



**TOWN OF FINCASTLE, VIRGINIA  
2015 PERSONNEL POLICY**

**TOWN OF FINCASTLE  
PERSONNEL POLICY  
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**TOWN OF FINCASTLE  
PERSONNEL POLICIES<sup>1</sup>**

**1.0 PURPOSE OF THIS POLICY**

The objective of this Personnel Policy with addendums (“Policy”) is to provide a uniform system of personnel administration for the staff of the Town of Fincastle, based on merit principles, equitable compensation, open competition in hiring and advancement, and equal employment opportunities.

It is the policy of Town of Fincastle to establish reasonable rules of employment conduct (i.e., guidelines for management and employees to follow) and to ensure compliance with these rules through a program consistent with the best interests of The Town of Fincastle and its employees. THIS MANUAL IS NOT, AND SHALL NOT BE CONSTRUED AS AN EXPLICIT OR IMPLIED CONTRACT; SHALL NOT MODIFY ANY EXISTING AT-WILL STATUS OF ANY LOCAL GOVERNMENT UNIT Town of Fincastle EMPLOYEE; AND SHALL NOT CREATE ANY DUE PROCESS REQUIREMENT IN EXCESS OF FEDERAL OR STATE CONSTITUTIONAL OR STATUTORY REQUIREMENTS. THE TERM AT-WILL MEANS EMPLOYEES CAN TERMINATE VOLUNTARILY OR BE TERMINATED AT WILL. EXCEPTIONS ARE EMPLOYEES HAVING WRITTEN CONTRACTS SIGNED BY THE Town Manager.

Additionally, it is the policy of The Town of Fincastle to strive for safety in all activities and operations, and to carry out the commitment of compliance with health and safety laws applicable to The Town of Fincastle by enlisting the help of all employees to ensure that public and work areas are free of hazardous conditions.

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<sup>1</sup> The Town of Fincastle reserves the right to modify, amend, or rescind these policies in whole or in part without prior notice. See Section 15.

## 2.0 EMPLOYEE CLASSIFICATION

All Status of employees, whether in probationary status or not, are always employees at will.

### 2.1 Classifications and Definitions

- A. **Exempt Employee** – an employee who occupies a position which is exempt (not eligible) from the overtime provisions of the Fair Labor Standards Act due to executive, administrative or professional exemptions. Full-time, part-time, and temporary employees may be exempt.
- B. **Non-Exempt Employee** – an employee who receives hourly wages; and is subject to wage and hour laws, i.e. overtime pay provisions of the Fair Labor Standards Act. Full, part-time, and temporary employees may be non-exempt.
- C. **Full-time Employee** – an individual hired on either an exempt or non-exempt basis for an established position for an indefinite term who is expected to work a minimum of forty (40) hours a week.
- D. **Part-time Employee** – an individual hired on either an exempt or non-exempt basis for an established position for an indefinite term who is expected to work an established period of time that is less than twenty nine (29) hours per week.
- E. **Probationary Employee** – a full-time or part-time employee who has worked for Town of Fincastle for less than six (6) months.
- F. **Temporary/Seasonal Employee** – an individual hired on a term basis, *e.g.*, day, week, period of months or on a project basis.
- G. **Chief Administrative Officer (Town Manager)** – the Town Manager of the Local Government Unit. Also known as the Town Manager

## 3.0 EQUAL EMPLOYMENT OPPORTINUTY

### 3.1 Policy Statement

It is the policy of the Town of Fincastle to provide equal opportunity in employment and to administer employment policies without regard to race, color, religion, sex, age, national origin, political affiliation or disability. This policy applies to every aspect of employment practices including, but not limited to the following:

- A. Recruiting, hiring, and promoting in all job classifications without regard to race, color, religion, sex, age, national origin, political affiliation, or disability, except where such a factor can be demonstrated as a bona fide occupational qualification.

- B. All decisions for hiring or promotions shall be based solely upon each individual's qualifications for the position to be filled.
- C. Other personnel actions such as compensation, benefits, transfers, layoffs, training, and assignments, will be administered without regard to race, color, religion, national origin, sex, age, political affiliation, or disability.

### **3.2 No-Harassment/No-Discrimination Policy**

The Town of Fincastle will not tolerate any form of harassment or discrimination. In accordance with Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, our No-Harassment/No-Discrimination Policy prohibits harassment, discrimination or intimidation of others based on age, sex, color, race, creed, religion, national origin, ethnicity, disability, political affiliation, marital status, military/veteran status, status in any other group protected by federal or local law or for any other reason.

Harassment includes, but is not limited to, remarks, jokes, written materials, symbols, paraphernalia, clothing or other verbal or physical conduct which may intimidate, ridicule, demean, or belittle a person because of their age, sex, color, race, creed, religion, national origin, ethnicity, disability, political affiliation, marital status, military/veteran status, or status in an other group protected by federal, state or local law.

Sexual harassment includes unwelcome sexual advances; requests for sexual favors; and other verbal or physical conduct of a sexual nature; as well as behavior, remarks, jokes or innuendos that intimidate, ridicule, demean or belittle a person on the basis of their gender; regardless of whether the remarks are sexually provocative or suggestive of sexual acts.

Harassment occurs when:

- Submission to and/or tolerance of the unwelcome conduct is explicitly or implicitly made a term or condition of a person's employment.
- Submission to, tolerance of, and/or rejection of the unwelcome conduct is a basis for employment decisions.
- The unwelcome conduct substantially interferes with a person's work performance and creates an intimidating, hostile, or offensive work environment.

**YOU HAVE THE RESPONSIBILITY TO BRING ANY FORM OF HARASSMENT OR DISCRIMINATION TO OUR ATTENTION.**

All employees are responsible for helping assure that harassment and discrimination in the workplace is avoided. If you experience any problem of this sort, become aware of any other employee experiencing a problem of this sort, or have knowledge of any form of harassment or discrimination, sexual or otherwise, you must immediately report it to your supervisor. If you believe that it would be inappropriate to discuss the matter with your supervisor, or you are uncomfortable discussing the matter with the Town Manager, you may elect to bypass the Town Manager and report the matter directly to a member of the Town of Fincastle Personnel Committee.

All claims of harassment or discrimination will be investigated thoroughly and promptly WITHOUT CONSEQUENCE TO THE EMPLOYEE EXPERIENCING OR REPORTING THE CONDUCT. We will endeavor to keep complaints, investigations, and resolutions confidential to the extent possible; however, we cannot compromise our obligation to investigate complaints. The employee who brought the complaint will be provided information on the outcome of the investigation within the limits of confidentiality. A non-employee who subjects an employee to harassment in the workplace will be informed of the Town of Fincastle's policy and appropriate actions will be taken to protect the employee from future harassing conduct.

### **3.3 Retaliation**

Retaliation is illegal and contrary to the policy of the Town of Fincastle. Employees who bring complaints of discrimination or who identify potential violations, witnesses interviewed during the investigation, and others who may have opposed discriminatory conduct are protected from retaliatory acts.

If an employee believes that he or she is being retaliated against, a written or verbal report shall be immediately made to the Town Manager or a member of the Personnel Committee. Those who are found to be acting in a retaliatory manner will be disciplined for such conduct.

## **4.0 RECRUITMENT AND SELECTION**

### **4.1 Open Positions**

All positions shall be open to all individuals who meet the minimum requirements for the position. The recruitment objective is to obtain well-qualified applicants for all vacancies and selection shall be based on the best-qualified person available at the salary offered for the particular position.

First consideration will be given to current employees who desire to fill an open position, if the current employee is qualified for the position and if the placement best serves the needs of the Town of Fincastle. The Town Manager may carry out open competition to fill any vacancy.



Employment decisions shall be handled in a manner consistent with the Virginia Conflicts of Interest Act.

#### 4.2 Probationary Period

All new full-time and part-time employees shall serve a 6 (six) month probationary period. During this period the employee must show that he or she is capable and willing to perform the job satisfactorily. At the end of the probationary period the employee will be evaluated to determine satisfactory performance. If satisfactory performance is attained the employee will be entitled to all the benefits of non-probationary status including utilization of the grievance procedure. **In establishing a probationary period, the Town of Fincastle does not change in any way the employment-at-will status that applies to its employment relationship with all employees at all times during their employment.**

#### 4.3 Hiring Authority

**The Town of Fincastle Town Manager** has complete authority for hiring, promoting, and discharging employees in accordance with these policies. The Town Manager has the responsibility and authorization for administering the personnel system established by these policies. He or she may consult with the Town Council's Personnel Committee regarding personnel issues as needed and will report significant personnel actions to Town Council in executive session.

### 5.0 EMPLOYEE COMPENSATION

The total compensation of employees consists of the regular salary and applicable overtime pay for full-time employees, the employer's contributions to employee benefits, holiday pay, and various forms of leave with pay. Part-time and temporary employees may also receive leave in certain circumstances. Leave policies, found in Section 5.4, should be reviewed.

#### 5.1 Hours of Work

A. **The Town of Fincastle Town Manager** shall establish the hours of work for all Town of Fincastle employees. The standard work week for the part-time employees is (20) hours per week, with office hours generally Monday through Thursday, 9:00 a.m. until 2:00 p.m. The standard scheduled workweek for which salary is paid consists of 30 hours or to be adjusted. This does not preclude the establishment of specified schedules other than (30) hours in a given workweek for any employee if approved by **the Town of Fincastle Town Manager**

## 5.2 Pay and Classifications

### A. Compensation Plan

The compensation plan for employees of the Town of Fincastle shall consist of:

1. A classification system for all classified jobs.
2. A pay grade that sets a salary or hourly range for each classified position.

### B. Rates of Pay

The rates of pay for each employee within a pay grade shall be set by the Town Manager or Fincastle Town Council. The normal entrance rate of pay for new employees shall be at the lower end of the pay grade for the position.

### C. Amendment

The compensation plan may be amended by motion of the Fincastle Town Council OR by **the Town of Fincastle Town Manager** within the limits of appropriations by the Council.

### D. Flexible Work Hours

Flexible work scheduling may be considered within the standard workweek, Monday through Friday, so long as the standard hours in a workweek are not altered.

Some examples are:

1. Arrive earlier in the morning and leave earlier in the afternoon.
2. Arrive later in the morning and leave later in the afternoon.
3. Work some other similar permanent or seasonal scheduling option(s).
4. Add time to meal break and arrive earlier and leave later.

Other temporary or occasional flexible work schedules may include some combination of altered work start and stop times to allow employees to have medical appointments or take care of personal business during work hours without being charged leave. If flexible work scheduling or compressed workweeks are instituted on an ongoing basis, it must be approved by the Town Manager.

#### **E. Unable to Report**

If an employee is unable to report for work or expects to be late, the employee must contact his supervisor as soon as possible but no later than the beginning of his or her scheduled work period, giving the reason for his absence or tardiness. Paid leave may or may not be approved. If an employee has difficulty reaching his supervisor, he should leave a message reporting his absence but continue to attempt to make contact with his supervisor. The responsibility to notify a supervisor(s) about absences or about tardiness always rests with the employee.

#### **F. Hours of Work**

Hours of work, schedules, and duty assignments of short duration of individual employees or work units may be altered under authorization of the Town Manager head or his designee within the established workweek and schedule of the agency as conditions warrant. Schedules may also be adjusted to meet ADA requirements.

#### **G. Performance Appraisals**

The work of each employee will be evaluated at least annually by the Town Manager during the month of June of every year. The work of the Town Manager will be evaluated at least annually by the Personnel Committee, during the month of June every year. The Town Manager will meet with the employee to discuss the year's performance. A written report of the appraisal will be prepared with a copy provided to the employee being appraised and a copy for the personnel files. If the employee believes that the report is unfair or incorrect, he or she may prepare comments to be attached to the Town Manager's appraisal report.

#### **H. Performance Increases**

The Town of Fincastle promotes excellence in its workforce. Salary increases within budget constraints may be given to that end. Each employee's performance will be reviewed annually, and based on satisfactory performance and contributions to the organization, pay increases may be given. In exceptional circumstances an employee's pay may be increased in less than a year for meritorious service or enhanced responsibilities. Pay increases are not automatic or guaranteed.

#### **I. Bonuses**

The Town Manager/Town Council may grant a bonus to an employee to recognize superior service to the Town of Fincastle.

### 5.3 HOLIDAYS AND LEAVE

#### Holidays

The following holidays are observed by the Town of Fincastle. Full-time and part-time salaried employees shall be granted time off for these days without charging the time against leave balances:

|  |                                      |
|--|--------------------------------------|
| New Year's Day   | January 1                            |
| Jackson-Lee Friday preceding 3 <sup>rd</sup> Monday of January | 3 <sup>rd</sup> Monday of January    |
| Martin Luther King, Jr.  | 3 <sup>rd</sup> Monday of January    |
| Presidents Day   | 3 <sup>rd</sup> Monday of February   |
| Memorial Day   | Last Monday in May                   |
| Independence Day   | July 4                               |
| Labor Day  | 1 <sup>st</sup> Monday in September  |
| Columbus Day   | 2 <sup>nd</sup> Monday in October    |
| Veteran's Day  | November 11                          |
| Thanksgiving Day   | 4 <sup>th</sup> Thursday in November |
| Day after Thanksgiving   | 4 <sup>th</sup> Friday in November   |
| December 24  | December 24 (1/2 day)                |
| Christmas Day  | December 25                          |

When an employee is required to work on one of these holidays, compensatory time off will be given on an hour for hour basis for the hours worked on the holiday. Holidays falling on Saturday or Sunday shall be taken on the Friday or the Monday respectively as announced by the Town of Fincastle.

**The state code lists state holidays in §2.2-3300.**

### 5.4 Leave

#### A. Annual Leave

Part-time employees will accrue time off for personal purposes (sick day or personal time off) at the following rate:

1 day per month.

Any unused days may be carried over, but the maximum number of allowable accrued days shall be 20 days based on the typical working day. The effective date of accrual will be June 30<sup>th</sup> of each year.

Leave shall be approved in advance by the Town Manager. Leave is not eligible at all times: the Town Manager has a primary obligation to ensure that the Town of Fincastle's service to the citizens is carried out.

Each employee may accumulate a maximum of 20 days based on the typical working day. Annual leave above that amount shall expire and may not be accumulated or used.

**B. Military Leave**

An employee who is a member of a reserve force of the United States or of the Commonwealth of Virginia and who is ordered by the appropriate authorities to attend a training program or who is called into emergency active duty for the purpose of aiding civil authority under the supervision of the United States or the Commonwealth of Virginia shall be granted a leave of absence with full pay during the period of such activity, The Town of Fincastle may, by motion of Council, pay any such employee the difference between his or her salary and the pay received for the military duty.

**C. Military Leave without Pay**

An employee who leaves the employ of the Town of Fincastle to join the military forces of the United States during the time of war or other declared national emergency or who is called to service in the Virginia Militia by order of the Governor shall be placed on military leave without pay commencing on the first business day following the last day of active employment with the Town of Fincastle. The employee on such leave is entitled to be restored to the position he or she vacated, provided the employee makes application to the Town of Fincastle not later than 90 days after the date of honorable discharge or separation under honorable conditions. Job restoration is further conditioned on the position still existing and the employee being physically and mentally capable of performing the work of the vacated position. This section does not override section VI B.3.

**D. Civil Leave**

An employee will be given time off without charge to leave or loss of pay for (a) performing jury duty, when subpoenaed as a witness to appear before a court, public body or commission or (b) performing emergency civilian duties in connection with national defense or for the purpose of voting in a national, state, or local election. The period of such leave shall be only as necessary for the performance of the activity, plus any necessary travel time.

**6.0 LEAVE WITHOUT PAY**

The following are the situations for which an employee may be on leave without pay status.

## **6.1 Extended Leave without Pay**

When special circumstances require an extended leave, the Town Manager has the authority to grant an employee leave without pay provided that the operations of the Town of Fincastle's program(s) will not be adversely affected.

## **6.2 Disciplinary Leave without Pay**

An employee who is absent from work without prior approval shall receive no pay for the duration of the absence and may be subject to disciplinary action which may include dismissal. If extenuating circumstances exist for the unauthorized absence, due consideration will be given.

## **7.0 EMPLOYEE DEVELOPMENT/TRAINING**

It is the policy of the Town of Fincastle to encourage employees to obtain training designed to develop the employee's value to the organization. Leave with partial pay or leave without pay may be available under the Education Leave provisions.

The cost of training and related expenses undertaken at the direction of the Town Manager or Town Council shall be paid in full by the Town of Fincastle. For training requested by an employee, the employee may receive reimbursement of tuition costs if (1) the training was approved in advance by the Town Manager (2) the necessary funding is available, and (3) the employee shows successful completion of the course.

### **7.1 Education Leave – For pursuit of courses of study**

#### **A. Policy**

It is the policy of the Town of Fincastle to encourage employees to obtain training designed to develop the employee's value to the organization. Leave with partial pay or leave without pay may be available.

#### **B. Leave at the discretion of Town Manager**

Education leave is discretionary and is normally taken with partial pay or without pay. When an employee can demonstrate that the pursuit of the educational program will have an immediate and discernable benefit to the Town of Fincastle, leave with full pay may be granted by the Town Manager. The conditions of such leave shall be subject to a case by case determination based on factors which include the nature of the education or training, length of the absence, work record of the employee, work requirements at the time of the request, and value of the education or training to the Town of Fincastle.

## **8.0 HEALTH AND SAFETY**

### **8.1 Workers' Compensation**

Workers' Compensation provides benefits for an employee in the event of certain occupational illnesses, injuries, or deaths.

**For additional information, see Addendum I.**

### **8.2 Occupational Safety and Health**

The Town of Fincastle is committed to providing our employees with a safe and healthful work environment. To accomplish this goal, all employees and the Town Manager must make diligent efforts to promote safety. We develop and implement safety rules and regulations through our Town Managers and committees as necessary. This process is ongoing and requires periodic review. Safety audits are undertaken to determine the necessity and feasibility of providing devices, work practices, policies, or other safeguards to make the workplace safe and healthful. We also provide training for our employees regarding workplace hazards and the proper and safe methods to use in performing their job tasks.

Employees are expected to give their full skill and attention to the performance of their duties using the highest standard of care and good judgment. They are also expected to always follow safety rules and regulations, including using appropriate protective clothing and equipment, attending all training sessions related to your job, and following the directions of supervisory personnel.

Safety rules and regulations will be issued or modified from time to time and will be effective immediately upon communication. General safety rules and regulations will be distributed to you and posted on employee-accessible bulletin boards. Departments will have specific job/task related rules and procedures that the employees are expected to know and follow.

### **8.3 Accident Reporting and Investigation**

All job-related injuries or illnesses shall be reported to your supervisor immediately, regardless of severity. (In the case of serious injury, your reporting obligation will be deferred until circumstances reasonably permit a report to be made.) Failure to report an on-the-job injury or illness may preclude or delay the payment of any benefits you may be eligible for and could subject the Town of Fincastle to fines and penalties.

#### **A. Employer's Responsibilities**

1. Each employer is to investigate the cause of every lost-time accident and determine the means with which to prevent recurrence.

Employers are required to install any safeguards or take corrective measures indicated or found advisable.

2. Create a safety committee which is responsible for establishing procedures to investigate all safety related incidents. This doesn't mean that they take the responsibility away from supervisors for the actual investigation. However, committees should evaluate the cause, look for any trends, or identify tools, equipment, procedures, or training that will serve to prevent the accident/injury from recurring.

## **B. Employees Responsibilities**

The employee shall:

1. Report all injuries, regardless of severity, to the Town Manager immediately but no later than 24 hours, unless emergency or immediate treatment is necessary.
2. Report and, if possible, correct all unsafe conditions or acts;
3. Take all standard safety precautions to prevent injury;
4. Follow all safety rules.

## **9.0 ELECTRONIC COMMUNICATIONS**

### **9.1 Internet**

#### **A. Provision of Internet**

The Town of Fincastle may provide electronic, digital and wire communications equipment for business purposes. The use of this equipment should not be for personal use. Messages received, sent, and stored on this equipment will be subject to monitoring from time to time and in the course of this monitoring may be read for content. Employees should be aware that there are stored records of all communications. There should be no expectation of privacy in any communications received, sent, or stored on equipment or service provided by the Town of Fincastle.

#### **B. Employees Access**

The Town of Fincastle may provide unlimited access to the Internet and the World Wide Web to its employees as one of the many resources available to assist them in doing their jobs better and more efficiently. Therefore, the Town of Fincastle may establish an Internet account that may be accessed by employees.



## **C. Passwords and Email Addresses**

1. Employees may be provided with passwords and e-mail addresses to enable them to use the account; these addressees and passwords are not provided to make employees' usage confidential or private. E-mail records are business records of the Town of Fincastle. The usage of the Internet is subject to the same code of conduct which applies to all other actions in the workplace and using the Town of Fincastle's Internet account in a manner that violates any rules or regulations constitutes grounds for disciplinary action, up to and including discharge. The electronic use, transmission, and storage of messages, files, images, and sounds are subject to monitoring by Town of Fincastle.
2. Employees must not share their passwords with any other individuals, including other employees or outsiders. Nor is it appropriate to attempt to subvert network security either by accessing the Internet without using your password or by seeking to discover other passwords to gain access. Employees are representatives of the Town of Fincastle when using the Town of Fincastle's Internet account. Accordingly, they are expected to act and to communicate professionally on the Internet, not to engage in any commercial or illegal activities, or to use the account for personal business.

## **D. Employer Access**

The Town of Fincastle will have access to a log of all usage, including a list of employees who have used the Internet and the sites they visited. The Town of Fincastle will monitor this usage from time to time, and employees found to be abusing usage or using the Internet inappropriately will be subject to disciplinary action.

## **9.2 Consent to Monitoring**

Employees, by signing the Personnel Policies Receipt Acknowledgement, will consent to the monitoring of communications sent, received and stored on equipment provided by the Town of Fincastle or an electronic, wire, or digital services provided by the Town of Fincastle is a requirement for employment by the Town of Fincastle.

## **10.0 ALCOHOL AND DRUG FREE WORKPLACE**

### **10.1 Employee Responsibilities**

- A. No employee shall unlawfully manufacture, dispense, possess, use, or distribute any controlled substance, medication, or alcohol.

- B. Any employee convicted under a federal or state statute regulating controlled substances shall notify their supervisor and the Town Manager within five days after the conviction.
- C. No employee shall consume alcoholic beverages immediately before work, during work hours, or while at work during breaks or lunches.
- D. No employee shall be impaired by alcoholic beverages immediately before work, during work hours, or while at work during breaks or lunches.
- E. No employee shall represent the Town of Fincastle in an official capacity while impaired by alcohol, illegal drugs, or medication.
- F. No employee, using medication that may impair performance, shall operate a motor vehicle or engage in safety sensitive functions while on duty for the Town of Fincastle.
- G. If an employee is using a prescription or non-prescription medication that may impair performance of duties; the employee shall report that fact to the Town Manager.
- H. An employee who has reason to believe that the performance of another employee is impaired by alcohol, illegal drugs, and/or medication, shall immediately notify the Town Manager.

## 10.2 Disciplinary Action

**Because of the serious nature of illegal use or abuse of alcohol, controlled substances, and/or non-prescribed use of medication, appropriate employee disciplinary action will be taken, up to and including termination.**

## 10.3 Drug & Alcohol Testing

In order to achieve a drug-free work place, employees in, and applicants for, safety sensitive positions may be required to participate in all of the following alcohol and controlled substances testing:

- A. When an applicant for a safety-sensitive position has been extended a conditional offer of employment but before beginning work.
- B. When there is a reasonable suspicion to believe that the employee is in an impaired state.
- C. On a random basis for safety sensitive positions.

- D. As a condition for return to duty after testing positive for controlled substances or alcohol.
- E. As part of follow-up procedures to return-to-duty related drug or alcohol violations.

Additionally, an employee will be required to participate in substance testing if the employee has been involved in an on duty accident or has endangered others in the workplace.

## **11.0 POLITICAL ACTIVITY**

- A. An employee shall not be coerced to support a political activity, whether funds or time are involved.
- B. An employee shall not engage in political activity on work premises during work hours.
- C. An employee shall not use Town of Fincastle-owned equipment, supplies or resources, and other attendant material (diskettes, paper, computer online and access charges, etc.) when engaged in political activities.
- D. An employee shall not use, discriminate in favor of or against, any person or applicant for employment based on political activities.
- E. An employee shall not use the employee's title or position while engaging in political activity.

## **12.0 SMOKING – Town of Fincastle-- OWNED AND CONTROLLED BUILDINGS AND WORK PLACES**

The Town of Fincastle Town Manager may develop and implement policies and procedures governing smoking in parts of Town of Fincastle-owned and controlled buildings or work areas not open to the general public in the normal course of business, except by invitation. The Town of Fincastle Town Manager shall enforce these policies and procedures through administrative methods.

**State law reference(s) – §§ 15.2-2801, 15.2-2802**

## **13.0 DISCIPLINE AND GRIEVANCES**

### **13.1 EMPLOYEE CONDUCT**

Town of Fincastle employees are expected to conduct themselves in a professional and courteous manner, as representatives of the Town of

Fincastle. Employees are expected to avoid any action, which might result in giving preferential treatment to any organization or person, losing independence or impartiality of action, or adversely affecting the integrity of the Town of Fincastle.

## 13.2 Disciplinary Actions

If an employee's work performance or behavior is deemed unsatisfactory, the following kinds of disciplinary action may be taken, depending upon the circumstances: oral coaching/warning, written warning, suspension, demotion, or termination. Other types of discipline may be used in addition to those listed.

The following are examples of misconduct that may result in discipline. The list is not inclusive and other conduct may be subject to disciplinary action:

- A. Conviction of a felony or of a misdemeanor involving moral turpitude and other criminal acts that continued performance of duties is compromised;
- B. Willfully falsifying Town of Fincastle records (including time records, financial statements, checks, certificates of deposits, payments or other financial records, leave records, job applications, or pay or reimbursement vouchers);
- C. Negligence with Town of Fincastle property or misuse of Town of Fincastle property;
- D. Violating any workplace rule;
- E. Performing official duties in a rude and discourteous manner, threatening co-workers, or using physical violence while on duty;
- F. Violating any lawful official regulation or order or willfully failing to obey a proper direction of the supervisor or the Town Manager;
- G. Using or being impaired at work by intoxicants, drugs, or alcohol;
- H. Neglecting duty or continually being unable or unwilling to render satisfactory performance;
- I. Taking property of the Town of Fincastle for one's personal use, for sale to another or for a gift to another;
- J. Inducing, or attempting to induce, an officer or employee in the service of the Town of Fincastle to commit an unlawful act or to act in violation of any lawful or official regulation or order;

- K. Accepting a bribe, gift, token, money, or other thing of value intended as an inducement to perform or refrain from performing any official acts, or engages in any action of extortion or other means of obtaining money or other things of value through his/ her position in the Town of Fincastle;
- L. Failing to report for work or being absent without prior notice to supervisor;
- M. Unsatisfactory attendance, excessive absences, or excessive tardiness;
- N. Harassing other employees or the public;
- O. Violating the Town of Fincastle's drug free workplace rules.

### **13.3 Notification**

Prior to imposing disciplinary action, including termination, the Town Manager/Town Council shall inform the employee of the reason for the discipline and the employee shall have the right to comment on the discipline. However, the Town Manager/Town Council may have the employee removed from the workplace prior to giving an opportunity to comment if the employee's continued presence poses a safety danger or is disruptive to the workplace.

## **14.0 TERMINATION OF EMPLOYMENT**

### **14.1 Resignation**

To resign in good standing, an employee must give at least two weeks advance notice. If special circumstances exist, the notice requirement may be waived by the Town Manager. Failure to give the required advance notice will result in forfeiture of compensation for accrued leave, other than compensatory leave for non-exempt employees. Failure to return to work at the expiration of an approved leave of absence shall be interpreted as a resignation.

### **14.2 Lay-off**

The Town of Fincastle reserves the right to dismiss/lay-off employees for lack of available work or funds. In such cases the employees affected will be given a minimum of two weeks advance notice (alternative - two weeks pay in lieu of notice).

### **14.3 Termination for Inability to Perform**

An employee may be terminated if he or she becomes physically or mentally unable to perform the duties of the position. However, any such action shall

be taken in a manner that complies with the requirements of the American's with Disabilities Act.

## **15.0 MODIFICATION OF POLICIES**

These policies do not constitute a contract of employment. The policies as a whole, or individually by section, may be modified, amended, or rescinded at the sole discretion of the Town of Fincastle without notice.

### **Uniformed Services Employment and Re-Employment Rights Act of 1994**

The Uniformed Services Employment and Re-Employment Rights Act of 1994 (USERRA) applies to all employers in the public and private sectors, including Federal employers. The Act protects all members of the uniformed services from discrimination in employment regardless of whether their uniformed service was in the past, present, or future (intent to join). The discrimination provisions of USERRA, set forth in section 4311, address problems regarding initial employment, reemployment, retention in employment, promotion, or any other benefit of employment.

Any person re-employed after military service is entitled to all seniority and other rights and benefits, including medical insurance coverage, which would have been available if the employment had not been interrupted by military service. The veteran re-employment rights are effective unless the cumulative length of the current absence plus any previous absences exceed five (5) years.

USERRA requires that service members provide advance written or verbal notice to their employers for all military duty unless giving notice is impossible, unreasonable, or precluded by military necessity. Upon return from military duty, the period an individual has to make application for reemployment or report back to work is based on the time spent on military duty. For service of 30 days or less, the service member must report back to work at the beginning of the next regularly scheduled work period on the first full day after release from service. For service of 31 - 180 days, the service member must submit an application for reemployment within 14 days of release from service. For service of 181 days or more, an application for reemployment must be submitted within 90 days of release from service.

Reemployment of a person is excused if an employer's circumstances have changed so much that reemployment of the person would be impossible or unreasonable. Employers are excused from making efforts to qualify returning service members, or from accommodating those with disabilities incurred during service, when doing so would be of such difficulty or expense as to cause "undue hardship." Reemployment is not required where the position left to enter the

service was for a brief and non-recurrent period and which could not reasonably be expected to continue indefinitely or for a significant period. The employer has the burden of proving (not simply asserting) the impossibility or unreasonableness, undue hardship, or the brief, non-recurrent nature of the employment.

An employer may not use the lack of documentation at the time the individual requests return as a basis for delaying or denying reinstatement. If the documentation received later shows that the individual is not eligible for protection under USERRA, the person may be terminated at that point. An employer has the right to require a person who is absent for a period of service of 31 days or more to provide documentation showing that: 1) the application was timely, 2) the 5-year service limit was not exceeded, and 3) the separation from service was not under circumstances specified in section 4304 of USERRA.

The following are some of the major requirements of USERRA, but is not meant to be all inclusive:

**Health Benefit Coverage** - on return from service, health insurance coverage must be reinstated without any waiting period or exclusions for preexisting conditions, other than waiting periods or exclusions that would have applied even if there had been no absence for uniformed service.

**Pay** - a person reemployed is entitled to the rate of pay he or she would have attained, with reasonable certainty, if continuously employed during the period of service. The term "pay" is not limited to the wages received. It includes all elements of compensation such as drawing accounts, bonuses, and shift premiums. It includes hourly rate, piece rate, salaries, and commissions. USERRA does not require an employer to pay an employee while performing uniformed service; however, an employer is free to do so if desired.

**Promotions** - unless it is impossible or unreasonable, an employer is generally required to allow a returning service member to make up a test for promotion that was missed while he or she was absent. If the reemployed employee is successful on the makeup exam, and there is a reasonable certainty that, given the results of the exam, that reemployed employee would have been promoted during the time he or she was in military service, then the reemployed employee's promotion must be made effective as of the date it would have occurred had the employment not been interrupted by military service. If it is reasonably certain that an employee would have received a promotion during his or her absence for service and the employee requires further qualification for the position as a result of the military leave, the employer must make reasonable efforts to qualify the person. USERRA provides that returning service members are reemployed in the job that they would have attained had they not been absent for military service (a.k.a. "escalator position") with the same seniority, status and pay, as well as other rights and benefits determined by seniority.

**Raises** - a returning service member is entitled to all general pay raises that he or she would have received with reasonable certainty but for the absence for service in the uniformed services.

Vacation - USERRA requires an employer to allow an individual to use earned vacation credits while absent for service, providing that usage is at the employee's request. An employer may not require the use of vacation for a service absence, unless the absence coincides with a period, such as a plant shutdown, when ALL employees are required to take vacation.



## **Addendum 1.**

### **Recommended Worker's Compensation Administrative Procedures**

#### **Workers' Compensation Policy**

Our first responsibility is the prevention of occupational injuries and illnesses. Despite our best efforts, injuries and illnesses do sometimes occur. Workers' Compensation provides benefits for an employee in the event of certain occupational illnesses, injuries, or death.

#### **Reporting**

Employees are required to immediately report, in writing, all workplace injuries, conditions or illnesses, to the Town Manager. All incidents shall be reported no matter how insignificant and regardless if medical treatment is necessary. The employee should retain a copy of the written notice given to the Town Manager. If the Town Manager is not available, report must be made to a member of the Personnel Committee. Late reporting by the employee can result in delayed or denied workers' compensation benefits.

The Town Manager/Personnel Committee shall immediately complete an accident report and submit this report to its workers compensation provider (usually VML Insurance). Delays in reporting can jeopardize the employees' rights under the workers' compensation law and subject the Town of Fincastle to penalties, which can be assessed by the Virginia Workers' Compensation Commission. All accident reports shall be submitted to the workers compensation provider within 24 hours of the notification of a work related injury or illness.

#### **Panel of Physicians**

*The Town of Fincastle* has an approved Panel of Physicians for treating workers' compensation injuries and illnesses. The Town Manager shall, immediately upon notification of a work related injury or illness, provide the employee with a copy of the Panel of Physicians. The employee shall sign and date an acknowledgement of receipt of the Panel of Physicians and the Town Manager shall witness the employee's signature. In the absence of the Town Manager, a member of the Personnel Committee is required to meet these requirements. The Panel of Physicians shall be offered to the employee, regardless if the employee intends to receive medical attention. The Town Manager shall provide the employee with a copy of the signed Panel.

Treatment by a physician or medical facility outside of the panel will be at the employee's expense.

However, in the event of an emergency the employee may seek treatment at the closest emergency facility. Once the emergency treatment is completed a panel physician must be chosen for follow up care.

The Town shall post a copy of the Panel of Physicians in a conspicuous location.

### **Medical Treatment**

An employee shall not utilize health insurance for situations believed to be work related, unless the claim is denied by the workers compensation carrier.

### **Wage Loss Benefits**

An employee is not entitled to lost wage compensation for the first seven days of incapacity resulting from a work related disability. The Virginia Workers' Compensation Law includes weekends/holidays in this count, and these days do not need to be consecutive.

The employee will be given the option of using earned [*sick/ annual/ vacation/ personal*] leave for up to seven days. If the employee chooses not to use earned leave this will be excused leave without pay. It is the employee's responsibility to notify his supervisor regarding how he/she would like to charge the first seven days missed. If a designation is not made, the period missed from work will not be compensated by the employer.

If the absence is longer than seven days, the employee will receive compensation benefits from VML Insurance Programs in accordance with the provisions of the Virginia Workers' Compensation Act.

If an employee is out of work over twenty-one days for a covered injury/illness, which disability is authorized by a panel physician, the employee will receive from VML Insurance Programs, compensation for the first seven days. The employee may turn this payment over to, or reimburse the Town of Fincastle for the amount of compensation awarded to the employee for the first seven days of absence and (the Town) shall reinstate the employees' earned leave. Because workers' compensation benefits are not taxable, the Town of Fincastle shall make a taxable adjustment on this pay.

Injured employees do not continue to accrue sick and annual leave while out of work due to a workers' compensation injury/illness.

Temporary and part-time employees who are not eligible for annual leave and employees who have no earned leave available will not receive pay for the first seven days missed from work unless the employees absence is greater than twenty-one days under the conditions described above.

Earned [*annual/sick/consolidated*] leave cannot be used concurrently with workers' compensation benefits.

While receiving workers' compensation benefits, any voluntary deductions are the responsibility of the employee.

Earned [annual/sick/consolidated] leave may be used for disability resulting from a denied workers' compensation claim.

**Return to Work – Light / Modified Duty:**

The Town of Fincastle shall make every effort to provide light/modified duty for employees with temporary restrictions resulting from a work-related disability. All light/modified assignments will be within the employee's medical capability and will adhere to the treating physician's recommendations. The light/modified assignment may or may not be in the same occupation, department, pay scale, hours, etc. as the employee was performing prior to the work-related injury or illness.

If an employee refuses a light/modified assignment that has been approved by their treating physician and is within their capabilities, his/her workers' compensation benefits will be jeopardized.

**PERSONNEL POLICIES RECEIPT ACKNOWLEDGMENT**

**To be signed by the employee to indicate he/she will abide by the Personnel Policy Manual and understands its effect:**

I understand it is my responsibility to read, familiarize myself with the policies, and understand the matters set forth in this Personnel Policy Manual.

This Manual supersedes all prior policies as to subjects addressed in the manual and all representations, oral or written. In the event of a contradiction between this Manual and the representation of the Town Manager, the terms of this manual will govern.

I understand that no statement contained in this Manual creates any guarantee of continued employment or creates any obligation, contractual or otherwise, on the part of The Town of Fincastle.

I understand and acknowledge that The Town of Fincastle has the right, without prior notice, to modify, amend, or terminate policies, practices, benefit plans, and other institutional programs within the limits and requirements imposed by law.

*[Signature]:* \_\_\_\_\_

Name (printed): \_\_\_\_\_

Dated: \_\_\_\_\_