4) An approved multi-use facility that contains elements of both commercial and residential elements in an approved zoning district.

(5) Multiple complimentary uses that are permitted or considered as a special use in the same zoning district.

Erwin Board of Commissioners

REQUEST FOR CONSIDERATION

To: The Honorable Mayor and Board of Commissioners

From: Dylan Eure, Town Planner

Date: March 24, 2025

Subject: Utility Text Amendment

The Town of Erwin Staff wishes to amend the Erwin Code of Ordinances to correct contradictory language in terms of when utility extension is required and update it to reflect the current utility providers.

Current Sec. 36-580

Sec. 36-580. - Application procedures.

(a) Each application for a certificate of zoning compliance shall be accompanied by two sets of plans drawn to an engineering scale no smaller than one inch equals 100 feet on standard sheet sizes of 8.5 inches × 11 inches, 8.5 inches × 14 inches, 11 inches × 17 inches or 18 inches × 24 inches, one of which shall be returned to the applicant upon approval. The applicant shall furnish an electronic or PDF copy of all site plan sheets larger than 8.5 inches × 14 inches. The plan shall show the following:

(1) The shape and dimensions of the lot on which the proposed building or use is to be erected or conducted;

(2) The location of said lot with respect to adjacent rights-of-way;

(3) The shape, dimensions, and location of all buildings, existing and proposed, on the said lot;

(4) The nature of the proposed use of the building or land, including the extent and location of the use, on the said lot;

(5) The location and dimensions of off-street parking and loading space and the means of ingress and egress to such space;

(6) For building construction, the percent of surface that will be built-upon;

(7) Approximate location of town water and sewer lines, if said lot is adjacent to them; and

(8) Any other information, which the administrative official may deem necessary for consideration in enforcing the provisions of this article.

(b)A fee, set by the town board, shall be charged for the processing of such application. The adopted fee schedule shall be posted in the town clerk's office

Proposed Sec. 36-580

Sec. 36-580. - Application procedures.

(a)Each application for a certificate of zoning compliance shall be accompanied by two sets of plans drawn to ~~an engineering~~ scale no smaller than one inch equals 100 feet on standard sheet sizes of 8.5 inches × 11 inches, 8.5 inches × 14 inches, 11 inches × 17 inches or 18 inches × 24 inches, one of which shall be returned to the applicant upon approval. The applicant shall furnish an electronic or PDF copy of all site plan sheets larger than 8.5 inches × 14 inches. The plan shall show the following:

(1)The shape and dimensions of the lot on which the proposed building or use is to be erected or conducted;

(2)The location of said lot with respect to adjacent rights-of-way;

(3)The shape, dimensions, and location of all buildings, existing and proposed, on the said lot;

(4)The nature of the proposed use of the building or land, including the extent and location of the use, on the said lot;

(5)The location and dimensions of off-street parking and loading space and the means of ingress and egress to such space;

(6)For building construction, the percent of surface that will be built-upon;

~~(7)Approximate location of town water and sewer lines, if said lot is adjacent to them; and~~

(8)Any other information, which the administrative official may deem necessary for consideration in enforcing the provisions of this article.

(b)A fee, set by the town board, shall be charged for the processing of such application. The adopted fee schedule shall be posted in the town clerk's office

Current Sec 36-581

Sec. 36-581. - Public water and sewer service required within the municipal limits.

(a)Any lot within the municipal limits not connected to the town water and sewer service shall be required to connect the principal structure of said lot to the town water and sewer system before a certificate of zoning compliance will be issued, unless the applicant has applied for such services in writing, and the town has, within 30 days of the receipt of such written request for services, not given a written commitment to the applicant to have such services to the lot within 180 days of the original application.

(b) A fee, set by the town board, shall be charged to the applicant for connecting to the town system. The adopted connection fee schedule shall be posted in the town clerk's office.

Proposed Sec-581

Sec. 36-581. - Public water and sewer service required within the municipal limits.

(a) Any lot located within the municipal limits located within 250ft of accessible utility lines shall be connected to Harnett County's water and sewer system upon the development of a principal structure permitting that they can connect to the existing systems and have the capacity for such connection.

Current Sec. 30-107 Subsection F

Connection to sewer system.

(1) All subdivision lots within the town limits shall be served by the town's sewer system unless the town is unable to add new customers onto the system.

(2) All subdivision lots of 30,000 square feet or less in the town's extraterritorial jurisdiction shall be served by the town's sewer system if any portion of the subdivision is within 250 feet of a town manhole or gravity sewer line, unless the town is unable to add new customers onto the system.

Proposed Sec. 30-107 Subsection F

Connection to sewer system.

(1) All subdivision lots within the town limits shall be served by the ~~town's~~ county sewer system permitting that they are within a distance of 250 feet of an accessible sewer line, unless the ~~town~~ county is unable to add new customers onto the system.

(2) All subdivision lots of 30,000 square feet or less in the town's extraterritorial jurisdiction shall be served by the ~~town's~~ county sewer system if any portion of the subdivision is within 250 feet of a town manhole or gravity sewer line unless the ~~town~~ county is unable to add new customers onto the system.

Current Sec. 30-140

Sec. 36-140. – Defects guarantee

The town shall require a guarantee on utility taps, ramps, streets, pavement, drainage facilities, water and sewer lines, and other improvements against defects for one year from the date of acceptance of construction and/or installation. The amount shall be in the amount determined by the town manager in consultation with the developer's engineers and/or surveyors. One of the guarantees listed under section 30-79(b) shall be used. The defects guarantee shall, however, be satisfied if the subdivider presents a contract or other forms of written evidence

that the contractor building the required improvements guarantees those improvements to the town for a period of one year from the date of acceptance by the town.

Proposed Sec. 30-140

Sec. 36-140. – Defects guarantee

The town ~~shall~~ **may** require a guarantee on ~~utility taps, ramps, streets, pavement, drainage facilities, water and sewer lines,~~ and other improvements against defects for one year from the date of acceptance of construction and/or installation. The amount shall be in the amount determined by the town manager in consultation with the developer's engineers and/or surveyors. One of the guarantees listed under section 30-79(b) shall be used. The defects guarantee shall, however, be satisfied if the subdivider presents a contract or other forms of written evidence that the contractor building the required improvements guarantees those improvements to the town for a period of one year from the date of acceptance by the town.

Current Sec. 34-26

Sec. 34-26 - Owners required to connect to system.

Payment of charge in lieu of connection: each owner of improved property located upon or within a distance of 250 feet of any sewer line shall connect the plumbing system of their premises with the sewer system; provided, that any such owner who already has in use a septic tank approved by the county department of health may, in lieu of connecting their premises to the sewer system, pay the minimum monthly charge established for sewer service, and may continue the use of the septic tank for domestic household sewer service for so long as such charge is duly paid and for so long as said septic tank remains suitable for such use as determined by the county department of health.

Proposed Sec. 34-26

Sec. 34-26 - Owners required to connect to system. (Removed)

~~Payment of charge in lieu of connection: Each owner of improved property located upon or within a distance of 250 feet of any sewer line shall connect the plumbing system of their premises with the sewer system ; provided, that any such owner who already has in use a septic tank approved by the county department of health may, in lieu of connecting their premises to the sewer system, pay the minimum monthly charge established for sewer service, and may continue the use of the septic tank for domestic household sewer service for so long as such charge is duly paid and for so long as said septic tank remains suitable for such use as determined by the county department of health.~~

Current Sec. 34-27

Sec. 34-27. - Private sewage disposal.

Where a public sanitary sewer is not available under the provisions of section 34-26 building sewer shall be connected to a private sewage disposal system complying with the provisions of this article.

Proposed Sec. 34-27

Sec. 34-27. - Private sewage disposal.

Where a public sanitary sewer ~~is not available under the provisions of section 34-26~~ **is not within a distance of 250 ft**, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this article.

Current Sec. 34-29

Sec. 34-29. - When direct connections required.

At such time as a public sewer becomes available to a property served by a private sewage disposal system, as provided in section 34-26, direct connection shall be made to the public sewer in compliance with this article, and any septic tanks, cesspools and similar private sewage disposal facilities shall be abandoned and filled with suitable material.

Proposed Sec- 34-29

Sec. 34-29. - When direct connections required.

At such time as a public sewer becomes available to a property served by a private sewage disposal system, **the property owner shall have the option of connecting the property to public sewer**, ~~as provided in section 34-26, direct connection shall be made to the public sewer in compliance with this article~~, and any septic tanks, cesspools and similar private sewage disposal facilities shall be abandoned and filled with suitable material.

Erwin Board of Commissioners

REQUEST FOR CONSIDERATION

To: The Honorable Mayor and Board of Commissioners

From: Snow Bowden, Town Manager

Date: March 24, 2025

Subject: Stormwater Grant Project Ordinance Amendment

The Town of Erwin has recently kicked off a project to develop a stormwater management plan. The Town received a \$492,000 grant from the State of North Carolina to help develop this plan. The Town recently signed a contract with the firm TRC to assist with the development of this plan. Once this plan is created, it should help us improve our existing stormwater system. Town Staff has prepared a few updates to the existing grant project ordinance that will need to be approved to move forward with this project.

Attachments:

- Updated grant project ordinance



TOWN OF ERWIN

P.O. Box 459 • Erwin, NC 28339
Ph: 910-897-5140 • Fax: 910-897-5543
www.erwin-nc.org

Mayor
Randy L. Baker
Mayor Pro Tem
Ricky W. Blackmon
Commissioners
Alvester L. McKoy
Timothy D. Marbell
Charles L. Byrd
David L. Nelson
William R. Turnage

Grant Project Ordinance Amendment

ORD 2023-2024 : 008

Town of Erwin

Storm water Management

**NCDEQ – Division of Water Infrastructure
S.L. 2023-134 Water/Sewer Directed Projects**

BE IT ORDAINED by the Town council of the Town of Erwin, North Carolina that, pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following grant project ordinance is hereby adopted:

Section 1: This ordinance is to adopt a budget for the project funded by the NCDEQ Division of Water Quality, Division of Water Infrastructure for S.L. 2023-134 Water/Sewer Directed Projects. The Town of Erwin (Town) will receive the amount of \$485,000 for a storm water Management Plan. These funds will be used for the following category of Engineering Cost: Engineering Design \$485,000. to the extent authorized by state law.

Section 2: The following amounts are appropriate for the project and authorized for expenditure:

Project Budget	Funding Amount	Total Cost Amount
	From S.L. 2023-134	
Engineering Cost/Design	\$492,500	\$492,500

Section 3: The following revenues will be available to complete the project:

NCDEQ, Division of Water Infrastructure Funds:	\$492,500
--	-----------

Adopted this 10th day of October 2024


Randy Baker
Mayor

ATTEST:


Lauren Evans NCCMC
Town Clerk

Erwin Board of Commissioners

REQUEST FOR CONSIDERATION

To: The Honorable Mayor and Board of Commissioners

From: Snow Bowden, Town Manager

Date: March 24, 2025

Subject: Police Vehicles

This is a proposed budget amendment to purchase and upfit two new vehicles for the Erwin Police Department in the current Fiscal year's budget. Most of the additional revenue that is helping with this purchase is revenue from our interest earned line item. Chief Johnson has found two vehicles that are available, and they are suitable for the needs of the Erwin Police Department. The vehicles will have to be upfitted with equipment for patrol, so it might take a month or two to get them on the road.

Erwin Board of Commissioners

REQUEST FOR CONSIDERATION

To: The Honorable Mayor and Board of Commissioners

From: Snow Bowden, Town Manager

Date: March 24, 2025

Subject: Proposed Fire Inspection Contract

The Town of Erwin has received an updated contract from Harnett County for our fire inspection services, which are provided by the Harnett County Fire Marshal's Office. The contract is for a three-year extension. If this is a service, the Town wishes to start providing, we could start planning to provide this service and be ready to start providing this service once this contract is scheduled to expire. The fee for this inspection service will be as listed below:

- Year 1- \$15,943
- Year 2- \$16,421
- Year 3- \$19,914

The fee for year 1 is set as presented, but the fees for year 2 and/or 3 could be higher if there is more demand for these services, but at the moment, that is not predicted.

Attachments:

- Updated contract

**STATE OF NORTH CAROLINA
COUNTY OF HARNETT**

**FIRE PREVENTION CODE ENFORCEMENT
MUNICIPAL AGREEMENT
TOWN OF ERWIN**

THIS AGREEMENT, made and entered into this first day of July, ~~2025~~2025, by and between the Town of Erwin, North Carolina, a municipal corporation organized and existing under the laws of the State of North Carolina (hereinafter, "Town") and the County of Harnett, North Carolina, a body politic and political subdivision of the State of North Carolina (hereinafter, "County").

Witnesseth

WHEREAS, Town is required to provide fire prevention code enforcement services according to N.C. General Statute § 160D-1105 and the North Carolina State Fire Prevention Code - Section 106; and

WHEREAS, County desires to provide to Town the required fire prevention code inspections and services; and

WHEREAS, Town and County have reached an agreement for County to provide fire prevention code inspections and services as described herein and the parties desire to set forth the terms and conditions in this Agreement.

NOW, THEREFORE, in consideration of the public safety and welfare, the mutual benefits, representations, and agreements contained herein and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree, each with the other, as follows:

1. County agrees to provide Town the following fire prevention code enforcement services within Town's territorial jurisdiction:
 - A. Fire prevention code enforcement within day care centers, group homes, rest homes, foster homes, and hospitals, when required by State or County agencies;
 - B. Non - residential and subdivision site plan approval for fire prevention code compliance, upon request from Town officials;
 - C. Response to complaints and requests for fire inspections of individual businesses;
 - D. Periodic Fire Prevention Code inspections in existing buildings, structures and premises to which the current North Carolina State Building Code, Fire Prevention, is applicable;
 - E. New construction plan review of fire protection equipment and certification of compliance inspections upon request from the appropriate building official(s) or contractor; and
 - F. Other fire prevention code enforcement inspections and services as may be required by State law.
2. Town agrees that County, by and through the Harnett County Fire Marshal's office, shall have the exclusive right to perform the above enumerated fire prevention code enforcement services for as long as this Agreement remains in force and effect. Town further agrees to fully cooperate with the Harnett County Fire Marshal's office in providing these services.

3. Town agrees that County will have and may exercise the same inspection and enforcement powers within Town's regulatory and extraterritorial jurisdiction as are applicable within County's jurisdiction.
4. This Agreement shall become effective ~~July 1, 2022~~July 1, 2025, subject to the mutual agreement of both parties, and shall continue for a period of three years from ~~July 1, 2022~~July 1, 2025 through ~~June 30, 2025~~June 30, 2028, unless terminated by either party in accordance with paragraph 8 of this Agreement.
5. Compensation for ~~periodic fire inspections~~the services provided pursuant to this Agreement shall ~~be \$15,943 for~~ ~~be \$11,175.53 for~~ fiscal year 20236 and increase at a rate of three percent (3%) annually thereafter. Additionally, the County will directly invoice the occupant or their representative for non-compliance, plan reviews and permits at a rate equal to the fee schedule approved by the County's Board of Commissioners. County shall invoice Town each year for said services and each invoice is due and payable to County within thirty (30) days of the date of the invoice. Town shall pay an additional charge of one and one -half percent per month (18% annually), not to exceed the maximum rate allowed by law for any payment not received by County more than thirty (30) days from the date of invoice. ~~ADD VERBAGE ABOUT WHO COLLECTS FEES AND WHAT FEE SCHEDULE IS FOLLOWED~~
6. This Agreement, as written or as may be amended, shall be effective from the date first specified above.
7. The Town Attorney shall provide legal support and representation for Town for all enforcement actions taken by the Harnett County Fire Marshal's office on behalf of Town on issues arising from enforcement actions taken within and on behalf of Town's jurisdiction by the Fire Marshal. To the fullest extent allowable by North Carolina law, County shall have no liability regarding such enforcement actions and Town shall hold County harmless for any and all claims, liabilities, losses, damages, costs, or expenses of whatever kind arising out of or relating to the provision of services provided by County to Town hereunder, except for those acts caused by the negligence of County. To the fullest extent allowable by North Carolina law, County shall hold Town harmless for any and all claims, liabilities, losses, damages, costs, or expenses of whatever kind arising out of or relating to the provision of services provided by County to Town, except for those acts caused by the negligence acts or omissions of Town. Town and County waive special, incidental, indirect, or consequential damages, including lost profits, good will, revenues or savings, for claims, disputes or other matters in question arising out of or relating to this Agreement. This limitation of liability, covering matters contemplated by and occurring during the term of this Agreement, will survive the expiration or termination of this Agreement.
8. This Agreement may be terminated for any reason by either party upon advanced written notice to the other party, by certified mail at least ninety (90) days prior to the date of desired termination. Termination shall not relieve Town of financial obligations incurred prior to termination.
9. Nothing contained in this Agreement shall create a contractual relationship with or cause of action in favor of a third party against either Party.
10. In the event any provision of this Agreement is adjudged to be not enforceable or found invalid, such provision shall be stricken and the remaining provisions shall be valid and enforceable.

11. This Agreement represents the entire agreement between County and Town and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may only be amended by written instrument signed by County and Town.
12. All notices or other communications which shall be made pursuant hereto shall be in writing and shall be deemed to be given and received (a) when hand delivered to the address stated below, or (b) three (3) days after being mailed to the address stated below, postage prepaid by certified or registered mail of the United States, return receipt requested to the address set forth below:

To Town:

Town of Erwin
PO Box 459
Erwin, NC 28339
Attn: Town Manager

To County:

Harnett County Fire Marshal
PO Box 370
Lillington, NC 27546

With a copy to:

Harnett County Legal Services
PO Box 238
Lillington, NC 27546
Attn: County Staff Attorney

Either party to this Agreement may change its designated person or designated address at any time and from time to time by giving notice of such change to the other party in the manner set forth above.

13. This Agreement shall be governed by the laws of the State of North Carolina, The North Carolina State Courts located in Harnett County, North Carolina shall have jurisdiction to hear any dispute under this Agreement and legal or equitable proceedings by either party must be fled in Harnett County, North Carolina.
14. The relationship of the parties established by this Agreement is solely that of independent contractor, and nothing contained in this contract shall be construed to: (i) give any party the power to direct or control the day-to-day activities of the other; (ii) constitute such parties as partners, joint ventures, co-owners, or otherwise as participants in a joint or common undertaking; (iii) make either party an agent of the other for any purpose whatsoever; or (iv) give either party the authority to act for, bind, or otherwise create or assume any obligation on behalf of the other.

[Remainder of This Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties hereto, through their duly authorized representatives or officers have executed this Agreement as to the date and year first above written.

TOWN OF ERWIN

By: _____
_____, Town Manager

Attest:

_____, Clerk (SEAL)

COUNTY OF HARNETT

By: _____
Brent Trout, County Manager

Attest:

Jaime Bell-Raig, Clerk (SEAL)