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Preface

The Town of Smyrna prides itself on the professional delivery of services to our citizens. This Personnel Policy seeks to improve government services and embodies the policies of the Town of Smyrna: to hire the best qualified applicant for any position regardless of race, sex, creed, political affiliation, age and non-job related disability and, in addition, to provide equal opportunity to all employees in matters of hiring, promotion, transfer, training, compensation, benefits and all other conditions of employment.

The contents of this policy are presented as a matter of information only. While the Town believes wholeheartedly in the policies and procedures described herein, they are not conditions of employment. The Town reserves the right to modify, revoke, suspend, terminate or change any or all such policies or procedures, in whole or in part, at any time, with or without notice. The language used in this policy is not intended to create, nor is it intended to be construed, to constitute a contract between the Town and one or all of its employees.

The Town of Smyrna Personnel Policy is intended for the use of Town employees and supervisors. Policies specifically related to police personnel are monitored by, and available through, the Chief of Police. Should questions arise as to the content or interpretation of these policies, they should be directed to the Town Manager or the Chief of Police as appropriate.

1. General Provisions

1.1 Scope. This policy shall apply to all employees on the Town payroll with the following exceptions:

- a) All elected officials and members of boards, committees, and commissions.
- b) Positions involving temporary, casual/seasonal or part-time, or employment unless specifically placed within the scope of this policy by the Town Council.
- c) Town Manager and Chief of Police - The employment of the Town Manager and Chief of Police shall be governed by the terms of any applicable provisions of the Town Charter, state statute, Town ordinance or resolution specific to the Town Manager and/or Chief of Police, and subject to any written employment agreement signed by the Town and the Town Manager and/or Chief of Police.
- d) Assistant Town Manager, Manager of Accounting and Business Operations/Finance Director, Billing and Information Technology Manager, Manager of Planning and Zoning, Manager of Building and Inspections, Public Works Director, Library Director, Capital Projects Coordinator, and such other positions as Council may from time to time determine shall be exempt from Sections 3.3 and 3.4 (Overtime and Stand-by Pay) and Section 28.2.2 (Holidays-Work Required on Holidays).

EXCEPTION: Special Duty may be authorized by the Town Manager or Police Chief if said special duty cannot be worked by an employee in a lower pay grade/step.

- e) Police Officers (including the Chief of Police) shall be exempt as follows whenever any police officer is the subject of any proceeding, investigation, or inquiry within the scope of the "Law Enforcement Officer's Bill of Rights" (11 Del. C. Chapter 92), or whenever the Chief of Police is the subject of any proceeding, charges, or inquiry which could result in his/her dismissal within the scope of 11 Del. C. Chapter 93 ("Police Chief Due Process"), then the procedures set out in such statutes shall govern all aspects of such proceedings and no provisions of this

ordinance dealing with Discipline and Termination (Section 37), or Grievance (Section 38) shall apply or have any force or effect as to those proceedings within the scope of the aforementioned statutes, or to the decisions made or actions taken as a result of such proceedings.

1.2 Definitions.

a) "Active pay status" means when any employee is eligible for a pay check.

b) "Appointment" means the personnel action by which an appointing authority offers employment and hires a person to work for the Town of Smyrna.

c) "Casual/seasonal or temporary employee" means an employee who works on an as needed, indefinite duration basis with no regular schedule and in a generic job classification, which is not specifically budgeted and listed in the staffing chart.

d) "Completed month" means any month in which an employee, for all the workdays, either works, is on approved leave with pay, is on Worker's Compensation Leave, or any combination of these.

e) "Completed year" means a period of twelve (12) consecutive calendar months in which the employee is on active pay status or is on Worker's Compensation Leave, or any combination of these.

f) "Department Supervisor" means the person authorized to direct the work of employees of a department of the Town of Smyrna.

g) "Domestic partner" means two non-related adults, both of whom are at least eighteen years of age, who are committed as a family in a long term relationship of indefinite duration and are socially, emotionally, and financially interdependent in an exclusive mutual commitment in which they agree to be responsible for each others common welfare and share financial obligations. This definition is intended to cover adult partner relationships and not persons who are cohabiting simply as roommates.

h) "Employee" means an employee of the Town of Smyrna who is included within the scope of this policy and to the extent included in this policy.

i) "Employer" means the Town of Smyrna.

j) "Exempt Employee" means an employee of the Town of Smyrna who is excluded from the scope of this policy and to the extent so excluded from this policy.

k) "Full-time employee" means an employee who is regularly scheduled 37.5/7.5 or more hours per workweek/workday.

l) "Part-time employee" means an employee who works a regularly scheduled period of generally less than 37.5 hours per week in a position having a discrete job classification and description which is specifically budgeted and listed in the staffing chart.

m) "Policy" means Town of Smyrna Personnel Policy, effective and all amendments or revisions thereof

n) "Position" means a group of duties and responsibilities requiring full time or part-time employment of one person, a position may be vacant or occupied

o) "Probationary period" means the duration of time specified under Section 6.2.9, during which new appointees are evaluated, in terms of attitude and ability, for their suitability to serve in the positions to which they have been appointed. After the probationary period is complete, employees shall be subject to the provisions of Section 40("Tenure"); employment of exempt employees shall continue to be subject to the principle of "employment-at-will" subject to the provisions of any applicable written employment agreement, charter provision, state statute, or ordinance or resolution specifically applicable to such exempt employee.

p) "Regular appointment" means an appointment to serve in a position for an indefinite duration subject to probationary period requirements and

q) "Temporary appointment" means an appointment to serve in a position for an indefinite duration not exceeding ten (10) months during one calendar year

r) "Town" means the Town of Smyrna, Delaware.

s) "Town Council" means the Town Council of the Town of Smyrna, Delaware.

1.3 Amendments.

The Town Council reserves the right to amend, supplement, or otherwise revise the provisions of this policy, in whole or in part, at anytime, and from time to time by a resolution duly adopted by the Town Council as provided by the Town Charter.

1.4 Personnel Administration.

The Personnel Policy shall consist of the following components: (a) the text of this Personnel Policy, (b) the Pay Plan, the operation of which is described in Section 3 of this policy, and (c) the position classification system, the operation of which is described in Section 5 of this policy.

Except as otherwise provided herein, this Personnel Policy shall govern all aspects of the administration of personnel.

The Town Manager or his designee shall be the Personnel Officer. The Personnel Officer shall:

1.4.1 Administer all the provisions of this Policy not specifically designated as the duties of the Mayor and Council.

1.4.2 Maintain, update, and revise the Position Classification Plan and Pay Plan as such changes are from time to time approved by the Town Council.

1.4.3 Maintain appropriate employee and other records as provided herein.

1.4.4 Prepare and recommend revisions and amendments to this Policy.

1.4.5 Counsel and advise employees on matters of promotion and job related training.

1.4.6 Prepare and distribute to every employee of the Town an Employee Handbook, which shall contain provisions for and information about position title, pay grade, employee benefits, vacation and leave policies, evaluations, discipline and termination.

1.4.7 Advise the Town Council on matters related to personnel administration.

1.4.8 Publish position vacancies in accordance with the provisions of this policy.

1.4.9 Receive all applications for employment and notify applicants of the disposition of their applications, with the exception of the Police Department where the Chief of Police will receive the applications and notify each applicant as to the disposition.

All instances where the term "Town Manager" or "Personnel Officer" appears in this code, that term shall be substituted with "Chief of Police" when the terms and conditions of this policy are applied to civilian police personnel.

1.5 Composition of the Personnel Committee.

The Personnel Committee shall consist of five members. These members shall be three (3) Council persons and two (2) members appointed by the Mayor and confirmed by Council. At least one of the five members of the Personnel Committee shall represent minorities.

1.6 Duties of the Personnel Committee.

In addition to the duties set forth elsewhere in this Policy, the Committee shall:

1.6.1 Advise the Personnel Officer and the Town Council on matters of personnel and problems of personnel administration, including amendments to this Policy, a Position Classification Plan and a uniform Pay Plan.

1.6.2 Represent the public interest in the improvement of personnel administration on the Town service.

1.6.3 Make recommendations to the Town Manager, Personnel Officer, or the Council with respect to personnel administration.

1.7 Contract Services.

The Town Council may contract with any qualified person or agency for the performance of such technical services as may be desired in the establishment and operation of the Personnel System.

1.8 Applicability of union agreements.

Police officers shall be exempt from the provisions of this Policy to the extent that specific provisions are covered by an approved contract between the Smyrna Police Employees Association and the Town. Employees of the Electric Department are exempt from the provisions of this Policy to the extent that specific provisions are covered by an approved contract between AFSCME and the Town.

1.9 Applicability of Police Code of Conduct, Police Directives and Standard Operating Policies.

Police officers shall be exempt from the provisions of this Policy to the extent that specific provisions are covered by a Smyrna Police Employees Code of Conduct, Police Directives and Standard operating Procedures that has been approved by the Council.

2. Personnel System.

2.1 Policy.

Personnel practices and procedures have a significant impact on the performance and utilization of employees. Unsatisfactory or impractical policies are difficult to change and can have a substantial impact on the cost and effectiveness of municipal operations. Consequently, it is vitally important that a sound personnel system be established and properly administered with understanding and foresight. Such a plan should meet the Town's needs and motivate employees through the creation of a satisfying working environment, appropriate and fair compensation, and fair and consistent application of these practices and procedures. The following shall be the declared personnel practices of the Town:

2.1.1 Employment by the Town shall be based solely on merit and fitness, free from favoritism or personal or political considerations.

2.1.2 The Town shall not discriminate in any manner against any person on the basis of race, creed, color, gender, age, religion, national origin, veteran or disabled status, sexual orientation, marital status or political affiliation with regard to selection or employment with the Town.

2.1.3 Just and equitable incentives and conditions of employment shall be established and maintained to promote efficiency and economy in the operation of the Town.

2.1.4 Positions shall be compensated according to duties, responsibilities and requirements as established by the Town Council.

2.1.5 Appointments, promotions, and other personnel actions shall be based on merit.

2.1.6 The policies and procedures contained herein shall be administered fairly and consistently with due consideration given the rights and interests of employees, the public and the Town.

2.1.7 The tenure of all classified employee shall be subject to the employee's continued good behavior, the satisfactory performance of work, and the availability of work.

2.1.8 The Town shall encourage employees to become effective workers, treat each person with consideration and respect and provide a clean, healthy and safe place to work.

The Town Manager is responsible for developing and implementing these personnel practices and procedures and abiding by the basic principles which are intended to be the foundation of the personnel system of the Town of Smyrna.

2.2 Dissemination of Personnel Policy.

Each employee shall be provided with a copy of this policy and shall be required to sign an Acknowledgment of Receipt. Each employee will acknowledge that they understand that the term, policies and procedures outlined in this document apply to their term of employment with the Town of Smyrna. A copy of the signed acknowledgement shall be kept in each employee's personnel file.

2.3. Personnel Records.

2.3.1 Personnel File Documentation. The accurate documentation of any personnel related activity is absolutely necessary to ensure the fair and consistent application of the practices and procedures contained herein. The Town Manager shall maintain the official personnel file for each employee containing all documentation pertaining to his or her employment. Supervisors may keep working personnel files but materials not maintained in the official personnel file held by the Town Manager may not provide the basis for discipline against an employee.

- a. Original application for employment.
- b. W-4 (Employer's Withholding Allowance Certificate).
- c. I-9 (must be retained for three years from the date of hire or one year from the date of termination, whichever is longer).

- d. Photo copy of social security card.
- e. Photo copy of driver's license.
- f. Performance evaluations.
- g. Attendance records.
- h. Physician's medical verification.
- i. Commendations.
- j. Grievance, disciplinary, and termination procedures and actions.
- k. Professional development.
- l. Travel request and expense reports.
- m. Health enrollment forms.
- n. Life insurance beneficiary designation.
- o. Pension documents.
- p. Voluntary deferred compensation program.
- q. Job-related injuries.
- r. Any inquiries, records, responses and/or notes concerning an employee's driving record.
- s. Any other matters not otherwise a public record pertaining to an employee's employment with the Town.
- t. name.
- u. age.
- v. date of original employment or appointment to Town Service.
- w. current position title.
- x. current salary

- y. date and amount of most recent change in salary.
- z. date of most recent promotion, demotion, transfer, suspension, separation, or other change in position classification
- aa. the office to which the employee is currently assigned.

2.3.2 Access to Personnel Records

Any person may have access to the information listed in Section 2.3.1(g), (i), (t), (v), (w), (z) for the purpose of inspection, examination and copying during regular business hours of the Town. Access to such information shall be governed by the following:

- a. All disclosure of records shall be accounted for by keeping a written record (except for authorized persons processing personnel actions) of the following information: name of the employee; information disclosed; date information was requested; name and address of person to whom the discloser is made; purpose for which the information is requested. This information must be retained as part of the file.
- b. Upon requests, records of disclosure shall be made available within reasonable time to the employee to whom it pertains.
- c. An individual examining a personnel record may copy the information. Any available photocopying facilities may be provided and the cost may be assessed to the individual.

2.3.3 Confidential Information

All information contained in a Town employee's personnel file, other than the information listed in Section 2.3.2 shall be maintained as confidential and shall be open to public inspection only in the following instances:

- a. The employee or his/her duly authorized agent may examine all portions of that employee's personnel file, except for letters of reference solicited prior to employment.

- b. The licensed physician designated, in writing, by the employee may examine the employee's medical records.
- c. A Town employer having supervisory authority over the employee may examine all material in the employee's personnel file.
- d. By order of a Court of competent jurisdiction, any person may examine all material in the employee's personnel file.
- e. Each individual requesting access to confidential information will be required to submit satisfactory proof of identity.
- f. A record shall be made of each disclosure and placed in the employee's file with the exception of disclosure to the employee and the employee's supervisors.

2.3.4 Exceptions

Exceptions may be granted to Sections 2.3.2 and 2.3.3 upon determination by the Town Solicitor that such exceptions are allowable under Chapter 100, Title 29 of the Delaware Code (Freedom of Information Act).

2.3.5 Records of Former Employees

Former employees are not permitted to review their personnel file. Employees who are laid off with the right of re-employment or on a leave of absence are permitted to review the file.

2.3.6 Remedies of Employees Objecting to Material and File

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

3. Pay Plan

3.1 Policy.

The pay plan is intended to provide equitable compensation for all positions when considered in relation to each other, to changes in the cost of living, to financial conditions of the Town, and other factors. To this end, the Town Council shall consider changes in salary as may appear warranted.

3.2 Procedure.

3.2.1 Pay

Employees are paid every two weeks on Friday of the second week (except employees covered by current employment contracts). If a regular pay day falls on a holiday, employees are paid on the last scheduled working day prior to the holiday. (amended 03/15/10)

3.2.2 Pay Period (effective January 1, 2011)

The pay period for the Town of Smyrna shall be from Thursday to Wednesday every two weeks. (amended 03/15/10)

3.2.3 Deductions

The Town is required by law to withhold from each pay check the following deductions:

- a) Federal Income Tax Withholding
- b) Federal Insurance Contributions Act (FICA)
Taxes and Medicare Taxes
- c) State Income Tax
- d) any garnishments authorized by Court of Law
- e) Union dues

Employees are furnished with a statement in January of each year of the amount withheld during the preceding year.

3.3 Overtime.

The Town will provide additional compensation to classified employees for hours worked in excess of the regular scheduled working hours.

Classified employees shall be paid time and one-half (1 1/2) their regular straight time rate for hours worked in excess of forty (40) hours or in excess of their normally scheduled work week in the same work week. All overtime must be authorized by the department manager prior to working the overtime except in case of an emergency. If called out for overtime work, each eligible employee shall receive a minimum of two (2) hours overtime compensation.

3.4 Standby Pay

Designated employees are required to be on standby status during periods other than their regular work hours. During these periods, employees will receive an additional seven (7) hours to be paid at their regular straight time.

3.5 Standby Overtime Pay

Designated employees who are on standby status and are called out for an emergency shall receive a minimum of two (2) hours and shall be paid one and one-half (1½) times their regular straight time rate.

3.6 Cost of Living Adjustment.

The "Cost of Living Index" shall mean and officially recognized Cost of Living Index relevant to the Town of Smyrna region, e.g. the United States Department of Labor Cost of Living Index for the Philadelphia region.

The Cost of Living Index for the previous year shall be reviewed by the Personnel Officer each November. The Personnel Officer shall then make recommendations to the Council for any changes in the Cost of Living Allowance (COLA) for Town employees.

The determination of whether, when or the amount of a Cost of Living Adjustment (COLA) shall be at the sole discretion of the Council. All town employees base wage shall be adjusted for the COLA revision percentage if approved by the Mayor and Council. The COLA shall be computed as a

stated percent of each employee's base wage and shall be paid or deducted weekly with the regular paycheck. The COLA shall be considered as a supplement to compensate the employee for any changes in the buying power of their wages due to inflation or deflation. These revisions shall become effective on a date to be determined by the Mayor and Council.

3.7 Review of the Pay Plan.

Each year the Pay Plan shall be reviewed by the Personnel Committee prior to the preparation of the budget for possible adjustments of rates attributable to changes in the cost of living or for comparability-based increases, promotions, or demotions.

The Pay Plan shall also be reviewed as changing conditions require. The review shall consider prevailing rates of compensation for positions in places of public employment which are comparable to positions in the Town of Smyrna.

Any revisions may include a realignment of the entire schedule of wages and grades assignments of each position to the Pay Plan.

3.8 Methodology.

3.8.1 Civilian Pay Schedule.

The town from time to time shall review the compensation of civilian town employees to determine equity and comparability among positions and in regard to the compensation afforded to employees in similar jurisdictions and circumstances. Such review shall be by job class and shall result in a table of comparables which shall be approved by the Council. Council shall have the unrestricted authority to determine the extent to which it will set compensation at, below or above comparable levels. The minimum or starting salary of each position shall be based on the results of the comparability study and shall be used for recruitment and compensation until such time as a new review is completed.

The pay schedule for any civilian positions or job classes which are subject to a Collective Bargaining Agreement shall not be considered under this section

unless otherwise required by the terms of the Collective Bargaining Agreement.

3.8.2 Police Pay Schedule.

The pay plan for police officers (including lieutenant, captain and chief) shall be determined by the terms of any Collective Bargaining Agreement and/or by individual contracts with individual officers.

4. Performance Evaluations

4.1 Policy.

The purpose of the performance evaluation is to manage the performance of employees. Objectives of the performance evaluation process are to measure the effectiveness of the work force in meeting established goals and objectives, provide feedback to the employee on job performance, assess employee recruitment practices, provide a basis for personnel decisions and maintain written documentation of employee's work records.

4.2 Procedure.

4.2.1 Authority and Responsibility.

The Town Manager is responsible for administering the personnel policy, including overseeing the evaluation process, developing evaluation procedures, initiating employee evaluations, maintaining the Town's official personnel files and submitting reports to the Business Office for payroll changes. The employee's immediate supervisor is responsible for assigning work, monitoring work performance and recommending the appropriate personnel action based upon the results of the evaluation.

4.2.2 Probationary Period Evaluations.

The probationary period evaluations occur at three (3) months, six (6) months, and twelve (12) months of employment. They serve the following purposes:

- a) to enable the supervisor to clarify job responsibilities and advise the employee of problem areas where improvements are needed
- b) to enable the employer to assess the employee's work potential and whether the employee meets the minimum job requirements
- c) to serve as the final screening method in the employee recruitment process

4.2.3 Probationary Period Dismissal.

Department supervisors may recommend dismissal of an unsatisfactory employee at any time during the probationary period. Department supervisors shall specifically recommend the retention or dismissal of the employee based on the supervisor's evaluation of the employee's performance during the probationary period. The department supervisor shall indicate the following in writing to the Town Manager:

- a) that the employee's supervisor has discussed the new employee's progress (accomplishments, strengths and weaknesses) with the new employee
- b) whether the new employee is performing satisfactory work
- c) whether the probationary period should be extended provided, however, that no employee shall remain in a probationary status for more than eighteen (18) months from the date of employment
- d) whether the employee should be retained in the present position or should be released, transferred or demoted.

4.2.4 Annual Evaluation.

- a) Each regular employee will be evaluated at least once annually shortly before their review date but not later than January 31.
- b) This evaluation, to be a constructive part of the total Personnel Policy, will be reviewed by the employee and the evaluator. Any disagreements regarding this evaluation should be taken to the Town Manager for further discussion. Any continuing and unresolved personnel problems will be reviewed by the Town Manager who may change the rating on the evaluation. The Town Manager's decision is final, and not grievable.

4.2.5 Evaluation Forms.

All Town employees will be evaluated on forms developed by the Town Manager and approved by the Mayor and Town Council.

5. Position Classification Plan.

5.1 Policy.

A position classification plan has two primary purposes: it takes jobs that are similar in difficulty, value and qualifications and groups them together into categories known as position classes, and it provides specifications of the major characteristics of each job duties, tools and qualifications. In a small municipality with a small work force such as the Town of Smyrna, an elaborate classification plan with a number of job classes is neither necessary nor practical. In such a case, most jobs are really in a class of their own. Therefore, the position classification plan of the Town of Smyrna consists simply of a set of job specifications one for each job. A set of these position descriptions are appended to this policy.

5.2 Organizational Changes.

If a new job is created or an existing job is restructured, analysis of that job should be performed. If, however, either (1) a number of jobs are created, (2) a number of existing jobs are restructured, or (3) the organizational structure of the Town of Smyrna is significantly changed (e.g. departmental reorganization), then a re-analysis of all relevant jobs should be conducted. This, of course, should be followed by the revision of the Position Classification Plan.

6. Recruitment and Selection.

6.1 Policy.

It is the policy of the Town of Smyrna to recruit and select employees from a field of applicants in order to assure that the Town appoints the most qualified and competent applicants available, to provide an equal opportunity to all qualified applicants, and to base the selection of employees on valid, applicable and job-related measures of qualifications.

The Town Manager may post a notice of positions available for employment internally only or may announce a position publicly as long as town employees are considered in the filling of the position. When posting a vacant position internally only, the vacant position shall be noticed for a period of at least ten (10) working days before the closing date for receipt of applications. If not listed internally only, full time positions for employment shall be advertised in a locally distributed newspaper and such other sources as the Town manager shall deem appropriate. Notices shall contain all pertinent information about the positions being filled. A full job description shall be on file and shall be available to all applicants.

As necessary to assure sufficient numbers of qualified applicants, the Town Manager may continue to accept applications after the originally announced closing date provided the closing date is extended and appropriately publicized. The Town Manager may announce a vacancy with selective requirements, provided the justification for such requirement is job-related.

6.2 Procedure.

6.2.1 Personnel Requisition.

Whenever any department supervisor desires to fill a vacancy in any position, they must first receive approval from the Town Manager. The Town Manager shall review the request to determine need, evaluate required job skills, attest that the position is on the approved staffing level charts and determine that current funds are available to fund the position.

6.2.2 Application.

All persons expressing interest in employment with the Town shall be given the opportunity to file an application for employment. Each current employee who wishes to be considered for transfer or promotion to fill an existing vacancy shall submit an application to the Town Manager prior to the application deadline.

6.2.3 Applicant Screening and Interview.

After the deadline for applications has expired, the Town Manager and the appropriate department supervisor shall:

- a) screen the applications or resumes submitted for the current position vacancy
- b) determine which applicants are to be interviewed
- c) contact the applicants chosen and arrange for at least one interview to be scheduled at a time mutually agreeable to the parties involved and
- d) contact references provided by the applicants to verify past employment duties, dates, and records pertaining to performance, attendance, safety, attitude, and other pertinent employment and character information.

6.2.4 Physical Examination.

Upon offer of employment, applicants may, depending on the location and nature of the position, be required to take a physical examination by a physician of the employer's choice. The examination shall be at the expense of the Town.

6.2.5 Criminal Background Check & Pre-employment Motor Vehicle Record Review.

After notifying the applicant, the Town may have a criminal background investigation conducted by ADP Screening and Selection Services or other appropriate agency, for any position of Town employment which, in reasonable discretion of the Town Manager, requires

such investigation. The Town may have a pre-employment motor vehicle record review conducted by ADP Screening and Selection Services as well.

6.2.6 Pre-employment Drug and Alcohol Testing.

Upon offer of employment, applicants for positions which require employee to drive a Town-owned vehicle shall be tested for alcohol content and for the use of controlled substances. The offer of employment shall be withdrawn from any individual whose test reveals an alcohol content of 0.02 or greater or the presence of a controlled substance.

6.2.7 Notification and Hiring.

Upon completion of the appropriate screening, interview, and physical examination procedures, the Town Manager and Department Supervisor shall notify such applicant that they have been selected as the successful candidate, subject to acceptance and approval by the Town Council. The successful applicant and all other applicants shall be notified of their status in writing. Oral offers of employment may not be considered appointments.

6.2.8 Entry Level Pay.

Generally, a new employee shall be paid the minimum rate of pay for his/her class. The minimum rate for each class is based on the assumption that a new employee meets the minimum qualifications stated in the job description. Exceptions on starting salaries may be granted by the Mayor and Council by recommendation of the Town Manager if a new employee exceeds the minimum qualifications. Special cases shall be thoroughly analyzed and measured against objective standards by the Mayor and Council. In addition, every effort shall be made to recruit a qualified employee who will accept appointment at the minimum rate of the class.

6.2.9 Probationary Period.

Each employee appointed to a regular position shall serve a probationary period of one (1) year. An employee may be dismissed on recommendation to the

Town Manager during the probationary period at any time the department supervisor feels the employee is not satisfactorily performing the assigned duties. An employee serving a probationary period following initial employment in a regular position shall receive all benefits provided in accordance with this policy.

Before completion of the probationary period, the department supervisor shall give performance evaluations in the manner prescribed in Section 4.2.2 of this policy.

All new hires shall be paid reduced compensation (5% less than entry level salary) for the duration of their probationary period. (amended 03/15/10)

6.3 Recruitment of Department Supervisors.

Filing, notification procedures and appointment conditions for positions reporting directly to the Town Manager shall be as prescribed by the Town Manager.

6.4 Promotions.

All requests for promotions must first be submitted by the Department Supervisor to the Town Manager to attest that the position is included in the approved staffing level charts and that current funding is available to fund the promotion. When an employee is promoted to a position in a higher grade, his/her salary shall be at the entry level of the higher grade, but no less than five (5) percent above his/her existing salary, whichever is higher.

6.4.1 Temporary Promotion

Employees may be required to perform any duties described in their job description, any other duties of a similar kind and difficulty, and any duties of a similar or lower class. Employees also may be required to serve in a higher position; however, if such service continues beyond thirty (30) calendar days, Temporary Promotion applies. An employee being put into a Temporary Promotion shall meet the minimum requirements of the position unless the Town Manager deems otherwise. A Temporary Promotion does not guarantee permanent promotion into a position. An employee who is serving in a Temporary Promotion

position shall be compensated, beginning on the 31st day, at the entry level salary for that position or 5% above their current salary, whichever is higher.

6.5 Employee Transfers.

Upon the approval of the Town Manager, an employee may be transferred from one position to another. During the transfer period an employee shall be paid the minimum rate of the entry salary range or five percent (5%) above his/her existing rate, whichever is higher. Temporary transfers shall not exceed six (6) months in length.

7. Training and Development.

7.1 Policy.

It is the policy of the Town of Smyrna to provide training and professional development opportunities for its employees. The purpose of this is to promote an efficient and adequately trained work force, to upgrade skills of employees, to ensure training in new work techniques, to improve the performance of employees and to acquaint employees with the rules, regulations, ordinances, policies, practices and standards of government.

7.2 Procedure.

The following types of training and development may be provided by the Town upon approval of the Town Manager:

7.2.1 Professional Development.

Cost of conference attendance as well as professional newsletters and magazine subscriptions may be reimbursed by the Town upon authorization by the Town Manager.

7.2.2 Required Seminars and Courses.

Employees may be required to attend seminars or courses designed to promote an efficient and adequately trained work force, upgrade skills, learn new work techniques and to improve work performance. This training may be conducted either on-site or at other locations.

7.2.3 On-the-Job Training.

On-the job training will be provided to introduce, reinforce or improve essential job skills for employees. Department supervisors should provide on-the job training to familiarize employees with new work assignments, demonstrate the use of new equipment or technology, instruct employees on correct work procedures, explain performance standards and upgrade skills for advancement opportunities. This training should be provided on an on-going basis.

7.2.4 Voluntary Coursework Employees.

Employees may be eligible to receive financial assistance to pursue voluntary job-related, educational coursework. More information can be found in Section 8 of this policy.

7.3 Authorization.

All written requests for subscriptions, seminars or courses shall be submitted in advance to the Town Manager for approval in writing.

8. Employee Benefits.

8.1 Benefits Table.

The table below outlines personnel benefit programs available to full-time, casual/seasonal, temporary and part-time employees at the time of the development of this policy. For information and eligibility requirements on each benefit, see the appropriate policy. Detailed information on these benefits can be obtained from the Town Manager.

BENEFIT	FULL-TIME	PART-TIME	CASUAL/SEASONAL TEMPORARY
Blood Bank	Yes	No	No
Credit Union	Yes	No	No
Deferred Compensation	Yes	No	No
Disability Insurance	Yes	No	No
Educational Assistance	Yes	No	No
Group Life, Accidental Death and Dismemberment Insurance, & Travel Accident Insurance	Yes	No	No
Group Medical Insurance (Blue Cross/Blue Shield: Comp 100)	Yes	No	No
Pension Plan	Yes	No	No
Social Security	Yes	Yes	Yes
Uniforms & Safety equipment Allowance*	Yes	Yes	Yes
Workers' Compensation Insurance	Yes	Yes	Yes

* Uniforms and safety shoe allowances shall be as established by the Town Manager and Chief of Police subject to availability of funds and the safety and working conditions involved.

8.2 Blood Bank.

8.2.1 Eligibility.

The Town shall make available immediately to regular full-time employees the option of joining the Blood Bank of Delaware group plan. Casual/seasonal, temporary or part-time employees shall not be eligible for the Blood Bank group plan.

8.2.2 Terms.

Annual dues shall be paid by the Town for eligible employees. This program provides protection for the employee, spouse and his or her tax dependents if the need for blood arises. Under the group plan, the employee and eligible tax dependents are protected in all states that honor blood replacement for an unlimited amount of blood.

When joining Blood Bank of Delaware, the employee (member) agrees to meet a blood obligation approximately once every 2 1/2 years beginning within a few months after enrollment by one of three following options:

- a) donate blood directly;
- b) have someone donate blood for the employee; or
- c) pay the cost of replacing one pint of blood.

8.3 Credit Union.

8.3.1 Eligibility.

The Town shall make available to regular full-time employees the option of becoming a member of Dover Federal Credit Union. Casual/Seasonal or temporary or part-time employees shall not be eligible for the Credit Union benefit.

8.3.2 Terms.

Eligible employees may participate in the Credit Union which offers a variety of financial programs and banking packages. Participation is totally at the individual employee's expense via payroll deductions.

8.3.3 Enrollment.

Any eligible employee who wishes to become a member of the Credit Union may do so at any time and should notify the Business Office.

8.4 Deferred Compensation.

8.4.1 Eligibility.

Each full-time employee of the Town of Smyrna is eligible to participate in the Town-sponsored deferred compensation program. Casual/Seasonal or temporary or part-time employees shall not be eligible for the deferred compensation program.

8.4.2 Terms.

Individual employees may defer a portion (not to exceed the maximum allowed by the Internal Revenue Service) of his or her current pre-taxed salary for use at retirement or upon reaching age 70 1/2. Participation is totally at the individual employee's expense via payroll deductions. The Town shall not make a financial contribution to this plan.

8.4.3 Enrollment.

All eligible employees who wish to participate shall notify the Business Office and complete an enrollment form at any time.

8.5 Educational Assistance.

8.5.1 Eligibility.

The Town shall provide financial assistance to any full-time employee, having completed required probationary period, who successfully completes a formal education course which is not a prerequisite to employment and which is directly related to the improvement of the employee's ability to perform his or her assigned duties. Casual/Seasonal temporary or part-time employees shall not be eligible for educational assistance.

8.5.2 Terms.

Costs Eligible for Reimbursement. Direct costs, such as tuition and textbooks, shall be fully paid by the Town upon successful completion of a pre-approved course. Indirect costs, such as transportation, food and/or lodging, are not eligible for reimbursement.

Successful completion shall mean the receipt of a passing grade in the course. Costs incurred in the pursuit of any course for which the employee does not receive a passing grade shall be ineligible for reimbursement.

In exceptional circumstances, the Town may pay in advance of course completion. In such case, employees shall reimburse the Town if they do not submit evidence of satisfactory completion. Employees shall reimburse the Town for educational costs if they do not submit evidence of satisfactory course completion.

8.5.3 Enrollment.

Each employee who wishes to apply for financial assistance must receive the approval of the Town Manager prior to the commencement of the course. Police Officers must receive the approval of the Chief of Police. Such request for approval must be submitted in writing. Each employee who successfully completes a pre-approved course shall submit a written request for reimbursement accompanied by documentation of the grade earned and all eligible expenses incurred.

Any employee who takes advantage of this program and receives reimbursement shall be required to complete a least two (2) years of employment with the Town after reimbursement. Any employee who does not complete at least two (2) years of employment with the Town after reimbursement shall have the reimbursed amount deducted from his/her final check or shall be obligated to remit funds to the Town for outstanding costs associated with the assistance granted by the Town.

No employee shall be eligible for benefits under this policy if enrolled and receiving benefits under any other Educational Assistance Plan such as the GI Bill or LEAA.

8.5.4 Police Training

Police Training shall be governed by the Police Code of Conduct, Police Directives and Standard Operating Procedures

8.6 Group Life Insurance, Accidental Death and Dismemberment & Loss of Sight Benefits, and Accident Travel Insurance.

8.6.1 Eligibility.

The Town of Smyrna provides group life insurance, accidental death, dismemberment and loss of sight benefits including accident travel insurance for all its employees upon full-time employment (working 37.5 hours or more per week) at no cost to the employee. Casual/Seasonal, temporary or part-time employees shall not be eligible for these insurance benefits.

8.6.2 Terms.

a) Group Life Insurance and Accidental Death, Dismemberment & Loss of Sight Benefits. This coverage provides a benefit in the amount of \$50,000. Benefits reduce to 65% at age 65 and further reduces to 50% at age 70 and terminates at cessation of employment or upon retirement.

b) Accidental Death and Dismemberment Travel Accident Insurance. This coverage is \$100,000 and is paid for loss of limbs or sight or of life. This benefit provides insurance while traveling on official Town business outside an employee's normal work area, normally outside Smyrna Town limits. Coverage is not "to and from work" insurance or on-the-job trips around Town.

8.6.3 Enrollment.

All eligible employees should complete an enrollment form upon employment. There is no grace period between the time of enrollment and the time that the coverage goes into effect. A detailed explanation of the coverage and an enrollment form can be obtained from the Business Office.

8.7 Group Medical Insurance.

8.7.1 Eligibility.

The Town of Smyrna offers major medical insurance for all employees upon full-time employment. Casual/Seasonal, temporary or part-time employees shall not be eligible for the group medical insurance benefit.

8.7.2 Terms.

a) Program Available. The Town participates in the State of Delaware Health Insurance Program. Employees have five (5) plans from which to choose.

b) Town Contribution. The Town shall pay 85% of the individual employee coverage. The employee shall have the option of covering eligible dependents under the same insurance plan. The Town shall pay 85% of the dependent coverage for eligible employees and the employee shall pay the other 15%.

8.7.3 COBRA—Continued Coverage.

a) Continued Coverage. In accordance with the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), an employee who is covered by the Town's group medical insurance is entitled to choose "continued coverage" or a temporary extension of health coverage on a self-pay basis if coverage ceases because:

(i) the employee's employment is terminated for a reason other than gross misconduct.

(ii) the employee's hours of employment are reduced.

b) COBRA—Continued Coverage of Spouse and/or Dependents.

The employee's election of continued coverage may also include a covered spouse and dependent children. The maximum period of continued coverage is eighteen months. A spouse or dependent covered by the Town's group medical insurance is also entitled to purchase continued

coverage if loss of group coverage occurs because of:

(i) death of the spouse or parent (employee);

(ii) termination for reasons of other than gross misconduct or a reduction of hours of the spouse or parent's employment;

(iii) divorce or legal separation from spouse or of parents;

(iv) the spouse or parent becomes eligible for Medicare.

A dependent also has the right to continued coverage if he or she ceases to be a "dependent child" under the Town group coverage. For these events, the maximum period of continued coverage is 36 months.

c) COBRA—Discontinuation of Continued Coverage.

Continued Coverage will end earlier than the eighteen or thirty-six months in subsection 8.7.3(a) and 8.7.3(b) of this Section if:

(i) individuals are covered under another health care or major medical plan;

(ii) individuals do not make their premium payments when due;

(iii) individuals become eligible for Medicare

d) the Plan terminates for all employees.

8.7.4 Enrollment.

All eligible employees are enrolled on-line. A detailed explanation of the coverage listed above and an enrollment process can be obtained from the Business Office.

8.8 Retiree Health Insurance Coverage.

8.8.1 Eligibility.

Effective September 2, 1997, any full time employee (casual/seasonal, temporary and part time employees are not eligible) who retires and who is covered by the health coverage provided by the Town at the time of his or her retirement may be eligible to continue coverage under the Town health insurance group plan with coverage being provided for the retired employee with the following limits:

8.8.2 Terms.

- a) The Town will pay 100% of the TOTAL PREMIUM costs for the retired employee as outlined in the TOWN OF SMYRNA MUNICIPAL HEALTH PLAN.

The Town's cost shall not exceed the cost of an individual plan for retired employees who have not reached their 65th birthday. The retiree is able to select family or subscriber and/ or eligible child(ren) coverage if they desire, but the costs above the costs for an individual plan is the entire responsibility of the retiree.

The Town's cost shall not exceed the cost of a Medicfill plan for retired employees who have reached their 65th birthday.

The retiree is able to select family or subscriber and/or eligible child(ren) coverage if they desire, but the costs above the costs for a Medicfill plan is the entire responsibility of the retiree.

- b) The retired employee must have twenty (20) or more years service with the Town of Smyrna and have reached his/her 55th birthday at the time they retire from the Town to be eligible for coverage or participation in the plan with the following exception:

Police officers that have twenty (20) or more years service with the Town of Smyrna and have reached his/her 50th birthday at the time they

retire from the Town are eligible for coverage or participation in the plan.

c) Upon the death of a covered retired employee:

(i) covered spouses and dependents under the age of 65 may be eligible for continuation of coverage as permitted under the Federal COBRA laws, as amended. Covered spouses and dependents may also be eligible to apply for or convert to individual coverage.

(ii) covered spouses age 65 or over may be eligible to apply for or convert to an individual Medicare Supplemental or similar plan as available.

(iii) under situation 1. or 2. above, the Town is not responsible for any costs. Costs will be the responsibility of the spouse and/or dependent as applicable.

d) This amendment shall apply to all employees who retire after the date of its adoption (September 2, 1997).

e) The Town reserves the right to alter, amend, revoke or terminate this plan by written instrument. However, no such alteration, amendment, revocation or termination shall deprive any person who has retired of benefits he/she is receiving.

8.9. Pensions For Full Time Employees (Please see the most recent Police Collective Bargaining Agreement and/or individual contracts with individual officers for details of their pension plan)

8.9.1 Eligibility for Participation

Each eligible Employee shall become a participant as of the first day of the next month following the later of the date they complete one Year of Service or they attain age 21, provided they complete 1,000 Hours of employment with the Town during any Applicable Computation Period.

8.9.2 Employment of pensioners

(a) An individual shall not receive a service or disability pension under the Town Employee Pension plan for any month during which the individual is also an employee unless the individual is:

(1) An official elected to Town Council

(2) An official appointed by Council to serve upon a committee

(3) A temporary, casual, seasonal or other part-time employee as defined within the Personnel Policy

8.9.3 Service Time

Service time begins the first hour of employment and ends on the earlier of the date the employee resigns, is discharged, retires or dies. A temporary absence due to sickness, accident, or such periods of authorized leaves of absence as may be determined by the Town Manager shall not be considered the termination of period of employment.

8.9.4 Vesting

Employees will be considered vested after five years of service.

8.9.5 Actuarial valuations and appropriations.

The actuary shall prepare an actuarial valuation of the assets and liabilities of the funds as of December 31st, each year. On the basis of reasonable actuarial assumptions and tables approved by Town Council, the actuary shall determine the normal cost required to meet the actuarial cost of current service and the unfunded actuarial accrued liability.

8.9.6 Town Contributions

The Town intends to contribute such amounts as are actuarially required to fund the benefits of the Plan. The Town does not, however, guarantee either the making of the contributions or the payment of the benefits under the Plan. The Town reserves the right

to reduce, suspend or discontinue its contributions under the Plan for any reason at any time.

8.9.7 Participant Contributions

No contributions shall be required of the Participants.

8.9.8 Payment of Contributions

The Town shall deposit contributions within the pension investment accounts at such times as the Town may decide.

8.9.9 Benefits payable upon termination of employment

- a) Upon eligibility for Retirement, a Participant shall have a 100% vested interest in their Accrued Benefit.
- b) A Participant shall have the right to retire on their Normal, Early or Deferred Retirement Date.
- c) If the employee retires before five years of service, no benefits shall be payable by the Town.
- d) The multiplier is 2.5% as of January 1, 2006.
- e) There is an averaging period of three years for calculation of benefits.
- f) Employees should refer to the Pension Plan for Full Time Town Employees for specifics upon the optional forms of retirement income.

8.9.10 Payment of benefits

- (a) Except for orders of the Delaware Family Court for a sum certain payable on a periodic basis, the benefits provided by this plan shall not be subject to attachment or execution and shall not be subject to assignment or transfer.
- (b) The payment of benefits will be in a form approved by Town council and the Town currently directly deposits the funds through ADP out of a separate checking account via direct deposit.

8.9.11 Eligibility of Pension payments

- (a) An employee will become eligible to receive a pension, beginning with the month after the employee has terminated employment, if:
 - i. The employee has met the vesting requirements and is of 65 years of age
 - ii. The employee has 25 years of service, regardless of age.
- (b) A former employee meeting the vesting requirements shall become eligible to receive a pension the first month after they turn 65.
- (c) Please see the Town Employee pension plan document for further details.

8.9.12 Waiver of benefits

- (a) Any individual entitled to any benefits under the Town Employee Pension Plan may decline to accept all or any part of such benefits by a waiver signed and filed with the Town Manager. The waiver may be revoked by the retiree at any time, but no payment of the benefits waived shall be made covering the period during which such waiver was in effect.

8.10 Social Security.

8.10.1 Eligibility.

All employees of the Town of Smyrna shall be provided Social Security benefits.

8.10.2 Terms.

The cost to the individual, matched by the Town of Smyrna, is scheduled by law as a percentage of designated base salary. These deductions are taken from each pay check. In addition to retirement, disability and survivor benefits, the Social Security Program provides Medicare hospital and medical/surgical benefits.

8.10.3 Enrollment.

All Town employees are automatically enrolled upon employment. Employees are encouraged to obtain a statement of earnings credited to one's Social Security account and a projection of the expected benefits upon retirement. This information can be obtained free of charge from the Social Security Administration by filling out Form SSA-7004PC, Request of Statement of Earnings. Employees should contact their regional Social Security office three months prior to retirement to apply for benefits. A detailed explanation of the coverage listed above or a Request for Statement of Earnings can be obtained from the Business Office.

8.11 Uniforms & Safety Equipment.

8.11.1 Eligibility.

Unless otherwise provided by a collective bargaining agreement, the Town shall provide uniforms for employees of the Electric, Public Works, Building & Inspections, and Police Departments. These employees shall be required to wear uniforms while on duty so that they will be easily identified as Town Employees. An allowance for safety shoes and safety glasses (amount to be set by Town Manager) shall be made available to electric and Public Works Employees, the Town Building Inspectors and Code Enforcements Officer(s).

8.11.2 Terms.

Unless otherwise provided by a collective bargaining agreement:

- a) Employee Responsibility. The employee is responsible for reasonable care of their uniforms. Therefore, the cost of avoidable damage or loss of uniforms shall be paid by the employee. An employee shall wear his or her uniform properly, shall not allow it to be worn by others and will wear it only during working hours, or to and from work. Upon separation from

employment, the employee shall return his or her uniform(s) to the Town.

b) Uniforms, including shirts, pants, jackets, shoes, are provided to insure that our employees easily can be identified as representatives of the Town. They should be clean, in good repair, and worn properly as a complete uniform, with shirt tails tucked, in so as to project a professional image. This policy applies to employees while at work and while attending functions/meetings representing the Town of Smyrna.

b) Provision of Uniforms.

(i) Electric and Public Works Departments, Building Inspectors and the Code Enforcement Officer(s). The Town will provide the uniforms to the full time, part time and casual/seasonal temporary employees of the Electric and Public Works Departments, Building Inspectors and the Code Enforcement Officer(s) at no cost.

(ii) Police Department. The Town will provide uniforms for the sworn officers, dispatchers and CAPS volunteers of the Police Department at no cost.

8.12 Workers' Compensation Insurance.

8.12.1 Eligibility.

The Town shall provide Workers' Compensation benefits to all employees as required by the Delaware Workers' Compensation Act.

8.12.2 Terms.

The Town shall provide compensation in the form of wage replacement and the cost of all reasonable and necessary hospital, surgical and medical expenses, including prescriptions, for all accidental injuries or illnesses and death arising out of and in the course of employment. Town employees are required to report all injuries arising out of and in the course of employment to their supervisor by the end of their normal work schedule.

8.12.3 Enrollment.

All Town employees are automatically enrolled upon employment. A detailed explanation of the coverage listed above can be obtained from the Office Manager.

8.13 **Disability Insurance.**

The Town maintains a long-term disability insurance policy for all employees. There is a 90 day waiting period before disability payment will begin. A copy of the long-term disability insurance policy is available in the Business Office.

8.14 **Benefits Limitation.**

The Town will not pay its normal contribution for an employee's benefits for any employee who is unable to perform the job for which they are hired after a period of time equal to an employee's accumulated sick leave, vacation leave or Family Medical has passed.

9. Dress Code

9.1 Policy

The Town of Smyrna is a business and it is important that the employees who work for the Town conduct themselves in a professional manner. To maintain a professional atmosphere, it is required that employees dress in acceptable attire. The following guidelines are designed to insure that our employees project a professional image in the workplace.

9.2 Acceptable Women's Clothing/Shoes

Business/Casual attire
Skirts
Slacks/Chinos/Dockers
Blouses/Turtlenecks
Blazers/Sweaters/Vests

Flats
High Heels
Dress Boots
Sandals

9.3 Acceptable Men's Clothing/Shoes

Business/Casual Attire
Slacks/Chinos/Dockers
Dress Shirts
Casual Shirts
Blazers/Sweaters/Vests
Turtlenecks

Dress Shoes
Loafers/Docksiders
Dress Boots

9.4 Inappropriate Dress

Clothing that is ripped, torn, stained or frayed
Bicycle Pants
Tight Clothing
Shorts
Flip flops
Miniskirts (length must be no more than 2" above knee)
Low Cut/Midriff Tops (exposed cleavage is unacceptable)

Tank Tops) Unless worn under another article
Halter Tops) of clothing such as a blouse,
Spaghetti Strap Tops) cardigan/sweater, etc.)
Sheer Blouses (unless worn over an acceptable top)
Jeans* (this includes denim and various colors of jeans)
Tee Shirts*
Sweatshirts*
Sneakers*

*acceptable only on Casual Days

9.5 Casual Day

Every Friday and any day before a legal holiday is designated as "casual day".

On Casual Day, it is acceptable to wear jeans, tee shirts, sweatshirts and sneakers if they are clean, neat and in good taste.

9.6 Grooming

Clean, bathed or showered
Hair clean and combed
Clothing clean and pressed
No excessive makeup or jewelry
No facial jewelry
No excessive perfume/cologne/aftershave

9.7 General Notes

Common sense must reign here. If bare skin is exposed when arms are extended over the head, the shirt/blouse/top is too short or the pants/skirt is cut too low. If cleavage is exposed when sitting or standing normally, a shirt/blouse/top is cut too low.

This policy covers all full time, part time, temporary and casual/seasonal employees and everyone is required to comply.

10. Driver's License Requirement and Review

10.1 Definitions

Commercial driver's license means a commercial driver's license (CDL) of any type or class, issued by any State.

Notwithstanding any other State or Federal definition, in this Section 10, **Commercial Motor Vehicle** means any self-propelled or towed motor vehicle used on a highway in interstate commerce to transport passengers or property when the vehicle:

- a) Has a gross vehicle weight rating to gross combination weight rating, or gross vehicle weight or gross combination weight, of 4,537 kg (10,001 lb) or more; whichever is greater, or
- b) Is designed or used to transport more than 8 passengers (including the driver) for compensation; or
- c) Is designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation; or
- d) Is used in transporting material found by the Secretary of Transportation to be hazardous under 49 U.S.C. 5103 and transported in a quantity requiring placarding under regulations prescribed by the Secretary under 49 CFR, subtitle B, chapter I, subchapter C.

For purposes of this Chapter, commercial motor vehicle shall also mean any Town-owned or operated equipment including but not limited to any tractor, bull dozer, or backhoe, which may be operated on any public road.

Notwithstanding any other provisions of this Policy, in this Section 10, Employee means any employee of the Town, including any temporary, seasonal or part-time employee.

Employer means the Town of Smyrna.

Medical certification means the certification required under the Federal Motor Carrier Safety Regulations, to operate a commercial motor vehicle.

Notwithstanding any other State or Federal definition, in this Section 10, **Passenger vehicle** means any car, station wagon, pickup truck, or utility vehicle weighing less than 10,000 pounds (with or without a trailer), designed to carry less than 16 passengers, including the driver, and not placarded for the transportation of hazardous material.

Passenger vehicle license means a license to operate a passenger vehicle.

10.2 Policy

Any employee including any temporary, casual/seasonal, or part-time employee, who operates any Town-owned vehicle, must have a valid driver's license and must be of insurable status. In addition, Street Department and Electric Department employees, and all other employees who are authorized and/or required in the performance of their employment duties to drive a commercial vehicle, must have a commercial driver's license (CDL) upon employment, and at all times during employment, with the Town. Any employee who loses the right to drive is prevented from fully executing his or her duties. This, in turn, reduces the Town's ability to provide it's citizens with the most efficient and effective delivery of public services. The loss of the right to drive may thus be a basis for discipline up to, and including termination of employment.

10.3 Procedure

10.3.1 Verification

a) For any employee who is authorized and/or required to operate any Town passenger vehicle, the Town shall request, on a yearly basis, and the employee shall submit, for inspection and copying purposes, a current and valid passenger vehicle license.

b) For any employee who is authorized and/or required to operate any Town commercial vehicle, the following shall apply;

(i) The Town shall request, and the employee shall submit, on a yearly basis, for inspection and copying purposes, a

current and valid commercial driver's license (CDL).

(ii) The employee shall not drive any Town owned commercial vehicle unless he/she is physically capable and qualified to do so, and has on his/her person the original, or photostatic copy of the medical certification to do so, as required under the Federal Motor Carrier Safety Regulations, Subparagraph E, §391.41, 391.43 and 391.45.

(iii) The employee shall submit to a medical examination, by a physician of the Town's choice, to obtain the medical certification required by the Federal Motor Carrier Safety Regulations, every 2 years.

(iv) A Consent and Release shall be executed by all current employees, and any prospective employee, upon application for employment, authorizing any inquiry and review of that employee's driving record.

10.3.2 Inquiry and Review of Commercial Driver's Licenses

a) An inquiry shall be made, into the driving record of each employee who is authorized and/or required to operate any Town commercial motor vehicle, at least once every 12 months, or at any other time the Town deems necessary, covering at least the preceding 12 months, to the appropriate agency of every State in which the employee held a commercial motor vehicle operator's license or permit during the time period.

b) An inquiry shall be made, into the driving record of any prospective employee who will be authorized and/or required to operate any Town commercial motor vehicle, upon application for employment, for the preceding three (3) year period., to the appropriate agency of every State in which the employee held a motor vehicle operator's license or permit during those 3 years.

c) The Town Manager shall review the driving record of each driver received in response to the inquiry made in (a) or (b) above, and any other response received from the applicable State agency, to determine whether that driver meets the minimum requirements for safe driving or is disqualified to drive a commercial motor vehicle under any State or Federal law.

d) The Town Manager shall also review and evaluate the driving record, and any other response received from the applicable State agency, to determine if the employee/driver meets the Town's minimum requirements for safe driving as set out below:

(i) Driver Eligibility

All type A violations (as defined below) will result in suspension and/or termination of driving privileges for Town employees, may result in termination of employment, and will disqualify any potential driver employees;

(ii) Any drivers (employees or applicants) showing any one of the following shall be restricted from driving Town vehicles:

(a) One (1) or more type "A" Violations in the past 3 years.

(b) Three (3) or more "at fault" accidents in the last 3 years.

(c) Any combination of accidents and type "B" violations which equal four (4) or more in the last 3 years.

Type "A" Violations:

- * Driving while intoxicated
- * Driving while under the influence of drugs

- * Negligent homicide arising out of the use of a motor vehicle (gross negligence)
- * Operating during a period of suspension or revocation
- * Using a motor vehicle for the commission of a felony
- * Aggravated assault with motor vehicle
- * Operating a motor vehicle without a owners' authority (grand theft)
- * Permitting an unlicensed person to drive
- * Reckless driving
- * Speed contest (racing)
- * Hit and run (bodily injury or significant property damage the driver knew or should have known occurred)

Type "B" Violations

All moving violations not listed as type "A" violations.

e) A copy of the response received from each State agency to the inquiry made in a), a note naming the person who performed the review under b) and c), and the date of the review, shall be maintained in the employee's personnel file, for 3 years during employment, and subsequent to employment.

10.3.3 Application for Employment

a) Upon application for employment, any employee who is authorized and/or required to operate any Town commercial motor vehicle, shall complete, date and sign an application for employment containing the following information:

- 1) The applicant's address, date of birth, and social security number;
- 2) The addresses at which the applicant has resided during the preceding three (3) years;

- 3) The issuing State, number and expiration date of each unexpired commercial motor vehicle operator's license or permit that has been issued to the applicant;
- 4) The nature and extent of the applicant's experience in the operation of motor vehicles, including the type of motor vehicle which he/she has operated;
- 5) A list of all motor vehicle accidents in which the applicant was involved during the preceding three (3) years, specifying the date and nature of each incident, and whether any fatalities, or personal injury, of any degree were caused;

6) A list of all violations of motor vehicle laws or ordinances (other than parking violations) of which the applicant was convicted, or to which a plea of guilty was given, or which resulted in the forfeiture of bond or collateral during the preceding three (3) years;
- 7) A statement setting forth the facts and circumstances of any denial, revocation, or suspension of any license, permit or privilege to operate a motor vehicle that has been issued to the applicant, or a statement that no such denial, revocation, or suspension has occurred.
- 8) A list of the names and addresses of all employers during the preceding three (3) years, specifying the dates of employment and the reasons for leaving the employment.
- 9) A list of the names and addresses of all employers for which the applicant operated a commercial motor vehicle during the seven (7) year period preceding the three (3) year period contained above, the dates of employment, and the reasons for leaving the employment.

b) The employee shall certify the application of employment was completed by the employee, and that all entries and information contained within it are true and complete to the best of their knowledge.

c) Any information provided by the applicant concerning employers during the preceding three (3) years, may be used, and any prior employer may be contacted, to investigate the applicant's background.

10.3.4 Notice

a) Any employee who operates any Town owned vehicle, including any passenger or commercial vehicle, must give notice to the Town, in writing, of any moving motor vehicle violation for which they have been charged, immediately.

b) Any employee whose driving privileges are, suspended or revoked, or who has been placed on an uninsurable status by the Town's insurance carrier, shall notify his or her department supervisor, or if none, the Town Manager, immediately, and shall cease operating any Town vehicle or equipment which requires a driver's license.

10.3.5 Random Drug Testing

The Town of Smyrna may implement and conduct random drug and alcohol testing of all drivers who may operate any Town vehicle, in compliance with all requirements of the U.S. Department of Transportation and other Federal, State, and Town laws, regulations and ordinances.

10.3.6 Disciplinary Action

Any employee who operates a Town vehicle without a valid driver's license, (passenger, or a CDL license if required), or while on uninsurable status, or who falsifies information about the status of his or her driving privileges, shall be subject to disciplinary action up to and including dismissal. Disciplinary action shall depend upon the severity of the incident.

10.3.7 Arrest and Conviction for Driving Under The Influence (DUI)

An employee who is arrested for driving under the influence shall immediately inform his/her supervisor, and if the employee's driving privileges have been taken, shall not drive any town owned vehicle, effective immediately. If the employee's driving privileges have not been taken pending further enforcement action the employee may, with the approval of the Town Manager, drive a town owned vehicle until such time as the matter is adjudicated. An employee who is eligible to obtain a work permit or other interim license shall do so within ten days of eligibility and shall provide the Business Office with a copy when obtained.

An employee, if eligible, must take and successfully complete a "first offender program", and by doing so shall be considered to have been cleared of the DUI offense, provided however that another DUI conviction shall result in immediate dismissal regardless of the length of time between convictions.

During the duration of the "first offender program" and any accompanying period of license suspension, the employee may request that the Town Manager, with the approval of the employee's supervisor, make accommodations for alternative transportation where the employee's job duties normally require that they be able to drive in order to adequately perform their duties. An employee who is not able to enroll in such program, is unable to obtain a work permit or interim license, or is determined not to be able to adequately perform their duties, with the approval of the Town Manager, is permitted to use accrued vacation time or compensatory time, but not sick leave, during the period of suspension. At the expiration of the accrued leave the employee will be placed in a leave without pay status until driving privileges are restored.

11. General Employee Work Practices.

11.1 Policy.

The general practices listed below are intended to illustrate the type of behavior which is required of Town employees. Such practices are intended to promote a positive work environment where the effective delivery of services is not disturbed or obstructed by disruptive behavior of Town employees or other individuals.

11.1.1 Each employee is expected to be at his or her assigned work area ready to begin work at the beginning of the work day.

11.1.2 Except for authorized breaks, and reasonable absences required to attend to personal needs, each employee is expected to remain at the assigned work area performing his or her assigned duties.

11.1.3 Each employee is expected to perform assigned duties and to report to his or her supervisor any conditions or circumstances, including any inadequacies in the instructions or the procedures specified for their work assignment, which will prevent or inhibit the employee from the effective performance of these duties.

11.1.4 Each employee is required to adhere strictly to safety rules, including the use of safety equipment when specified, and to report unsafe conditions or practices to his or her supervisor immediately.

11.1.5 Each employee is expected to exercise reasonable care and caution in the operation of any Town equipment or property so as not to cause excessive deterioration or unnecessary damage.

11.1.6 Employees are not prohibited from making or receiving personal telephone calls and/or sending/receiving personal fax messages while at work; however, such calls are expected to be kept to a minimum and to remain as short as possible. Employees will be required to reimburse the Town for any personal toll calls; however, these calls are discouraged and should only be made if it is absolutely necessary.

11.1.7 Employees will remain awake while on duty. Sleeping on duty will not be permitted. If an employee is unable to remain alert and awake, he/she will report this condition to his/her supervisor.

11.1.8 The use of profane, obscene or insulting language is prohibited.

11.1.9 Each employee is expected to obey and comply with all Town, State and Federal ordinances, laws and statutes as well as all written and verbal Town and department policies, procedures and work rules.

11.1.10 Employees shall not tape record, videotape or, through electronic, mechanical or other device or apparatus, record any conversation or action between Town employees or involving Town employees unless all persons whose voices or actions are being recorded are aware that such recording is taking place and have consented thereto in writing; provided, however, that nothing herein shall prohibit such recording pursuant to any court order or as directed by the Town Manager in the reasonable monitoring of the activities of Town employees during those employees' working hours with the Town.

11.1.11 Employee's personal cell phones shall be turned off while employee is on duty.

11.2 Disciplinary Action.

An employee who violates any of the above work practices shall be subject to disciplinary action up to and including dismissal. Disciplinary action shall depend upon the severity of the incident.

12. Gifts and Favors.

12.1 Policy.

The position of the Town of Smyrna as a public organization imposes on all employees special responsibilities to assure impartiality in all matters related to business dealings.

12.2 Procedure.

Any employee who receives or anticipates the receipt of any gift or request for favor shall immediately notify his or her supervisor.

12.3 Prohibited Practices.

Each employee is prohibited from accepting any gift, favor, gratuity, loan or promise which would have not otherwise been offered to him or her if he or she were not a Town employee. No employee shall grant, in the discharge of duties, any improper favor, service or thing of value.

12.4 Disciplinary Action.

Any employee who violates this policy shall be subject to disciplinary action up to and including dismissal. Disciplinary action shall depend upon the severity of the incident.

12.5 Ethics Commission Review

The Town Manager or an employee may seek the impartial opinion of the Ethics Commission regarding whether there is a conflict of interest or appearance of impropriety; the determination of whether there is an impact on the efficiency of the employee is clearly outside the scope of the Ethics Commission's charge as this determination remains with the Town Manager.

13. Hours and Days of Work

13.1 Policy.

13.1.1 Normal Work Day.

The work schedule of each Town employee shall be established by the department supervisor, subject to the procedures contained in this policy and as approved by the Town Manager. The normal work day of the employees is determined by the following schedule:

a) Full-Time Employees. The standard work week for wage and salaried employees shall be that which is recommended by the Town Manager and approved by the Council. It shall consist of 37.5 hours for Office Personnel and 40 hours for all others. Employees will be entitled to a ten (10) minute rest period during the first four (4) hours of the day and another rest period of (10) minutes during the last four (4) hours of the day. The Town Manager may assign certain positions or classes to work a work schedule which differs from that considered to be standard for the remainder of the employees. Upon receipt of Council approval, such a schedule shall become the standard schedule for those employees affected.

b) Part-Time Employees. Part-time employment (less than 37.5 hours per week) shall be performed only according to schedules established by the Department Head in consultation with the Town Manager as may be required to accomplish the assigned functions.

Compensation for part-time employees shall be set at the minimum per hour rate for the position as determined in accordance with the civilian compensation plan. Part-time employees shall be eligible to accrue vacation and sick leave on a pro-rata basis reflecting the number of hours for which they are normally scheduled to work.

If a part-time employee becomes a full-time employee, their anniversary date shall be the

date that the employee attains permanent, full-time status.

c) Casual/Seasonal or Temporary Employees

Compensation for casual/seasonal or temporary employees shall be based on a scale approved by the Town Manager reflecting the degree of difficulty and skills required of the job. Casual/Seasonal or temporary workers shall not be entitled to any fringe benefits except Worker's Compensation.

13.1.2 Normal Work Week.

The normal work week for each employee shall consist of five (5) days of work, Monday through Friday. However, in the case of the Police Department the normal workweek for each employee may vary in number of days and hours worked.

13.1.3 Overtime

When operating requirements or other needs cannot be met during regular working days or hours, employees may be scheduled to work overtime days or hours. When possible, advance notification of these mandatory assignments will be provided. All overtime work must receive the supervisor's prior authorization.

Overtime assignments will be distributed as equitably as practical to all employees qualified to perform the required work.

Failure to work scheduled overtime or overtime worked without prior authorization from the supervisor may result in disciplinary action, up to and including possible dismissal. Disciplinary action shall depend upon the severity of the incident.

13.1.4 Compensatory Time

The following compensatory time policies shall only apply to full time exempt employees not covered by a separate employment agreement:

- a) Compensatory time shall begin to accrue for hours worked in excess of the employees normally scheduled work week as outlined in this personnel ordinance now in effect or as hereafter amended. A minimum of one hour must be worked in excess of the normal work week in order to record compensatory time earned for that week. Compensatory time used in excess of 15 minutes shall be recorded as time used.
- b) Accumulated and used compensatory time shall be reported on a weekly basis along with and in compliance with the normal payroll reports. Authorization to earn non-emergency compensatory time shall be subject to approval by the Town Manager. All emergency compensatory time shall be reported to the Town Manager as soon as possible during the next working day.
- c) Employees shall not use compensatory time off during normal office hours at such time as their actual presence is required by pressing responsibilities of the Town. The use of compensatory time shall at all times be subject to the approval of the Town Manager.
- d) Compensatory time earned after July 2, 2001 shall be used during the calendar year it is earned. Employees shall not carry more compensatory time into the next calendar year than they are allowed to carry over in vacation time as limited in the vacation policies of this ordinance. All accumulated compensatory time earned, but not used, which exceeds the employees vacation carry restrictions shall be forfeited down to the vacation carry-over limitations.

Exception: Hours earned during the last two weeks of the calendar year due to an extreme emergency shall be allowed to be carried over into the next calendar year, but must be used during the month of January and does

not change the next calendar years carry over limitation.

- e) Compensatory time accumulated prior to July 2, 2001 shall be established for all employees covered by compensatory time policy, reported to and approved by the Town Manager and recorded in the payroll records of the Town. A minimum of 20% of this earned and approved compensatory time shall be used by the end of the year 2002 and an addition 20% shall be used each year there after until the balance is in compliance with the vacation policy carry over limitations of this ordinance (**except as noted below**). Any balances which exceed the limitations of this reduction plan shall be forfeited. It is the intent of this section to eliminate all accumulated compensatory time which exceeds the vacation carry over limitations by the end of the year 2006 (**except as noted below**).

Exception: Any employees with over ten years service with the Town: A minimum of 10% of this earned and approved compensatory time shall be used by the end of year 2002 and an additional 10% shall be used each year there after until the balance is in compliance with this vacation policy carry over limitations of this ordinance.

- f) In no event will the Town pay employees covered by this policy for earned, accumulated and/or unused compensatory time during employment or after separation from the Town. This section applies to compensatory time earned and accumulated before and after the adoption of this resolution.

13.1.5 Lunch Period.

Lunch period shall be one (1) hour for office personnel and one-half (1/2) hour for all others. Individual departments may schedule normal lunch hours and/or alternative lunch periods in order to meet

organizational requirements. After taking their lunch break, it is not acceptable for an employee to bring a lunch back to the desk and eat. EXCEPTION: If an employee works through his/her lunch break, they may eat lunch in the kitchen/break room or there are days when lunch is provided and everyone shares. This policy is not intended to stop employees from having coffee, soda and snacks at their desks during the work day.

13.1.6 Disciplinary Action.

Any deviation from these schedules without authorization by the Town Manager shall subject the employee to disciplinary action up to and including dismissal. Disciplinary action shall depend upon the severity of the incident.

14. Motor Vehicle Accidents.

14.1 Policy.

Each employee of the Town of Smyrna who operates any Town owned vehicle or equipment is expected to exercise reasonable care and caution so as not to endanger others or to cause excessive deterioration or unnecessary damage to equipment.

14.2 Procedure.

14.2.1 Reporting/Notification of Accidents

Each employee who is involved in an accident while operating a Town vehicle shall report such accident to the Police immediately, regardless of the severity of the accident or the extent of the property damage. The employee shall also notify his or her department supervisor immediately.

14.2.2 Reimbursement.

Depending upon the nature of the accident, and if it is the result of negligence on the part of the employee operating the vehicle or equipment, the employee may be required to reimburse the cost of repair or replacement to the Town in full or in part.

14.2.3 Required Testing After Accidents

Any employee who is involved in an accident while operating a Town vehicle or any other vehicle while conducting Town business shall be tested for alcohol content and/or for the use of controlled substances, if one or more of the following circumstances are present:

- any personal injury to any party results from the accident
- the responding police officer determines that a motor vehicle violation was committed by the employee

14.2.4 Disciplinary Action.

If an employee of the Town is involved in an accident while operating a Town vehicle which is the result of negligence on the part of the employee, then he or she shall be subject to disciplinary action up to and including dismissal. Disciplinary action shall depend upon the severity of the incident.

15. Nepotism.

15.1 Policy.

The Town of Smyrna has an obligation to its employees to take reasonable and appropriate steps to assure that personnel management shall be implemented consistent with merit system principles.

15.2 Limitations.

15.2.1 No person shall be hired as an employee of the Town where any member of that person's immediate family is already an employee of the Town and would be either: (a) responsible for the supervision, direction, evaluation or merit recommendation of the person to be hired or (b) would be subject and subordinate to the supervision, direction, evaluation, or merit recommendation of the person to be hired.

15.2.2 No person already an employee of the Town as of the effective date of this ordinance shall be transferred to any position within the Town so that such employee would be either: (a) responsible for the supervision, direction, evaluation, or merit recommendation of an immediate family member or (b) subject and subordinate to the supervision, direction, evaluation or merit recommendation of a member of his immediate family.

15.2.3 For purposes hereof, members of the "immediate family" shall include: spouse, parent, child, grandparent, aunt, uncle, niece/nephew, first cousin, brother, sister, grandchild, in-laws, step-family, and domestic partners as defined in this policy.

16. Outside Employment and Non-Profit Organization Participation

16.1 Policy.

The work of the Town will take precedence over other occupational interests of employees. All outside employment for salaries, wages or commission and all self-employment must be reported to the employee's supervisor, who in turn will report to the Town Manager. The Town Manager will review such employment for possible conflict of interest, appearance of impropriety or impact upon the efficiency of the employee.

16.2 Prohibited Practices.

The employee's private work will be considered in violation of this policy if:

16.2.1 the performance of such work is regulated by the Town, either directly or indirectly;

16.2.2 the employee's official position confers an economic advantage upon the employee over others;

16.2.3 the employee will represent any other interests before the Town body; or

16.2.4 the outside employment impacts upon the employee's efficiency.

16.2.5: outside employment, including sale of personal or household items, cosmetics, magazines, food items, and similar items (such as but not limited to Avon, Pampered Chef, Tupperware, Southern Living, Home Décor, etc.) shall not take place during normal working hours or in a manner that is distracting to or is incompatible with the discharge of the duties of the employee or other employees.

16.2.6: activities on behalf of non-profit organization (such as schools, churches, social clubs, etc.), including bake and cookie sales, raffles, or other fundraising activities and programs shall not take place during normal working hours or in a manner that is distracting to or is incompatible with the discharge of the duties of the employee or other employees

16.3 Disciplinary Action.

Outside employment which conflicts or inhibits an employee's efficiency may be grounds for disciplinary action, including dismissal.

16.4 Ethics Commission Review

The Town Manager or an employee may seek the impartial opinion of the Ethics Commission regarding whether there is a conflict of interest or appearance of impropriety; the determination of whether there is an impact on the efficiency of the employee is clearly outside the scope of the Ethics Commission's charge as this determination remains with the Town Manager.

17. Personal Use of Town Property.

17.1 Use of Town Property except vehicles.

Town equipment, materials, computers, cameras, cell phones, tools and supplies shall not be available for personal use nor be removed from Town property, except in the conduct of official Town business or after receiving permission from supervisor with approval granted by the Town Manager. Such restriction shall apply regardless of whether such items were purchased, donated, bequeathed, or in any other form provided to the Town.

17.2 Use of Town-owned Vehicles.

- a) The Mayor and Council have approved the retention of Town of Smyrna vehicles at the personal residences of the Town Manager and Police Chief.
- b) The vehicles are permanently assigned to these employees because they are required to respond to emergencies threatening public health, safety and property throughout the Town of Smyrna on a twenty-four hour basis.
- c) These vehicles are equipped with appropriate safety equipment and radios.
- d) The vehicles will be used for official duty with the following guidelines concerning personal business:
 - (i) It is recognized that personnel who are permanently assigned Town vehicles may, while reporting to work or returning to their residence, have the need to conduct reasonable personal business. Reporting to work and returning home would generally imply that such business be conducted within the Town of Smyrna limits.
 - (ii) It is further recognized that it would be unreasonable to demand that personnel permanently assigned vehicles be restricted from engaging in such reasonable personal business.

- (iii) Such reasonable personal business may include the dropping off of family members or the occasional stopping at a local business to obtain goods. The intent is to allow an employee to occasionally pick up an item at a local business while returning to their residence.
- (iv) It is understood that, at times when the employee is called to duty from home, children might have to be dropped off to a responsible person and that person may not always reside within the Town limits of Smyrna.
- (v) No individual shall operate or ride in a Town vehicle except as is required for the conduct of Town business or as specifically authorized by the Town Manager (or Chief of Police as to police officers).
- e) Any questions on this policy will be resolved through the Town Manager or the Police Chief.
- f) The Town Manager is authorized under the terms of this policy to allow employees the use of town vehicles after hours and/or to take a town vehicle home when such use is appropriate to their duties, weather conditions, travel plans or other requirements.
- g) The assignment and utilization of police vehicles shall at the discretion of the Police Chief subject to the relevant provisions of the then current collective bargaining agreement.

17.3 Disciplinary Action.

Any employee who misuses or fails to return Town equipment, materials, tools or supplies shall be required to reimburse the Town for the cost of repairing or replacing the item. Any employee who uses Town property for his or her personal use without permission shall be subject to disciplinary action up to and including dismissal. Disciplinary action shall depend upon the severity of the incident.

18. Political Activities of Employees.

18.1 Policy.

The position of the Town of Smyrna as a public organization imposes on all employees special responsibilities for the use of good judgment in political matters. The purpose of this policy is to protect the public interest and employees from political pressures.

18.2 Prohibited Practices.

18.2.1 No employee of the Town shall, directly or indirectly, contribute any money or anything of value to any candidate for nomination or election to any Town office, to any Town office candidate campaign or to any Town office candidate, political committee or take active part in any Town political campaign except to cast a vote.

18.2.2 An employee shall not, while performing official duties or while using Town equipment at the person's disposal by reason of his or her position, solicit in any manner contributions for any purpose or engage in any political activity during working hours that impairs the efficiency of the position or presence during the working hours.

18.2.3 An employee shall not attempt, in any manner, to use his or her position to secure employment for any other person or to gain any other advantage for any other person with the Town for the purpose of influencing the vote or other political action of that person, or for any other valuable consideration.

18.2.4 An employee, in any manner, that supervises another Town employee shall not, directly or indirectly, solicit the person supervised to contribute money or any thing of value, or service, for any purpose not connected to said person's employment.

18.2.5 Except where authorized by law, no Council person, nor the Mayor shall hold any Town employment during the term for which he was elected to Council and no former Councilperson shall hold any compensated appointed Town Office or employment until one year

after the expiration of the term for which he was elected to the Council.

18.3 Disciplinary Action.

Any violation of the above policies shall subject such employee to disciplinary action up to and including dismissal. Disciplinary action shall depend upon the severity of the incident.

19. Representation and Indemnification.

19.1 Legal Representation.

Any Town employee shall be entitled to have the Town's attorney represent him or her, at the Town's expense, in any criminal or civil action brought against that Town employee when all of the following circumstances are present:

- a) Neither the Town of Smyrna, nor any elected or appointed official acting in his/her official capacity, or employee of the Town acting in his/her official capacity, is the Plaintiff or complaining party;
- b) the act or omission forming the basis of the civil or criminal action arose out of and in connection with the performance (or non-performance) of an official duty, done (or omitted) in good faith, under circumstances evidencing a belief that such act or omission was in the public interest, not adverse to the Town of Smyrna, and not in knowing violation of the Town's charter, ordinances, rules, regulations, or official policies;
- c) the act or omission forming the basis of the civil or criminal action was done without wanton negligence or willful and malicious intent.

19.2 Indemnification.

In addition to the right of legal representation to be provided by the Town as set forth above, Town employees shall have the same rights of indemnification as provided for elected and appointed officials in Section 2-76 of the Town Code as it may from time to time hereafter be amended, or in accordance with any future corresponding provision of the Town Code, provided however, that the same circumstances, (a) through (c), as required for legal representation above, are present; and further provided that there shall be no indemnification for attorneys fees unless the Town fails to provide legal representation at the Town's expense.

19.3 Town Employee Defined.

For purpose of this Section §19 only, a "Town employee" shall include not only those employees on the town's payroll at the time any criminal or civil action is brought against that Town employee, but shall also include all past employees of the Town where the act or omission forming the basis of the civil or criminal action arose out of and/or in connection with that past employees performance (or non-performance) of that past employee's official duties as an employee of the Town of Smyrna.

20. Sexual Harassment.

20.1 Policy.

Sexual harassment is a form of employee misconduct which undermines the integrity of the employment relationship. Each employee of the Town of Smyrna, regardless of gender, is entitled to a working environment which is free from intimidation and sexual harassment. The Town shall not tolerate any form of sexual harassment by any employee of either gender.

20.2 Prohibited Practices.

Sexual harassment does not refer to behavior or occasional compliments of a socially acceptable nature. It refers to behavior that is not welcome, that is personally offensive, that fails to respect the rights of others, that debilitates morale and that, therefore, interferes with the work effectiveness of its victims and their co-workers. The following practices are prohibited:

20.2.1 Making an unwelcome sexual advance, a request for sexual favors, or other verbal or physical conduct of a sexual nature a condition of employment for any applicant.

20.2.2 Making the submission to or the rejection of such conduct the basis for an employment decision affecting an applicant or employee.

20.2.3 Creating an intimidating, hostile or offensive working environment by such conduct.

20.2.4 Sexual harassment may be manifested in different ways. One of these is the demand for sexual favors. Other forms of sexual harassment which are also prohibited include:

a) Verbal

- sexual innuendos
- suggestive comments
- jokes of a sexual nature

- sexual propositions
- threats

b) Non-Verbal

- sexually suggestive objects or pictures
- graphic comments
- suggestive or insulting sounds
- leering
- whistling
- obscene gestures

c) Physical

- unwanted physical contact such as touching, brushing the body
- coerced sexual intercourse
- assault

Sexual harassment may be overt or subtle. Some behavior which may be appropriate in a social setting may not be appropriate or permitted in the workplace. Regardless of the form it takes, verbal or physical, sexual harassment can be insulting and demeaning to the recipient and will not be tolerated. Each employee will be expected to comply with this policy and take appropriate measures to ensure that any inappropriate conduct does not occur.

20.3 Complaint Procedure.

20.3.1 Complaint.

Each employee who believes that he or she is or has been the subject of sexual harassment shall report the alleged act to his/her supervisor and to the Town Manager as promptly as reasonably possible under the circumstances; provided, however, that, if the complaint involves the supervisor, it shall be filed with the next higher level of supervision and, if it

involves the Town Manager, it shall be filed with the Mayor who shall present the matter to the Town Council in Executive Session.

20.3.2 Investigation.

The Town Manager or a designated representative shall investigate all alleged violations of this policy in a timely and confidential manner. Information concerning the complaint will not be released by the Town to any third party or to any Town employee who is not involved with the investigation of the complaint. Each employee is prohibited from discussing the complaint outside the investigation process other than with legal counsel. The purpose of this provision is to protect the confidentiality of the complainant, to encourage the reporting of any incidents of sexual harassment, and to protect the reputation of any employee wrongfully charged with sexual harassment. The investigation of the complaint will normally include conferring with the parties involved and any named or apparent witnesses. Each employee shall be guaranteed the right to a fair and impartial hearing. Each employee shall be protected from coercion, intimidation, retaliation, interference or discrimination for filing a complaint or providing information during the investigation.

20.4 Disciplinary Action.

Each employee who violates this policy may be subject to appropriate disciplinary action up to and including termination of employment. Disciplinary action shall depend upon the severity of the incident.

21. Smoking in the Workplace.

21.1 Policy.

The Town of Smyrna is dedicated to providing a healthful, comfortable and productive work environment for its employees.

21.2 Prohibited Practices.

Smoking is prohibited within all municipal buildings, including office areas, hallways, waiting rooms, restrooms, lunch rooms, meeting rooms, shops, warehouses, storage sheds and all common areas. This policy applies to all employees and to visitors.

21.3 Disciplinary Action.

Each employee who violates this policy shall be subject to disciplinary action.

22. Substance Abuse.

22.1 Policy.

The Town of Smyrna has an obligation to its employees and the public to take reasonable and appropriate steps to prevent drug and alcohol abuse by its employees in and affecting the workplace. This policy is based, in substantial part, on the Town's concern regarding the safety, health and welfare of its employees, their families and the community. In an attempt to further that goal, employees are expected to be free from the influence of drugs or alcohol while they are on duty.

22.2 Prohibited Practices.

Consistent with the commitment stated above, it is the policy of the Town of Smyrna that employees shall not:

22.2.1 Report to work under the influence of alcohol or drugs.

22.2.2 Possess or consume alcoholic beverages while on duty.

22.2.3 Possess or consume any illegal, non-prescription drugs while on duty.

22.2.4 Place, carry or allow to be placed any unauthorized alcoholic beverages or illegal or controlled substances in any Town vehicle or equipment.

22.2.5 Sell or provide drugs or alcohol to any other employee or to any person while such employee is on duty.

22.2.6 Be under the influence of alcohol or drugs while being paid to be on-call for work.

22.2.7 Report to work under the influence of prescription drugs or to take prescription drugs while at work which impair the employee's ability to perform his/her duties.

22.3 Incident-Driven Drug and/or Alcohol Testing

In any case where an incident triggers reasonable suspicion of drug and/or alcohol abuse, the Town may require an employee to undergo a drug and/or alcohol test. The following incidents, while not all inclusive, may warrant an incident-driven test:

22.3.1 Medical emergency which appears to be drug and/or alcohol related.

22.3.2 The observance of drugs and drug paraphernalia in the employee's possession and/or at the employee's desk or work station.

22.3.3 The observance of alcohol or alcohol paraphernalia in the employee's possession and/or at the employee's desk or work station.

22.3.4 Other reasonable evidence that an employee's behavior may be influenced by drugs and/or alcohol.

22.4 Disciplinary Action.

The carrying on of any prohibited practice as listed in Section 22.2 shall be cause for disciplinary action up to and including dismissal. Disciplinary action shall depend upon the severity of the incident. Anything in this policy to the contrary notwithstanding, an employee's voluntary efforts to seek help through counseling, rehabilitation, or medical or psychological care will not jeopardize an employee's continued employment or appear in his or her personnel records if such employee's efforts to obtain help are voluntarily made known to the Town Manager prior to a documented incident giving rise to reasonable suspicion of drug abuse.

23. Administrative Leave.

The Town Manager may authorize any employee to participate in or attend training courses, sessions, conferences or seminars and engage in other similar job-related activities. Such leave may not interfere with proper operating efficiency of the Town government. Leave for any individual employee may be granted at the discretion of the Town Manager. Traveling expenses, lodging, conference fees, tuition and similar expenses incurred during such leave may, but need not be, paid for by the Town.

24. Civil Leave.

24.1 Eligibility.

A permanent or part-time employee ordered to serve as a juror or witness in a court of law shall be permitted a leave of absence from his/her regular position for this purpose. This does not apply to an employee if he/she is a defendant or plaintiff in a legal proceeding.

24.2 Terms.

24.2.1 Compensation.

An employee called for jury duty or as a witness in a court of law shall receive his/her regular compensation based upon a standard work week without reduction for any direct compensation or reimbursement granted by the court. Any compensation or reimbursement from a court shall be the property of the employee unless such matter is otherwise subject to employment agreement or contract.

24.2.2 Benefit Accrual.

While on civil leave, benefits shall continue as though on regular duty. When the employee returns from such leave, the time spent on leave shall be considered as continuous service in computing vacation and sick leave.

24.2.3 Reporting to Work.

Regular full-time employees shall be expected to report to work when he or she is not serving as a juror or a witness or if the case is settled or the employee is not selected to serve. The employee may be required to provide the supervisor with proof of service as a juror or witness. In unusual cases, the Town may request that an individual be excused or deferred from jury duty for a particular period of time.

24.2.4 Notification.

Each employee who is summoned for jury duty shall notify their supervisor as soon as is reasonably possible so that arrangements can be made to cover the job assignments.

25. Dependent Leave.

25.1 Eligibility.

An eligible employee is entitled to up to a total of 12 workweeks of dependent leave during a 12-month period for the birth or placement of a child for adoption or foster care. This dependent leave will count against the employee's total family and medical leave entitlement of 12 weeks in any 12-month period. Generally, such dependent leave is unpaid.

25.1.1 To be eligible for dependent leave, the employee must have worked for the Town for at least one year or not less than 1,250 hours during the immediate 12-month period.

25.1.2 The Town may require that any period of dependent leave be supported by a certification issued by a healthcare provider, adoption or social service agency, or a court as appropriate. The certification must be provided in a timely manner.

25.1.3 A husband and wife who are both employed by the Town may take a combined total of 12 weeks of dependent leave for the birth or placement of a child for adoption or foster care.

25.2 Terms.

25.2.1 Request for Leave.

- a) Requests for dependent leave should be made in writing, stating the reason for the leave, the requested starting date of the leave and the employee's anticipated date of return.
- b) All requests for dependent leave, except for emergency situations, must be submitted as far in advance as possible, but in any event, at least 30 days prior to the commencement of the leave in order to enable the Town to provide for adequate staffing of the employee's position during the leave.

- c) A requests for dependent leave must be submitted to the Town Manager, who shall have the authority to grant or deny the request.

25.2.2 Vacation.

An employee taking dependent leave will be required to first use his or her accrued vacation time as part of the period of dependent leave.

25.2.3 Return from Leave.

Upon return from dependent leave, the Town will endeavor to return the employee to his or her original job or to an equivalent position.

25.2.4 Continuation of Benefits.

During a period of approved dependent leave, the Town's contributions to the premiums for the employee's benefits will continue up to 12 weeks. Town contributions to benefit programs stop after 12 weeks of dependent leave. If the employee fails to return from dependent leave, the Town may seek to recover its portion of health care premiums paid for the employee during the leave.

26. Family and Medical Leave Policy.

26.1 Policy.

The Town of Smyrna recognizes that there may be occasions in which an employee requests to be temporarily relieved of his/her work responsibilities for family and/or medical reasons. It is the policy of the Town to grant unpaid leaves of absence in accordance with the requirements of the Family and Medical Leave Act of 1993. Specifically, the Town will grant leave for such compelling reasons as the employee's own serious illness, injury or sickness to a member of the employee's immediate family or the birth or adoption or placement in foster care of a child of the employee. Eligible employees are entitled to a family or medical leave of up to twelve (12) weeks in any twelve (12) month period, with certain assurances of job security and employment benefits during the leave.

26.2 Eligibility.

To be eligible for family or medical leave the employee must have worked for the Town of Smyrna for at least one year for not less than 1,250 base hours during the immediately preceding twelve (12) month period. An employee has a serious health condition if he/she has a condition that makes him unable to perform the functions of the position. A spouse, child, ~~ex~~ parent, or domestic partner has a serious health condition if he/she has an illness, injury, impairment or physical or mental condition that involves inpatient care in a hospital, hospice or residential medical care facility or continuing medical treatment or continuing supervision by a health care provider. The Town may require that any period of leave be supported by certification issued by a health care provider, adoption or social service agency, or a court as appropriate.

26.3 Application and Approval.

Request for family or medical leave must be made in writing, stating the reason for the leave, the requested starting date of the leave and the employee's anticipated date of return. All such leave requests, except for emergency situations, must be submitted to the Town Manager as far in advance as possible, but in any event at least 30 days prior to the commencement of the requested leave date

in order to enable the Town to provide for adequate staffing of the employee's position during the leave.

26.4 Exhaustion of Other Accrued Leave.

The Town will require that an employee taking family or medical leave first use his/her accrued paid vacation, personal and sick leave. The Town will then allow the employee an additional number of weeks of unpaid family or medical leave up to a total twelve (12) weeks of leave.

26.5 Returning from Leave.

An employee must provide periodic status reports during the period of leave. An employee should give as much notice as possible when he/she intends to return from leave in order to enable the Town to meet staffing needs. Upon return from family or medical leave, the employee will be returned to his/her original job or to an equivalent position.

26.6 Denial of Leave.

Family or medical leave will be granted by the Town whenever possible, subject to the Family and Medical Leave Act of 1993 and the operating requirements of the Town. However, the Town may deny an employee restoration to the position he or she held before the leave if the denial is necessary to prevent substantial and grievous economic injury to the Town's operations. In the event that restoration to the employee's former position is denied, the employee will be notified by the Town of its intent to deny restoration.

26.7 Schedule and Timing of Leave.

An employee is generally entitled to twelve (12) weeks of family or medical leave in any twelve (12) month period upon advance notice to the Town.

In the case of leave due to a seriously ill family member or because of the serious health condition of the employee, the leave may be taken intermittently or on a reduced leave schedule when medically necessary.

A reduced leave schedule means leave scheduled for fewer than an employee's usual number of hours per workday. Intermittent leave means a non-consecutive leave comprised

of intervals each of which is at least one but less than twelve (12) workweeks within a consecutive twelve (12) month period.

Intermittent or reduced leave schedules are not available with respect to leaves for the birth or adoption or placement in foster care of a child. Leave taken because of the birth or adoption or placement in foster care of a child may commence at any time within a year after the date of the birth or placement, and should normally be taken at a single time.

26.8 Moonlighting.

An employee on family or medical leave shall not perform services on a full-time basis for any person whom the employee did not perform such services immediately prior to the commencement of the leave. Acceptance of a full-time position with another employer while on family or medical leave will be regarded as a voluntary termination of employment with the Town. For purposes of this section, "full-time basis" shall mean regularly working more than 30 hours per week.

26.9 Employee Benefits.

Participation in any group health insurance policy, group subscriber contract or health care plan will be continued during a family or medical leave of up to twelve (12) weeks in any twelve (12) month period. Thereafter, participation in such policy, contract or plan shall be discontinued during a leave unless the employee chooses to continue the policy, contract or plan, in which case he/she shall be required to make monthly payments on a schedule to be established with the Town Manager.

Other employment benefits, such as group life insurance, disability insurance, sick leave, annual leave and pensions, will be continued during family or medical leave only to the extent they would be continued for an employee on a temporary leave of absence for non-family or non-medical reasons. Holiday pay, sick pay, vacation entitlements and other benefits do not accrue during a period of family or medical leave, except to the extent that they would accrue during a temporary leave of absence for non-family or non-medical reasons.

27. Bereavement Leave.

27.1 Eligibility.

All regular full-time and part-time employees who experience the death of a member their immediate family or domestic partner shall be eligible for bereavement leave from work with pay.

27.2 Terms.

27.2.1 Duration.

Each employee may be allowed to use up to a maximum of three (3) work days of bereavement leave for the death of a member of the employee's immediate family or domestic partner. If an employee wishes to extend the leave beyond the maximum three (3) days allowed, he or she will be permitted to deduct the additional days from accumulated vacation time.

Each employee may be allowed to use up to a maximum of one (1) work day of bereavement leave for the death of grandparents, grandparents-in-law, brothers-in-law or sisters-in-law. If an employee wishes to extend the leave beyond the maximum one (1) day allowed, he or she will be permitted to deduct the additional days from accumulated vacation time.

Employees may request agency approval for one (1) work day of bereavement leave for a person not specified as immediate family or a domestic partner.

27.2.2 Bereavement Leave Pay.

All bereavement leave for eligible employees shall be on a time off with pay basis and pay shall be computed at the employee's current regular salary rate.

27.2.3 Benefit Accrual.

While an employee is on bereavement leave, benefits shall continue as though on regular duty. When the employee returns from such leave, the time spent on leave shall be considered as continuous service in computing vacation and sick leave.

27.2.4 Notification.

Each employee who will be absent from work on bereavement leave must notify his or her supervisor as soon as is reasonably possible. The employee may be required to provide the supervisor with proof of the family member's death and relationship.

28. Holidays.

28.1 Eligibility.

All full-time employees shall receive their regular pay for twelve (12) holidays and for any other day or portion of a day proclaimed by the Council as a holiday during which the public offices of the Town shall be closed:

- 1) New Year's Day
- 2) Martin Luther King, Jr.'s Birthday
- 3) President's Day
- 4) Good Friday
- 5) Memorial Day
- 6) Independence Day
- 7) Labor Day
- 8) Columbus Day
- 9) Veteran's Day
- 10) Thanksgiving Day
- 11) Day After Thanksgiving
- 12) Christmas Day

28.2 Terms.

28.2.1 Holiday Falling on Unscheduled Work Day.

When any holiday falls on a Saturday, the preceding business day shall be considered the legal holiday. When a holiday falls on a Sunday, the following business day shall be considered the legal holiday.

28.2.2 Work Required on Holiday.

If, in the course of regular service, an employee is required to work on a day observed as a legal holiday, the employee shall be given an alternate day off or, if such alternate day off cannot be given because of the work situation, the person shall be paid additionally at straight time for each hour worked on the day observed as a holiday even though such time may be part of his/her regular service. If an employee is required to work on a day observed as a holiday which is not on the course of his/her regular schedule, the employee shall be compensated additionally in accordance with the Section 3. Scheduled work on holidays for other than Police Department personnel shall require the prior approval

of the Town Manager. Police Department personnel will normally be on a previously-approved schedule.

29. Maternity Leave.

29.1 Eligibility.

An eligible employee is entitled to up to a total of 12 workweeks of maternity leave during a 12-month period for the birth or placement of a child for adoption or foster care. This maternity leave will count against the employee's total family and medical leave entitlement of 12 weeks in any 12-month period. Generally, such maternity leave is unpaid. However, an employee may use accrued sick leave and vacation as part of her maternity leave. The provisions of the Town's policy regarding family leave are also applicable to maternity leave, and are incorporated herein by reference.

29.2 Leave with Pay (paid status).

29.2.1 Sick Leave.

- a) Employees may use accrued sick leave if they are physically unable to work due to pregnancy, childbirth, miscarriage, abortion, or other related medical conditions. Normally, an employee may utilize up to six (6) weeks of accrued sick leave for maternity related conditions. The Town reserves the right to require a doctor's certification at any time for the use of sick leave.
- b) If possible, employees requesting sick leave for reasons associated with childbirth must notify their supervisor one month prior to the anticipated date of their leave. Employees are encouraged to follow professional advice concerning the length of time working during pregnancy and the appropriate time to resume work after childbirth or related medical conditions.
- c) In accordance with federal law, the same requirements, terms and restrictions apply to the administration of sick leave for pregnancy-related conditions as for other non-occupational illnesses and disabilities.

- d) Sick leave taken in connection with pregnancy or a serious health condition may be counted against an employee's entitlement of up to 12 weeks of maternity leave, as specified under the terms of the federal Family & Medical Leave Act of 1993.

29.2.2 Vacation.

Employees may use accrued vacation time to remain on paid status during a period of maternity leave.

29.2.3 Continuation of Benefits.

While on paid status maternity leave, benefits shall continue as though on regular duty. When the employee returns from such leave, the time spent on leave shall be considered as continuous service in computing vacation and sick leave.

29.3 Leave without Pay (unpaid status).

29.3.1 Personal Leave.

Employees who have exhausted accrued sick leave and vacation time may request a personal leave of absence without pay to remain on maternity leave during or after the recovery period for childbirth or related medical condition, up to a total maternity leave of 12 weeks in a 12-month period. Approval of the Town Manager is required for leaves of absence without pay.

29.3.2 Continuation of Benefits.

During a period of approved unpaid status maternity leave, the Town's contributions to the premiums for the employee's health care benefits will continue for up to twelve (12) weeks. Thereafter, if an employee wishes to remain on maternity leave, she will be required to pay the cost of continued health care benefits. Town contributions to benefit programs stop after 12 weeks of maternity leave. If the employee fails to return from maternity leave, the Town may seek to recover its portion of the health care premiums paid for the employee during the leave. (For more information, contact the Business Office.) (see also Section 26, FMLA)

30. Medical Leave.

30.1 Eligibility.

An eligible employee is entitled to up to a total of 12 workweeks of medical leave during a 12-month period to care for an immediate family member (spouse, child, parent, or domestic partner), with a serious health condition, or when the employee is unable to work because of his or her own serious health condition. This medical leave will count against the employee's total family and medical leave entitlement of 12 weeks in any 12-month period. Generally, such medical leave is unpaid.

30.1.1 To be eligible for dependent leave, the employee must have worked for the Town for at least one year or not less than 1,250 hours during the immediate 12-month period.

30.1.2 The Town may require that any period of medical leave be supported by a certification issued by a healthcare provider. The certification must be provided in a timely manner. Subsequent re-certifications may be required.

30.1.3 A husband and wife who are both employed by the Town may take a combined total of 12 weeks of dependent leave for the birth or placement of a child for adoption or foster care.

30.2 Terms.

30.2.1 Request for Leave.

- a) Requests for medical leave should be made in writing, stating the reason for the leave, the requested starting date of the leave and the employee's anticipated date of return.
- b) All requests for medical leave, except for emergency situations, must be submitted as far in advance as possible, but in any event, at least 30 days prior to the commencement of the leave in order to enable the Town to provide for adequate staffing of the employee's position during the leave.

- c) A request for medical leave must be submitted to the Town Manager, who shall have the authority to grant or deny the request.

30.2.2 Vacation.

An employee taking medical leave will be required to first use his or her accrued vacation time as part of the period of dependent leave.

30.2.3 Return from Leave.

Upon return from medical leave, the Town will endeavor to return the employee to his or her original job or to an equivalent position.

30.2.4 Continuation of Benefits.

During a period of approved medical leave, the Town's contributions to the premiums for the employee's benefits will continue up to 12 weeks. Town contributions to benefit programs stop after 12 weeks of dependent leave. If the employee fails to return from dependent leave, the Town may seek to recover its portion of health care premiums paid for the employee during the leave.

31. Military Leave.

31.1 Eligibility.

All regular full-time and part-time employees who are members of the National Guard, Armed Forces Reserve or who are drafted, enlist or called to active duty are eligible for military leave.

31.2 Terms.

31.2.1 Duration.

Regular employees who are members of the National Guard or Armed Forces Reserve shall be allowed ten (10) working days military training leave per calendar year. Employees must request military leave at least ten (10) days prior to the effective date of the leave and submit a copy of orders for assignment to active duty for training.

31.2.2 Military Training Leave Pay.

If the compensation received while on military training leave is less than the salary that would have been earned during this same period as a Town employee, the employee shall receive partial compensation equal to the difference in the base salary earned as a reservist or guardsman and the salary that would have been earned during this same period as a Town employee. An employee may elect to take accumulated vacation leave instead of military leave in order to receive compensation as if on regular duty. If military duty is required beyond the ten (10) working day period, the employee shall be eligible to take accumulated vacation leave or be placed in a leave without pay status.

Military training or special duty leaves of absence shall not in any way result in a loss of seniority, accumulated sick leave, or any other benefits provided Town employees.

31.2.3 Reinstatement of Employees who Enlist, are Drafted or Called to Active Duty.

Employees who enlist, are drafted or called to active duty in U.S. Armed Forces will be terminated from employment but have reinstatement rights as provided by the Veterans Reemployment Rights Act. Employees are entitled to be reinstated with full seniority rights for military time served. To be so entitled, however, the individual must:

- a) apply for reinstatement within ninety (90) calendar days following release from active duty.
- b) have served no more than four (4) years.
- c) have completed the period of active duty in a satisfactory manner with discharge certificate to that effect.
- d) be qualified to perform the duties of the position. If disabled during military service, the employee will be entitled to the closest comparable position he or she is able to perform.

31.2.4 Activation of Reserves or National Guard.

Any permanent employee who is a member of an organized military reserve of the United States or the Delaware National Guard and who is ordered to perform emergency duty under the supervision of the United States Government or the State of Delaware, shall be granted a leave of absence during the period of such activity. Any such employee shall receive the pay differential in the amount by which the employee's normal wages, calculated on the basis of a standard work week, exceeds any pay received as a result of performing emergency duty. A copy of the employee's military pay voucher shall be submitted with the request for pay differential compensation.

32. Sick Leave.

32.1 Eligibility.

All regular full-time and part-time employees are eligible for sick leave upon appointment. Casual/Seasonal or temporary employees shall not accrue sick leave and shall not receive any compensation for sick leave.

32.2 Terms.

32.2.1 Accrual.

Each eligible employee shall earn sick leave at the rate of twelve (12) days per completed year, prorated at the rate of one (1) day for each completed month of service. Sick leave continues to accrue while an employee is on paid leave. Sick leave does not continue to accrue while an employee is on unpaid leave.

32.2.2 Probationary Period.

An employee shall not utilize accumulated sick leave until completion of his or her first six (6) months of employment.

32.2.3 Accumulation.

An employee may accumulate an unlimited number of sick leave days.

32.2.4 Sick Leave Pay.

Sick leave for an eligible employee shall be on a time off with pay basis and pay shall be computed at the employee's current regular weekly salary rate. Each employee who has exhausted all accrued sick leave shall not be paid for any absence because of a personal illness or injury. Each seasonal/casual or temporary employee who is unable to report to work due to a personal illness or injury shall be allowed time off work without pay during such absence.

Sick leave shall be granted for the following reasons:

- a) personal illness or physical incapacity

resulting from causes beyond the employee's control.

- b) illness in the household of the employee requiring quarantine as certified by a physician or public health officer.
- c) medical, dental or optical appointments which cannot be scheduled after duty hours.
- d) illness or injury of a member of the employee's immediate family. The immediate family shall include the employee's spouse, children, parents, parents-in-law, brother, sister and domestic partner.
- e) absence for a fraction of a day that is chargeable to sick leave in accordance with these provisions shall be charged proportionately but charged in an amount not smaller than one-quarter of a day.

Sick Leave shall not be granted for the following reasons:

- a) While an employee is receiving Workers Compensation Leave Benefits.

32.2.5 Termination/Retirement Credit for Accumulated Sick Leave.

Upon termination or retirement, an employee shall be paid in full for one-half of accrued unused sick leave up to a maximum of 90 days. An employee shall not be eligible if he or she is terminated due to gross misconduct or does not leave in good standing with the Town.

32.2.6 Benefit Accrual.

While an employee is on sick leave, benefits shall continue as though on regular duty. When the employee returns from such leave, the time spent on leave shall be considered as continuous service in computing vacation and sick leave.

32.2.7 Notification.

Each employee who will be absent from work due to a personal illness or injury shall report such absence to his or her supervisor prior to the employee's scheduled starting time.

Because of the critical nature of shift work, a shift worker must notify the on-duty shift supervisor of a desire to take sick leave no later than two (2) hours prior to the beginning of the shift. Each employee who fails to provide the Town with the required notice shall be considered to be absent from work without approval, shall receive no compensation while absent, and may be subject to termination from employment for such unapproved absence.

32.2.8 Verification.

- a) After any absence of two consecutive days, the Town Manager may require the employee to present a statement from a licensed, practicing physician certifying that the employee's condition prevented his/her performing the duties of their position. A statement from a licensed, practicing physician may be requested at any time if sick leave abuse is suspected.
- b) Each employee who knowingly falsifies information provided to the Town regarding any personal illness, injury or absence related thereto shall receive no compensation while absent and may be subject to termination from employment for such falsification of information.
- c) Individual records of all sick leave credit and use shall be maintained as part of the personnel records of the Town.
- d) Town employees unable to perform their duties because of illness or injury not related to the job will be charged sick leave for those periods of absence which are substantiated by a doctor's certificate.

32.2.9 Excessive Sick Leave.

Excessive sick leave shall be defined as the use of sick leave at a rate which exceeds the average usage rate of all Town employees during the previous calendar year. Department supervisors shall take the following measures with an employee whose sick leave use exceeds the average usage rate of a Town employee:

a) Counseling

- The department supervisor shall meet with the employee to determine if there is reason to believe that the employee may be abusing the sick leave benefit. If the department supervisor determines that the employee's use of sick leave has been proper and justified, there shall be no further action taken with the employee at that time.
- If the department supervisor determines that there is sufficient reason to believe that the employee may be abusing the sick leave benefit, the department supervisor shall initiate corrective measures to reduce the employee's sick leave usage rate.

b) Corrective Measures

- The department supervisor shall explain and clarify policies and standards concerning the use of sick leave to the employee.
- The department supervisor shall provide the employee with written notification that the employee will be required to submit medical verification for each and every sick leave absence during the next six (6) months.
- The employee's supervisor shall closely monitor the employee's attendance record and may telephone the employee during future absences.
- The employee's supervisor shall note on the employee's performance evaluation that the

employee's attendance has been unsatisfactory, the acceptable standards for attendance and a schedule for improvement.

- The department supervisor shall explain disciplinary measures for failure to comply with this policy.

32.2.10 Disciplinary Measures.

- a) First Offense. If the employee is absent from work and fails to submit the required medical verification, then he or she shall receive no compensation for the absence and shall also receive a written reprimand to be placed in the employee's personnel file.
- b) Second Offense. If the employee is absent from work on two (2) separate occasions and fails to submit the required medical verification, then he or she shall receive no compensation for the absence and shall also be suspended without pay for three (3) work days.
- c) Third Offense. If the employee is absent from work on three (3) separate occasions and fails to submit the required medical verification, then he or she shall receive no compensation for the absence and shall also be terminated from employment.

32.3 Donated Leave Program

- a) Employees may donate accrued sick and vacation leave in equal amounts to other designated employees or to the "Donated Leave Bank". This means that any donation of sick leave must include an equivalent donation of vacation leave.
- b) Donated leave shall be redeemable only as "sick leave". No cash redemption shall be permitted.
- c) Donated leave may be used by the recipient only for an illness of the recipient or of a family member of the recipient. Separate periods of

disability lasting seven calendar days or more each, resulting from the same or related medical condition and occurring within any twelve consecutive month period, shall be considered the same period of disability. Definition of family member or member of any employee's family means an employee's spouse, son, daughter or parent who requires the personal attendance of the employee during the family member's illness or injury.

d) Before receiving donated leave time, the requesting employee shall:

(1) have been a Town employee for at least six months prior to the request;

(2) have used all of his or her sick days and half of his or her annual leave; however, when the donated leave time is for the illness of a family member, the employee must have used all of his or her sick days and vacation leave;

(3) have established medical justification for such receipt which must be renewed every thirty days.

33. Unpaid Leave of Absence.

33.1 Eligibility.

All full time and part time Town employees shall be eligible for an unpaid leave of absence for, in most cases, one of the following reasons:

33.1.1 Personal or family disability.

33.1.2 Continuation of education that is job related.

33.1.3 Special work that will permit the Town to benefit by the experience gained or the work performed.

33.1.4 Any reason considered by the Town Manager to be in the best interest of the Town on recommendation of the employee's immediate supervisor.

33.2 Terms.

33.2.1 Demonstration of Need.

For the reason of personal or family disability, each employee who requests an unpaid leave of absence shall demonstrate an extreme need for time off work before the leave is granted.

33.2.2 Duration.

Eligible employees may be granted an unpaid leave of absence for up to three (3) months by the Town Manager provided the employee has exhausted all other appropriate leaves of absence. An extension of leave may be granted by the Town Manager, however, no unpaid leave of absence shall exceed a total of one (1) year.

33.2.3 Benefit Accrual.

While an employee is on unpaid leave of absence, benefits and other leaves shall cease until the employee returns to active work status. The employee shall continue to be eligible for benefits under the Town's group health insurance plan provided the employee shall be responsible for the payment of the total insurance premium.

33.2.4 Reinstatement.

Upon returning to duty, 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 or pay including any cost of living adjustments or salary range adjustments that may have occurred during said leave. If the employee decides not to return to work, the supervisor should be notified immediately. In addition, if the Town learns that an employee is no longer using the leave for reasons originally stated in the leave request, then the employee may be terminated.

33.3 Authorization.

Unpaid leave of absence may be granted only after the employee exhausts all other paid leaves of absence. Each request for unpaid leave of absence must be submitted

through his/her Department Head to the Town Manager for approval.

34. Vacation Leave.

34.1 Eligibility.

All regular full-time and part time employees shall begin to accrue vacation leave to be used for rest and relaxation, medical appointments, illness when sick leave is exhausted and for absences due to adverse weather conditions and other times as approved by the Town Manager. Casual/Seasonal or temporary employees are not eligible for vacation leave. Accrual of vacation leave shall be determined with length of continuous service credit. An employee is eligible for vacation according to the following schedule and other times as approved by the Town Manager:

34.1.1 each regular full-time employee with zero (0) but fewer than five (5) complete years of service shall earn vacation leave at the rate of twelve (12) days per completed year, prorated at the rate of one (1) day for each completed month of service.

34.1.2 each regular full-time employee with at least five (5) but fewer than ten (10) complete years of service shall earn vacation leave at the rate of fifteen (15) days per completed year, prorated at the rate of one and one-quarter (1 1/4) days for each completed month of service.

34.1.3 each regular full-time employee with at least ten (10) but fewer than fifteen (15) complete years of service shall earn vacation leave at the rate of eighteen (18) days per completed year, prorated at the rate of one and one-half (1 1/2) days for each completed month of service.

34.1.4 each regular full-time employee with at least fifteen (15) but fewer than twenty (20) complete years of service shall earn vacation leave at the rate of twenty-one (21) days per completed year, prorated at the rate of one and three-quarters (1 3/4) days for each completed month of service.

34.1.5 each regular full-time employee with twenty (20) or more complete years and over of service shall earn vacation leave at the rate of twenty-four (24)

days per completed year, prorated at the rate of two (2) days for each completed month of service.

34.1.6 Part-time employees are entitled to earn vacation leave in accordance with Sections 34.1.1.

34.1.5 pro-rated in accordance with their part-time work schedule.

34.2 Terms.

34.2.1 Accumulation.

Vacation time is cumulative from year to year; however, total accumulated vacation time shall never exceed two times an amount of time equal to the employee's maximum vacation leave which could be earned in the current year of service.

If an employee has accumulated more than the maximum allowable amount of unused vacation leave on January 1 of any year, the amount of accumulated vacation days shall be reduced to the permitted maximum, and any unused balance forfeited.

34.2.2 Vacation Pay.

All vacations shall be on a time off with pay basis for eligible employees and pay shall be computed at the employee's current weekly salary rate or based on 40 hours for hourly paid employees.

34.2.3 Benefit Accrual.

While an employee is on vacation leave, benefits and other leaves shall accrue as though on regular duty.

34.2.4 Severance Pay.

Employees leaving the Town's employment on or before the 15th of a month will not receive vacation credit for that month. Those departing after the 15th of the month will receive vacation credit for that month.

34.2.5 Holiday Falling During Vacation.

A paid holiday which occurs during an employee's vacation shall not be considered as a day of vacation. The employee shall be granted the option of taking an additional day of vacation at the time of the current vacation or of retaining the vacation day to be taken at a later date.

34.2.6 Probationary Period.

An employee shall not be eligible to use accumulated vacation during the first six (6) months of employment, unless specifically authorized for extenuating circumstances by the supervisor and the Town Manager.

34.2.7 Vacation Sell Back.

All regular full-time employees may, during the month of December, sell back to the Town up to a maximum of five (5) days of unused vacation leave earned by the employee since the prior December.

The payment in lieu of vacation shall be made only in December of each year and shall be deducted from the current calendar year's unused vacation leave. The employee must submit a completed "Vacation Sell Back Request" form to the employee's department head by November 15th. The employee will be paid based on his or her base salary at the date of the issuance of the pay back check.

Pay in lieu of vacation shall not be considered pay for pension purposes. The Town will not make pension contributions based on the pay and the pay shall not be used to compute pension benefits.

34.3 Authorization.

Department Heads shall schedule vacation leaves with particular regard to the operating requirements of the Department. The scheduling of vacation periods shall be based on seniority and is always subject to be changed at the discretion of the Town Manager or the Department Head in the event of changing circumstances or emergency needs.

34.4 Vacation Used Because of Death of a Near Relative.

Leave due to the death of a near relative defined as first cousin, aunt, uncle, niece, nephew or other person and leave due to the illness of a member of the family or domestic partner shall be subtracted from vacation leave or may be taken as leave without pay.

34.5 Vacation Record.

All records of vacation leave shall be open to the employee concerned.

34.6 Donated Leave Program

a) Employees may donate accrued sick and vacation leave in equal amounts to other designated employees or to the "Donated Leave Bank". This means that any donation of sick leave must include an equivalent donation of vacation leave.

35. Special Leave

35.1 Eligibility.

Any Town employee who is an active volunteer fire fighter with the Citizen's Hose Company No. 1, Inc. may, with the approval of the employee's Department Head in consultation with the Town Manager, be permitted to respond to in-town fire calls during regular hours of employment without loss of pay.

36. Workers' Compensation Leave.

36.1 Eligibility.

All employees shall be eligible for workers' compensation leave while physically incapacitated because of an "on-the-job" sickness or injury covered by the Delaware Workers' Compensation Act. Casual/Seasonal or temporary employees shall be placed on an unpaid leave of absence status.

36.2 Terms.

36.2.1 Commencement.

Workers' compensation leave shall commence when the employee is declared by his or her physician to be physically incapacitated.

36.2.2 Duration.

The employee shall be allowed to remain absent from the position for a maximum of 300 weeks for a temporary partial disability or such shorter period of time as declared by a physician selected by the Town and as long as a physician selected by the Town authorizes the leave for a temporary total disability.

36.2.3 Workers' Compensation Leave Pay.

An employee shall receive workers' compensation benefits up to 66% of the average weekly wage of the employee; however, the weekly benefit cannot exceed the maximum limit set by State law. After the first three (3) days of an eligible claim, the Town guarantees 100% of an employee's net salary for up to ninety (90) days if an employee is physically incapacitated to work as a result of an on-the-job sickness or injury. This benefit may be held up if the employee does not sign an agreement to compensate the Town for any payments that exceed this policy.

36.2.4 Benefit Accrual.

While an employee is on workers' compensation leave, benefits and other leaves shall accrue as though on regular duty. If a temporary or part-time employee is placed on an unpaid leave of absence status as a

result of an on-the job injury or illness, benefits and other leaves shall cease until the employee returns to an active work status.

36.2.5 Reinstatement.

Upon reinstatement, an employee's salary shall be computed on the basis of the last salary earned plus any across-the-board or reclassification salary increase to which the employee would have been entitled during the disability covered by workers' compensation.

37. Internet Use Policy

37.1. Purpose

The purpose of this policy is to establish guidelines for the use of Town-owned Computer Information Systems, the internet and networks. To ensure that the activities are in direct support of and consistent with work related functions.

37.2. Policy Compliance Statement

This Acceptable Use Statement represents a set of guidelines to be followed when using the Smyrna Information Network. This statement applies to all uses of the system network and any other networks which are used as a result of Smyrna's connection, such as the internet. Compliance with this policy and acceptable use policies of any other networks accessed through the internet connection also is subject to enforcement by the "owner" of that network. (i.e. abuse occurring on a network outside the geographical boundaries of the Town of Smyrna will be considered a violation of the Acceptable Use Policy as well as a violation of other applicable local, State or Federal policies, if access to that network was acquired via the internet connection.) If a violation or policy abuse occurs, the individual who deliberately and with full knowledge committed the said violation shall be personally liable for his/her actions. Each department and affiliate organization is responsible for the activity of its users and for ensuring that its users are familiar with the Town's Acceptable Use Policy. Each department and affiliate may also choose to develop and enforce its own acceptable use policies to further restrict the use of the network within its local environment. This may be done only with the understanding that, if a conflict exists, the Town's The internet Acceptable Use Policy takes precedence over all department policies developed within the department for the explicit purpose of exercising responsible controls at the local area network level. Any questions concerning the acceptable uses or compliance issues will be directed to the Town Manager's Office via the departmental supervisor, excluding those systems within the police department that are in the control of and governed by State and Federal Laws. Any question concerning the use of police computer systems will be addressed to the Chief of Police.

37.3 Acceptable Uses.

37.3.1 To provide and facilitate communication with other local, State, Federal agencies and business partners of the Town.

37.3.2 To communicate and exchange professional development, to maintain or to debate issues in a field or subfield of knowledge.

37.3.3 To use for professional society, university, association, government advisory or standards activities related to the user's professional discipline.

37.3.4 To use in applying for or administering grants or contracts for work related applications.

37.3.5 To announce products or services for use within the scope of work-related applications but not for commercial advertising of any kind.

37.3.6 To use any other administrative communications or activities in direct support of work-related functions.

37.3.7 E-mail

37.4 Principles of Ethics.

37.4.1 To respect the privacy of other users; for example, users shall not intentionally seek information on, obtain copies of or modify files, other data or passwords belonging to other users or represent themselves as another user unless explicitly authorized to do so by that user.

37.4.2 To respect the legal protection provided by copyright and licensing laws to programs and data.

37.4.3 To respect the integrity of computing systems; for example, users shall not intentionally develop programs that harass other users or infiltrate a computer or computing system and/or damage or alter the software components of a computer or computing system.

37.5 Unacceptable Uses.

37.5.1 Illegal or malicious use is not acceptable. Use should be consistent with guiding ethical

statements and accepted standards. The internet may not be used in ways that violate applicable laws or regulations such as use of network to transmit or solicit threatening, obscene or harassing materials. Use of the internet and any attached network in a manner that precludes or significantly hampers its use by others will be considered an actionable offense that may result in disciplinary action up to and including termination.

37.5.2 Connections which create routing patterns that are inconsistent with the effective and shared use of the network shall not be established.

37.5.3 Commercial advertising is not acceptable. Advertising is permitted on some mailing lists and news groups if explicitly allowed.

37.5.4 Downloading or installing any files from the internet (including games, screensavers, programs, software, etc.) without the express written consent of the Information Systems Manager.

37.5.5 Use for revenue generating activities unless specifically stated as acceptable use.

37.5.6 Use for private or personal business activities. Personal use during working hours.

37.5.7 It is not acceptable to use the internet to solicit information with the intent to cause harm or bodily injury.

37.5.8 It is not acceptable to use the internet so as to interfere with or disrupt network users, services or equipment. Disruptions include, but are not limited to, unsolicited advertising, propagation of computer worms or viruses and use of the network to make unauthorized entry to any other machine accessible via network.

37.5.9 It is not acceptable to use the internet information or resources unless permission to do so has been granted by the owners or holders of the rights to those resources and information.

37.6 Disciplinary Action

Each employee who violates this policy may be subject to appropriate disciplinary action up to and including termination of employment. Disciplinary action shall depend upon the severity of the incident.

38. Professional Conduct.

38.1 Policy.

The Council recognizes that the pressures and responsibilities of performing the required job duties, the likelihood that not everyone that an employee has to serve will behave in a civil manner, and the general stresses of modern society can, from time to time, result in comments or behaviors that are inappropriate. Nevertheless, our obligation to deliver professional services and to work together in that regard requires that certain broad policies be established.

38.2 Purpose.

38.2.1 To remind Town employees that we work for our residents and customers and should treat them appropriately with respect, avoiding confrontation and seeking to cooperatively resolve any issues or problems, even in those situations where the customer is behaving inappropriately, is in violation of an ordinance or procedure, or has failed to meet their financial or other obligations to the town.

38.2.2 To remind Town employees that we all have to work together for the benefit and in the service of our residents and customers, and that we need to treat each other with respect, avoiding inappropriate or negative comment, rumor or gossip about another employee's conduct, ability, family/marital situation, competence, morals, etc.

38.2.3 To advise Town employees that Council takes seriously how we treat customers and how we as Town employees are perceived and respected in the community.

38.3. Procedure.

38.3.1 Employees are to refrain from making derogatory, insulting or hostile comments to any customer, contractor, business or fellow employee, appointed or elected official or about any of these to another party where such action affects the performance of our responsibilities or the perception of the town or its employees to the public.

38.3.2 Employees are to refrain from making or engaging in spreading of rumors, insinuations or gossip of a derogatory, insulting or hostile nature

about any employee's conduct, ability, family/marital situation, competence, morals, etc.

38.3.3 Employees are to bring to the attention of the Town Manager violations of this policy.

38.4 Disciplinary Action.

Notwithstanding any other provisions of the Personnel Policy, upon a written complaint having been brought to the attention of the Town Manager, the Department Head and the employee against whom the complaint has been filed, along with the relevant department head, shall meet to ascertain the circumstances of the complaint and any clarification or other information pertaining thereto.

38.4.1 A 1st offense, if supported by and as documented by information gathered by the Town Manager, shall result in a warning with a record of the discussion to be placed in the employee's file.

38.4.2 A 2nd offense, if supported by and as documented by information gathered by the Town Manager, shall result in a written warning and discipline as provided in Section 38 of the Personnel Policy, including suspension if warranted by the severity of the matter.

38.4.3 A 3rd offense, if supported by and as documented by information gathered by the Town Manager, shall result in demotion, loss of increment or dismissal pursuant to section 38 of the Personnel Policy, as warranted.

38.5 Grievance Procedure.

The grievance procedures provided in Section 40 the Personnel Policy shall apply to any actions pursuant to this policy.

39. Disciplinary Action

39.1 Policy.

It is the Town's policy to establish disciplinary policies and procedures which are effective, fair and consistently applied to all employees. The severity of the disciplinary measure applied will be related to the seriousness of the offense committed and may take a variety of forms ranging from a verbal warning to termination from employment. Unless specified herein, no disciplinary measure shall be deemed to be a requisite for another. Further there is no presumption of progressive disciplinary actions.

39.2 Types of Disciplinary Measures.

39.2.1 Counseling.

Counseling is a personal meeting between supervisor and employee to alleviate minor performance problems or errors in judgment.

39.2.2 Oral Reprimand.

An oral reprimand may be used by a supervisor to indicate disapproval concerning a specific act, infraction or violation of a policy or procedure.

39.2.3 Written Reprimand.

A written reprimand is a matter of record for use by department supervisors and the Town Manager. This form of disciplinary action is used for a series of minor infractions or a serious infraction which, in the opinion of the department supervisor or the Town Manager, does not warrant more serious disciplinary action.

39.2.4 Loss of increment.

Loss of increment means that an employee is not considered for his or her annual ~~step~~ increase in pay for that year. Loss of increment may arise when an employee receives two (2) written reprimands during a twelve (12) month period. Loss of increment shall only be authorized by the Town Manager.

39.2.5 Demotion.

A demotion is the movement of an employee from one merit system position to another with a lower grade

level assignment. It need not, but may, result in a reduction in current salary. A written statement setting forth the reasons for a demotion shall be furnished to the affected employee at least five (5) working days prior to the proposed effective date of the action. Demotion shall only be authorized by the Town Manager.

39.2.6 Suspension With or Without Pay.

Any employee may be suspended with or without pay for reasons of misconduct, negligence, inefficiency, insubordination, repeated unauthorized absence or other offenses as determined by the Town Manager when, given the nature of the offense, other personnel actions would be inappropriate. A department supervisor, upon approval by the Town Manager, shall have the authority to suspend individuals with or without pay for a period of time ranging from the remainder of a working day to fifteen (15) working days. Suspensions shall be made in writing and delivered by hand by the department supervisor and forwarded to the employee by certified mail with a return receipt.

39.2.7 Suspension—Pending Trial.

An employee who is charged with committing an indictable offense while in the execution of his or her duties may be suspended with or without pay at the discretion of the Town Manager until such time as the case has been disposed by the appropriate court. Factors to be considered by the Town Manager in determining whether suspension shall be with or without pay shall include: the nature and seriousness of the offense charged, the substantiality of the evidence against the employee, whether the employee has merely been arrested and charged or has been bound over for trial following a preliminary hearing or grand jury indictment, and the anticipated trial date. Benefits shall continue to accrue and the salary due the employee shall be held in trust pending the court's decision. Employees who are acquitted shall have any amounts of salary which have been held in trust returned to them along with the accrued interest at the prevailing savings account rate. In the event the employee is found guilty of the offense, the Town Manager shall seek a legal opinion as to the appropriate disposition of any salary which has been withheld.

39.2.8 Dismissal. (see also Section 42, Tenure)

Dismissal is the termination of an employee from Town employment for cause. The Town Council may dismiss any employee upon the recommendation of the Town Manager in accordance with the provisions of this policy. In general, an employee may be dismissed for the inability to perform required work or for misconduct, negligence, inefficiency, incompetency, insubordination, repeated unauthorized absence, or other acts of omissions which in the opinion of the Town Manager, after giving due consideration to the nature and circumstances of the offense, other personnel actions would be inappropriate. By way of example and not in limitation, the following list may be cause for dismissal:

- 1) conviction of a felony or any criminal offense involving moral turpitude, theft or dishonesty
- 2) intoxication or being under the influence of drugs or alcohol while on duty
- 3) engaging in the sale, use, possession, or transfer of illegal drugs or controlled substances
- 4) wanton carelessness or gross negligence in the performance of duties
- 5) wanton offensive behavior or the brutal treatment of fellow employees or other persons
- 6) knowing violation of law ordinance or regulation where such violation constitutes a gross deviation from normally-accepted conduct
- 7) failure to obey any order or direction made or given by a supervisor when such failure to obey amounts to an act of insubordination
- 8) engaging in a private business or in a trade or occupation, the nature of which interferes with the proficient performance of duties for the employer or which could be a conflict of interest

- 9) absent without permission or good cause for three consecutive days and/or without notifying the employee's department supervisor of the employee's intention to return to work
- 10) excessive absenteeism and/or misuse of sick leave
- 11) any other conduct when, given the nature and circumstance of the offense, other disciplinary action, in the opinion of the Town Manager, would be inappropriate
- 12) using Town property, real and/or personal, for personal reasons without the express consent of the Town Manager.
- 13) taking of Town property, real and/or personal, with the intent to steal such property
- 14) pursuing any non-job related activities during work-time hours
- 15) gambling while on duty
- 16) profane, obscene, or insulting words toward the public or other Town employees
- 17) failure to reimburse the Town for funds due
- 18) membership in any organization which advocates acts of terrorism or the violent overthrow of any legally constituted government by force
- 19) threatening, intimidating, harassing or interfering with employees or supervisors at any time
- 20) any other conduct of an employee which is not in keeping with standards applicable to such employee in the performance of his or her work
- 21) solicitation or acceptance of any valuable consideration under circumstances which reasonably indicate that such solicitation or acceptance was made or given with the intent of influencing the employee in the performance of his/her duties

40. Grievance.

40.1 Policy.

Legitimate problems and differences of opinions will arise between the employer and its employees. It shall be the responsibility of all department supervisors and other administrators to establish and maintain a work climate within which an employee's grievance may be identified, presented, discussed and given fair, prompt consideration. In presenting a grievance, an employee must be assured freedom from restraint, interference, coercion, discrimination and reprisal. Employees have the right to representation of their own choosing and at their own expense at any level of review. A grievance is a formal written complaint by an employee arising out of a misunderstanding or disagreement between an employee and supervisor which expresses dissatisfaction concerning a condition of employment or treatment by management, supervisors or other employees.

Nothing in this section shall be construed to modify the rights of the Town of Smyrna to dismiss an employee at will during his/her initial or any subsequent probationary period, and no probationary employee shall be entitled to file a grievance under this section.

40.2 Procedure.

40.2.1 Filing a Grievance.

In the event a problem cannot be settled informally through oral discussions with an employee's supervisor, a grievance may be filed if an employee is adversely affected and if the employee alleges:

- a) violation, misinterpretation or improper application of established laws, regulations, procedures or policies
- b) an improper or unfair act by a supervisor or other employee which may include coercion, restraint, reprisal, harassment or intimidation
- c) an improper, inequitable or unfair act in the administration of the merit system which may include promotional opportunities, selection for training, duty assignments, work schedules, transfers and reductions in force

- d) an improper, inequitable or unfair application of compensation, policies and employee benefits which may include salary, pay differentials, awards, overtime pay, leave, insurance, retirement and holidays
- e) any disciplinary action involving that employee which disciplinary action involves a written reprimand, loss of increment, suspension, demotion, or dismissal

Provided, however, that any performance evaluation conducted during the probationary period as set forth in Section 4.2.2 shall not be grievable.

40.2.2 Grievance Procedure.

When an employee has a grievance, the following successive steps are to be taken. The number of days for each step should be considered the maximum number of working days unless otherwise provided and every effort should be made to expedite the process. Time limits at any step, however, may be extended by mutual consent. All documents used in this procedure must be dated and signed by the respondent and recipient. The procedure for the presentation, consideration and disposition of employee grievances is as follows:

- a) An employee, who has completed the probationary period may, within ten (10) working days of the cause of a grievance, present the grievance in writing to his or her department supervisor. The supervisor shall, within five (5) working days of receiving an employee's written grievance, meet and discuss the grievance with the employee and then reply in writing to the employee within five (5) working days of their meeting. The grievance and the answer shall be reported to the Town Manager.
- b) In the event the immediate supervisor's decision is not satisfactory to the employee, the employee may, within five (5) working days of receiving the supervisor's written reply, present an appeal in writing to the Town Manager. The Town Manager shall confer with the employee and the department supervisor about the grievance within five (5) working days after the appeal is presented and shall render a written

decision to the employee within ten (10) working days.

- c) The Town Manager's decision shall be final unless an appeal is filed with the Mayor and Town Council within ten (10) working days. A hearing shall be scheduled within thirty (30) working days of the appeal being submitted to the Mayor and Town Council. The Mayor and Town Council will render a written decision to the employee within ten (10) working days.

40.2.3 Nothing in the grievance procedure shall be construed to modify the rights of the Town of Smyrna to justly hire, transfer, reward, demote or dismiss employees or to determine the methods, means and personnel affecting the efficient operation of the Town's business.

41. Separation.

41.1 Policy.

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

41.2 Procedure.

All separations shall be accomplished in the manner indicated below:

41.2.1 Resignation.

In order to resign in good standing, a non-exempt employee shall give two (2) weeks notice of his or her intention to terminate employment and an exempt employee shall give thirty (30) days notice of his or her intention to terminate employment. Such notice shall be given in writing by the resigning employee to his or her department supervisor who shall promptly notify the Town Manager. Employees are encouraged to inform their supervisor as far in advance of separation as possible to enable the supervisor to prepare for the position vacancy.

41.2.2 Reduction in Force.

In the event that a reduction in force becomes necessary, consideration shall be given to the quality of each employee's past performance, the need for the employee's service, and seniority in determining those employees to be retained. Employees who are laid off because of a reduction in force shall be given at least two (2) weeks notice of anticipated layoff.

41.2.3 Retirement.

The normal retirement date for all civilian Town employees is the date of the individual employee's 65th birthday. Monthly retirement benefits begin on the first day of the month following that date or on the employee's 65th birthday if that falls on the first day of the month. Benefits will continue to be paid in accordance with the form of payment that the employee has elected. If an employee has attained Age 55 and has completed at least ten (10) years of Vesting Service, the employee may elect an early

retirement date. Monthly retirement benefits can begin on the first day of any month between the date of the early retirement and the normal retirement date. Payments will continue in accordance with the form of payment that the employee has elected.

The normal retirement date for all Police Officers is the date of the individual's 50th birthday. Monthly retirement benefits begin on the first day of the month following that date or on the employee's 50th birthday if that falls on the first day of the month. Benefits will continue to be paid in accordance with the form of payment that the employee has elected. There are no special retirement benefits payable under this plan.

41.2.4 Death.

All compensation due in accordance with Section 8 of this policy will be paid to the estate of a deceased employee. The date of death shall be recorded as the separation date for computing compensation due.

41.2.5 Dismissal.

Separation from service due to dismissal is described in Section 39 of this policy.

42. Tenure.

The tenure of every employee shall be conditioned on good behavior and the satisfactory performance of duties as indicated by evaluation reports prepared by the Department Head and reviewed by the Town Manager. Tenure shall also be conditioned upon availability of funding and work. Any employee may be temporarily separated by layoff or permanently separated by resignation, retirement, or termination, according to procedure outlined in this Section.

Whenever there is a lack of work or lack of funds requiring reductions in the number of employees in a Department or Division of the Town government, the required reductions shall be made in such positions as the Department Head may designate. In making such determinations, the Department Head shall consider: the relative length of service of the employees in the department, their relative quality of service as reflected in their performance evaluations, and the knowledge, skills, experience, technical training and/or aptitude of those employees in view of the Town's requirements. Length of service alone shall be an important, but not controlling, factor in the determination. Within each affected job class, all temporary employees shall be laid off before any probationary employees, and all probationary employees shall be laid off before any permanent employees.

43. Separability.

If any section, paragraph, sentence or clause of this Policy is determined or declared to be invalid or unenforceable by any court of competent jurisdiction, the remainder hereof shall remain in full force and effect.