

ORDINANCE 2020-274

AN ORDINANCE TO AMEND THE ORIENTAL CODE OF GENERAL ORDINANCES.

NOW THEREFORE BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE TOWN OF ORIENTAL,

SECTION 1. That the following section 5 be added to the Personnel Policy: ARTICLE IX -- GRIEVANCE PROCEDURE, DISCRIMINATORY AND ADVERSE ACTION APPEAL, **AND WHISTLEBLOWER POLICY;**

Section 5. Whistleblower Policy

The Town of Oriental requires directors, officers and employees to observe high standards of business and personal ethics in the conduct of their duties and responsibilities. As employees and representatives of the Town of Oriental, we must practice honesty and integrity in fulfilling our responsibilities and comply with all applicable laws and regulations.

Reporting Responsibility

This Whistleblower Policy is intended to encourage and enable employees and others to raise serious concerns internally so that the Town of Oriental can address and correct inappropriate conduct and actions. It is the responsibility of all board members, officers, employees and volunteers to report concerns about violations of the Town of Oriental's code of ethics or suspected violations of law or regulations that govern the Town of Oriental's operations.

No Retaliation

It is contrary to the values of the Town of Oriental for anyone to retaliate against any board member, officer, employee, or volunteer who in good faith reports an ethics violation, or a suspected violation of law, such as a complaint of discrimination, or suspected fraud, or suspected violation of any regulation governing the operations of the Town of Oriental. An employee who retaliates against someone who has reported a violation in good faith is subject to discipline up to and including termination of employment.

Reporting Procedure

The Town of Oriental has an open door policy and suggests that employees share their questions, concerns, suggestions or complaints with their supervisor. If you are not comfortable speaking with your supervisor or you are not satisfied with your supervisor's response, you are encouraged to speak with the Town Manager of the Town of Oriental (or Board, if against the Manager). Supervisors and managers are required to report complaints or concerns about suspected ethical and legal violations in writing to the Town of Oriental's Town Manager, who has the responsibility to investigate all reported complaints. Employees with concerns or complaints may also submit their concerns in writing directly to their supervisor or the Town Manager. The Town of Oriental's Town Manager is responsible for ensuring that all complaints about unethical or illegal conduct are investigated and resolved. The Town Manager will advise the Town Board of all complaints and their resolution and insure compliance activity relating to accounting or alleged financial

improprieties. If the Complaint is against the Town Manager the Complaint can be written to the Town Board and the Mayor of the Town.

Accounting and Auditing Matters

The Town of Oriental's Town Manager (or Board, if against the Manager) shall be immediately notified of any concerns or complaints regarding corporate accounting practices, internal controls or auditing and work with the Town until the matter is resolved.

Acting in Good Faith

Anyone filing a written complaint concerning a violation or suspected violation must be acting in good faith and have reasonable grounds for believing the information disclosed indicates a violation. Any allegations that prove not to be substantiated and which prove to have been made maliciously or knowingly to be false will be viewed as a serious disciplinary offense.

Confidentiality

Violations or suspected violations may be submitted on a confidential basis by the complainant. Reports of violations or suspected violations will be kept confidential to the extent possible, consistent with the need to conduct an adequate investigation and consistent with applicable North Carolina General Statutes concerning personnel confidentiality.

Handling of Reported Violations

The Town of Oriental's Town Manager (or Board, if against the Manager) will notify the person who submitted a complaint and acknowledge receipt of the reported violation or suspected violation. All reports will be promptly investigated and appropriate corrective action will be taken if warranted by the investigation.

ADOPTED THIS 1st DAY OF September, 2020.

Sally Belangia, Mayor

Diane H. Miller, Town Manager

Ordinance # 2020-274 _____

ARTICLE I -- PERSONNEL POLICY OF THE TOWN OF ORIENTAL

WHEREAS, the Mayor and Town Board of the Town of Oriental recognize the importance of its municipal employees in meeting the service needs of Town residents; and

WHEREAS, it is the desire of the Town Manager and the Town Board to maintain a municipal work force composed of qualified, competent, and dedicated employees; and

WHEREAS, it is the desire of the Town Manager and the Town Board to establish a system of personnel administration that will assure equity of compensation and fair and reasonable employee treatment;

NOW, THEREFORE BE IT RESOLVED BY THE TOWN BOARD OF THE TOWN OF ORIENTAL that the following policies shall govern the appointment, classification, salary, promotion, demotion, dismissal, and employment conditions of the employees of the Town of Oriental, North Carolina, replacing where appropriate the existing articles and sections on personnel, working conditions, expectations of employees, work rules, grievance procedures, pay plans, classification and benefits.

ADOPTED November 13, 2006

EFFECTIVE January 1, 2007

LAST REVISED September 1, 2020

Mayor

Town Manager

ARTICLE II -- GENERAL PROVISIONS

Section 1. Employment Relationship

(a) The employment relationship between the Town and the employee may be terminated at the will of either at any time, with or without cause and with or without notice. No officer, employee, agent or representative of the Town has any authority to enter into any agreement for employment for any specified period of time or to make any agreement or representation, verbally or in writing, which alters, amends, or contradicts this provision or the provisions in the personnel policies. Any exception to these policies of "at-will" employment must be expressly authorized in writing, approved by the Town Board and executed by the officers designated by the Board.

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

(c) These personnel policies are not a binding contract, but merely a set of guidelines for the implementation of personnel policies. The town explicitly reserves the right to modify any of the provisions of these policies at any time and without notice to the employees. Notwithstanding any of the provisions within these policies, employment may be terminated at any time, either by employee or the Town, with or without cause and with or without advance notice.

Section 2. Purpose

The purpose of these policies is to establish a personnel system for the Town of Oriental which will recruit, select, develop and maintain an effective and responsible work force. These policies are established under the authority of Chapter 160A-Article 7 of the General Statutes of North Carolina.

Section 3. Coverage

These policies shall cover all regular and probationary employees except as specifically exempted. The Town Attorney, members of the Town Board and of advisory boards and commissions and part-time employees, will be exempted except in sections where specifically included. Temporary employees will be included only in the following articles and sections: Article II: Article V, Sections 1-9: Article VI: Article VII, Sections 1 and 9: and Article XI.

Section 4. Definitions

(a) *Adverse Action*: A demotion, dismissal, reduction in pay, layoff, suspension, or an undesirable transfer.

(b) *Appointing Authority*: Any board or position with legal or delegated authority to make hiring decisions.

(c) *Demotion*: A demotion is defined as a move from one position class to another in an authorized vacancy assigned to a lower salary grade.

(d) *Dismissal*: Dismissal is an action taken by the Town Board or Town Manager relieving an employee of all duties and responsibilities and discharging them from employment with the Town. Payment shall be made of salary and accrued vacation leave. As a general rule, a two week notice will be given when an employee is dismissed. The board may alter the length of notice and determine if the period of notice is to be served on or off duty.

(e) *Full-time Employee*: An employee, either regular or temporary, who is regularly scheduled to work the number of hours per workweek designated by the Town Board or Town Manager as full-time.

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

(g) *Immediate Family*: Immediate family refers to spouse, parent, sibling, child, parent-in-law, son-in-law, daughter-in-law, grandparent, grandchild, step-parent or step-child or anyone living as a part of the same household as the employee.

(h) *Layoff*: Layoff is a separation from employment because of a lack of work, organizational changes, lack of funds, or other reasons that reflect no discredit on the employee.

Before an employee is subject to layoff, the Town shall make every reasonable effort to retain the employee through transfer or to make the required work force reduction through normal attrition.

When a layoff cannot be avoided, the Town shall base the decision on the relative quality of performance and only give consideration to seniority in Town service when work related qualification, ability and performance are relatively equal.

(i) *Part-time Employee*: An employee, either regular or temporary, who is regularly scheduled less than the number of hours per workweek designated by the Town Board or Town Manager as full-time.

(j) *Probationary Employee*: A person appointed to a permanent position who has not yet completed the probationary period (See Article V, Section 10 of these policies).

(k) *Promotion*: A promotion is defined as a move from one position classification to another that is assigned to a higher pay grade.

It shall be the policy of the Town to seek qualified applicants for vacant positions giving first consideration to promoting those already employed by the Town. Employees shall be considered for promotion on the basis of job related experience, skill, knowledge, ability, quality of past performance and general suitability for the higher level position. When qualifications of two or more employees are judged to be equal, the one with the longest service with the Town shall be promoted. However, an employee is normally expected to serve one year or more in his current position before being considered for promotion.

Promoted employees shall be required to complete a probationary period of employment in the new position as outlined for new employees.

(l) *Regular Employee*: All full-time and part-time employees who have successfully completed their probationary period shall be considered regular. However, all Town positions are subject to budget review and approval each year by the Town Board, and all employees' work and conduct must meet standards of performance and behavior. Therefore, reference to "regular" employees or permanent positions should not be construed as a contract nor right to perpetual funding or employment.

(m) *Reinstatement*: Reinstatement is defined as an action taken by the Town when a former employee, who left in good standing, is re-employed upon approval of the Town Board or Town Manager.

(n) *Resignation*: Resignation is a voluntary termination of employment by an employee whereby advance notice is given of his intention to resign.

(o) *Suspension with Pay*: Suspension with pay is an action taken by the Town to temporarily relieve an employee of all duties and responsibilities to allow time for an investigation, hearing, or a trial or similar activity. If no adverse action or decision is warranted against the employee, they will be reinstated without loss of pay or benefits.

(p) *Suspension without Pay*: Suspension without pay shall be used as a disciplinary action to penalize an employee for detrimental personal conduct and/or failure in the performance of duties. The duration of the suspension shall vary with the seriousness of the offense.

(q) *Temporary Employee*: A person appointed to serve in a position for a definite duration or who serves in a position requiring work of less than 20 hours per week.

(r) *Termination*: Action taken to end employment with the Town. It can be voluntary with no malice or involuntary with or without cause.

(s) *Town Manager*: Wherever the term Town Manager is used it means the person that has been delegated that responsibility by the Town Board.

(t) *Transfer*: A transfer is a lateral move from one work unit to another without a change in pay grade.

Section 5. Merit Principle

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

- (a) Applicants and employees shall be assured of fair treatment in all aspects of personnel administration without regard for political affiliation, religion, sex, national origin, color, race, or non-disqualifying handicap. Individuals shall likewise be treated with proper regard for their privacy and constitutional rights as citizens.
- (b) Employees shall be recruited, selected, trained and advanced on the basis of their ability, knowledge, skill, and performance.
- (c) Employees shall be retained on the basis of the adequacy of their performance. Annual reviews shall be conducted and employees will be guided in ways to correct inadequate performance and separated when inadequate performance cannot be corrected.
- (d) Employees shall be protected from coercion for partisan political purposes.
- (e) Employees shall receive equitable pay and benefits and eligible employees shall receive merit pay increases based upon their performance subject to availability of funds.

Section 6. Administration and Responsibility

Subsection 1. Responsibility of the Town Board of Commissioners

The Town Board shall establish personnel policies and rules, including a classification and pay plan. The Town Board shall adopt or provide for rules and regulations, resolution or ordinances concerning personnel policies and other measures that promote the hiring and retention of capable, diligent, and trustworthy employees under authority of Chapter 160A-164 of the North Carolina General Statutes. The Town Board may hire a Town Manager who shall be the chief administrator of the Town

Subsection 2. Town Manager Authority

The Town operates under the Manager-Council form of government. The town charter provides for the appointment of a Town Manager at the discretion of the Board of Commissioners.

In accordance with the wishes of the Board of Commissioners the following powers and duties of the Town Manager are hereby determined, as provided below.

Powers and Duties of the Town Manager:

The Town Manager shall be responsible to the Mayor and the Board of Commissioners for administering all municipal affairs delegated by them, and shall have the following powers and duties:

(a) Recommend appointment or removal, to the Board of Commissioners, of all town officers and employees not elected by the people, and whose appointment or removal is not otherwise provided for by law, except the town attorney, in accordance with such general personnel rules, regulations, policies, and ordinances as the Board of Commissioners may adopt.

(b) Direct and supervise the administration of all departments, offices, and agencies of the Town, subject to the general direction and control of the Board of Commissioners, except as otherwise provided by law. It shall be the responsibility of the Town Manager to keep the Board of Commissioners generally informed of the working and activities of the departments.

(c) Attend all meetings of the Board of Commissioners and recommend any measures that he deems expedient.

(d) See that all laws of the Town, the Charter, the ordinances, resolutions, and regulations of the Board of Commissioners are faithfully executed within the Town.

(e) Prepare in work sessions with the Board of Commissioners and the Finance Officer the annual budget and capital program not later than May 1st of each year. He shall then submit the annual budget and capital program in open session not later than the regular June meeting of the Board of Commissioners.

(f) Submit annually to the Board of Commissioners and make available to the public a complete report on the finances and administrative activities of the Town as of the end of the fiscal year.

(g) Make any other reports that the Board of Commissioners may require concerning the operations of Town Departments, offices, and agencies subject to his direction.

(h) Have the authority to expend funds without prior approval of the Board of Commissioners according to the terms and conditions of the annual budget ordinance and other financial policies adopted by the Board of Commissioners of the Town. He shall report to the Board of Commissioners not later than the next regularly scheduled meeting each and every expenditure made without prior approval of the Board of Commissioners.

(i) Perform any other duties that may be required or authorized by the Board of Commissioners of the Town.

Interim Town Manager

When the position of Town Manager is vacant the Board of Commissioners shall designate a qualified person to exercise the authorities and perform the duties of the Town Manager until the vacancy is filled, or until the Board of Commissioners removes the Interim Manager.

ARTICLE III -- POSITION DESCRIPTIONS

Section 1. Adoption

The position descriptions, as set forth in these policies are hereby adopted as the position descriptions for the Town.

Section 2. Allocation of Positions

Each position in the Town shall have a position description outlining duties, responsibilities, required skills, required abilities, and physical demands.

Section 3. Administration of the Position Descriptions

The Town Manager shall be responsible for the administration and maintenance of the position descriptions so that they will accurately reflect the duties performed by employees.

Position descriptions are attached as part of this policy.

ARTICLE IV -- THE PAY PLAN

Section 1. Adoption

Each employee's pay is based on merit and skill which is reviewed prior to the beginning of each fiscal year. Salaries are also reviewed for appropriateness at the end of the probationary period. This plan is hereby adopted as the pay plan for the Town.

Section 2. Maintenance of Pay Plan

The Town Manager shall be responsible for the administration and maintenance of the pay plan. The pay plan is intended to provide equitable compensation for all positions, reflecting differences in duties and responsibilities, the comparable rates of pay for positions in private and public employment in the area, changes in the cost of living, the financial conditions of the Town and other factors. To this end, the Town Manager shall, from time to time, make comparative studies of all factors affecting the levels of salaries and shall recommend to the Town Council such changes in salaries as appear to be warranted.

Section 3. Pay for Part-time or Temporary Work

The pay plan established by this policy is for full-time service. An employee appointed for less than full-time service or is a temporary worker will be paid appropriately for the job being filled as determined by the Town Manager.

Section 4. Overtime

To the extent that local government jurisdictions are so required, the Town will comply with the Fair Labor Standards Act (FLSA).

The Town Manager, following FLSA regulations, shall determine which jobs are “non-exempt” and are therefore subject to the Act in areas such as hours of work and work periods, rates of overtime compensation, and other provisions. Nonexempt employees will be paid at a straight time rate for hours up to the FLSA established limit for their positions (usually 40 hours in a 7 day period); hours beyond the FLSA established limit will be compensated at the appropriate overtime rate. In determining eligibility for overtime in a work period, only hours actually worked shall be considered.

Whenever practicable, the Town Manager will schedule time off on an hour for hour basis within the applicable work period for non-exempt employees, instead of paying overtime. When time off within the work period cannot be granted, overtime worked will be paid at time and one half rate or taken as compensatory time at a time and one half rate, in accordance with FLSA regulations.

Overtime worked must be of an unusual, unscheduled, or emergency nature and be directed or authorized by the Town Manager or authorized representative of the Town Manager.

Full-time and part-time law enforcement employees who have been classified as “exempt” from the overtime provisions of the Fair Labor Standards Act are paid for the accomplishment of particular work responsibilities rather than for particular hours worked. Overtime hours worked by such employees are, therefore, considered and treated as usual and customary for accomplishment of work responsibilities and there is no requirement for additional compensation in any form.

Full-time and part-time law enforcement employees who have been classified as “non-exempt” from the overtime provisions of the Fair Labor Standards Act must be paid for overtime hours worked or given compensatory time off in accordance with applicable law. Overtime is paid or compensatory time off is given to non-exempt law enforcement employees for hours worked in excess of 171 hours in a 28-day work period. The work period is a 28-day cycle corresponding with two consecutive pay periods.

All overtime hours worked by all non-exempt law enforcement employees must be approved in advance by the employee’s supervisor. Overtime wages will be one and one-half the regular hourly rate and compensatory time off will be given at the rate of one and one-half hours off for every hour of overtime worked.

Section 5. Payroll Deductions

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

ARTICLE V -- RECRUITMENT AND EMPLOYMENT

Section 1. Statement of Equal Employment Opportunity Policy

It is the policy of the Town to foster, maintain, and promote equal employment opportunity. The Town shall select employees on the basis of applicant's qualifications and without regard to age, sex, race, color, creed, religion or national origin. Disabled applicants shall be given equal consideration with other applicants for positions in which their disability does not represent an unreasonable barrier to satisfactory performance of duties.

Section 2. Implementation of EEO Policy

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

Section 3. Recruitment

The Town Manager shall publicize opportunities for employment. In addition, notice of vacancies shall be posted at the Town Hall. Individuals shall be recruited from a geographic area as wide as is necessary to insure that well qualified applicants are obtained for Town service.

Section 4. Job Announcements

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

Section 5. Applications for Employment

All persons expressing interest in employment with the Town shall be given the opportunity to file an application for employment during the recruitment announcement period when a position is vacant or when the Town is attempting to fill such positions. Applications may be submitted in person at the Town Hall during regular office hours, by mail, or email, and must be received not later than 48 hours following the closing date of the announcement.

Section 6. Application Reserve File

Upon inquiring, each potential applicant shall be informed of the availability of current job openings. Applications of qualified individuals will be kept in a reserve file for two (2) years, in accordance with Equal Employment Opportunity Commission guidelines.

Section 7. Qualification Standards

- (a) Employees must meet the employment standards established by the position description and such other reasonable, job-related minimum standards of character, aptitude, ability to meet the public and physical condition as may be established by the Town Board with the advice and recommendation of the Town Manager.
- (b) Qualifications shall be reviewed periodically to assure that requirements are fair and conform to the actual job performance requirements.

Section 8. Selection

The Town Manager shall make such investigations and conduct such examinations as deemed appropriate to assess fairly the aptitude, education, experience, knowledge, skills, character, physical fitness, and other qualifications required for positions in the service of the Town. The Town Manager shall make recommendations to the Town Board on the selection of job applicants. The selected job applicant will be approved for employment by the Town Board or to the Town Manager by letter of delegation.

Section 9. Probationary Period of Employment

An employee appointed to a permanent position shall serve a probationary period of three (3) months. An employee serving a probationary period following initial appointment may be dismissed at any time during the probationary period if found to be performing assigned duties unsatisfactorily.

A probationary employee whose work is unsatisfactory may receive a written warning before being terminated. If the employee's work is not satisfactory during the probationary period, the employee may be terminated.

In unusual cases, the probationary period may be extended for a maximum of an additional three (3) months. In such cases, the employee must be notified of the purpose of the extension, the conditions and performance expectations, and the length of time of the extension.

Section 10. Demotion

Any employee whose work in his or her present position is unsatisfactory or whose personal conduct is unsatisfactory may be demoted provided the employee shows promise of becoming a satisfactory employee in another position. Such a demotion shall be preceded by the warning procedures outlined in Article VIII, Section 7 or 8 of these policies, whichever is applicable.

Representative causes for demotion because of failure in work performance and failure in personal conduct are listed in Article VIII, Section 7 and 8 of these policies.

If the demotion is for failure in performance of duties or failure in personal conduct, the employee shall be provided with written notice citing the proposed effective date and reasons for demotion and appeal rights available to the employee.

An employee who wishes to accept a position with less complex duties and responsibility may be demoted for reasons other than unsatisfactory performance of duties or failure in personal conduct.

ARTICLE VI -- WORK CONDITIONS AND EXPECTATIONS

Section 1. Work Week

Town employees normally work forty (40) hours per week (unless otherwise specified) and are subject to the overtime provisions set forth in Article IV, Section 5 of these policies. Police employees work schedule(s) will be established and maintained in accordance with Chapter 29 Code of Federal Regulations Part 553, subpart C.

Section 2. Responsibility of the Employee

An employee of the Town is expected to:

- a) Report to work on time and remain until the end of the work day.
- b) Perform duties to the best of their ability and contribute a full day's work for a full day's pay.
- c) Cooperate with other employees and accept additional assignments during emergencies.
- d) Take a required thirty (30) minute lunch break, though up to one hour is acceptable. Lunch breaks will be indicated on the time card of the employee.
- e) Request prior approval before taking leave of absence.

Section 3. Gifts and Favors

(a) The conduct of an employee in Town service shall be free from influence arising from gifts, favors or special privileges. No official or employee of the Town shall accept any gift, whether in the form of service, loan, thing of value or promise from any person who to the employee's knowledge is interested directly or indirectly in any manner whatsoever in business dealings with the Town, or where it is reasonable to believe that such may be offered to influence the actions of the employee. No employee shall seek personal or financial advantage because of his position with the Town.

(b) No official or employee shall accept any gift, favor or thing of value that may tend to influence that employee in the discharge of duties.

(c) No official or employee shall grant in the discharge of duties any improper favor, service, or thing of value.

Section 4. Political Activity Restricted

Each employee has a civic responsibility to support good government by every available means and in every appropriate manner and the Town encourages this civic responsibility.

Each employee may join or affiliate with civic organizations of a partisan or political nature, may attend political meetings, may advocate and support the principles or policies of civic or political organizations in accordance with the Constitution and laws of the State of North Carolina and in accordance with the Constitution and laws of the United States of America. However, no employee shall:

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

Any violation of this section shall be deemed improper conduct and subject such employee to dismissal or other disciplinary action.

Section 5. Outside Employment

An employee may engage in outside employment as long as such off duty activities do not represent a conflict of interest, or reflect discredit on the Town. The work of the Town will take precedence over other occupational interest of employees. All outside employment for salaries, wages, or commission and all self employment must be reported to the Town Manager or Police Chief for police employees. Conflicting outside employment will be grounds for disciplinary action up to and including dismissal.

Section 6. Limitation of Employment of Relatives

The hiring of an immediate family member after the election, or appointment, and during the term of office of any member of the governing body of the Town is prohibited. Likewise, no person shall be hired or assigned to work under the administrative influence or supervision of a relative, nor shall any employee's relative be hired without prior approval of the Town Board. Immediate family is defined in Article II Section 4(g) of these policies.

Section 7. Safety

The Town is committed to providing a safe and healthy workplace for all its employees. The Town complies with all applicable requirements issued by the federal and state Occupational Health and Safety Administration. The responsibility for the success of the safety and health program is shared by management and all employees working at the Town. It is the policy of the Town to exercise all precautions necessary to protect employees from all accidents.

Employees are expected to take an active role in promoting workplace safety. If an employee witnesses an accident or an unsafe working situation, he or she must report it promptly to his or her supervisor or to the Town Manager (or a Town Board member if the Town Manager is unavailable). Employees should note the location of fire extinguishers, first-aid kits, safety equipment, and emergency exits. Questions can be directed to department heads or the Town Manager.

Employees must immediately report all work related injuries or occupational diseases to their supervisor, who will notify the Town Manager as soon as possible. Employees are responsible for ensuring that the Town Manager receives copies of all correspondence and invoices related to the accident or illness.

Section 8. Travel

The Town Manager is responsible for approving and determining that funds are available to cover the estimated cost of approved travel. All travel costs, not paid in advance, will be paid directly by the traveling party and will be reimbursed once receipts are provided. No reimbursement is allowed for entertainment, drugs, long distance telephone calls or alcoholic beverages and all reimbursement requests must be submitted within 30 days of the event.

Lodging will be reimbursed at the actual amount incurred. Lodging expenses for locations within 75 miles of Oriental must be approved in advance by the Town Manager.

Meals will be reimbursed at actual cost. Morning or evening meals will be reimbursed provided the travel destination is at least 35 miles from the employee's regular duty station.

Personally owned vehicles used for travel will be reimbursed at the current Internal Revenue Service provided no town vehicle was available.

After hour emergency situations requiring travel by personal vehicles will be reimbursed at the current IRS rate.

ARTICLE VII -- HOLIDAYS AND LEAVES OF ABSENCE

Section 1. Paid Holidays Observed

The following holidays, in addition to any such other days which the Board of Commissioners may designate as holidays, shall be considered and treated as holidays with pay for all regular, probationary/provisional full or qualifying part-time Town employees. Regular part-time employees who work less than 20 hours per week and full or part-time temporary employees are not eligible to receive holiday pay. Except for Christmas holidays, the Town observance of holidays, as specified below, shall fall on the same date as the State observance of these holidays. When a holiday, other than Christmas Day, falls on a Saturday or a Sunday, the subsequent Monday will be observed as a holiday.

The Town of Oriental observes the following holidays within the meaning of this section:

Designated Holidays

New Year's Day
Martin Luther King Jr's Birthday
Memorial Day
Independence Day
Labor Day
Veteran's Day
Thanksgiving Day
Christmas Day

Optional Holidays

Good Friday
The day after Thanksgiving
Christmas Eve
3rd Christmas Day

Employees have the option of working the Optional Holidays, with two weeks notice to the Town Manager, or taking those as holidays with pay. If the Manager has staff to provide services on those optional holidays, limited services will be advertised in advance of each of those optional holidays. Employees may take those Optional Days on days of their choosing, with two weeks notice, if they have worked on the optional holidays.

Holiday leave earned by employees having a workweek with greater or fewer hours than the basic workweek shall be determined in accordance with the formula set forth in Section 7 of this article.

Section 2. Effect of Work on Holidays on Other Types of Leave

Regular holidays which occur during an annual, vacation, sick or other paid leave period or during paid leave taken pursuant to the Family and Medical Leave Act by any officer or employee of the Town shall not be charged as annual, sick or other paid leave. Employees on any form of unpaid leave will not be compensated for holidays occurring during that leave.

Section 3. Holidays – When Work Required

Employees required to perform work on regularly scheduled holidays shall be granted, in addition to pay to which they are otherwise entitled, compensatory time off at the rate of one (1) hour off for each hour worked whenever feasible and taken within three (3) months from the time it is earned. In cases where actual work on a holiday extends an employee beyond the normal forty (40) hour workweek, FLSA compensatory time or pay for over forty (40) hours shall be credited or earned at the overtime rate for all hours actually in excess of 40, although non-FLSA holiday compensatory hours will still be given an hour per hour basis.

Section 4. Leave Policy – Adverse Weather Conditions

In situations involving inclement weather which affect the operations of all or a majority of Town employees, it is incumbent upon the Department Head to ensure that his or her department or office is opened to the public at the usual time unless prior notification to the contrary has been received from the Town Manager.

Town offices and departments shall remain open for the full scheduled workday unless authorization for early closing or other deviation from the customary schedule is received from the Town Manager's office.

All departments and offices will be given sufficient advance notice of any authorized early closing.

Should an employee find weather conditions so severe in his or her particular area as to make conditions hazardous, arrangements for late arrival or absence should be made with the Department Head. Such time out of work will be charged to vacation leave or deducted from salary if leave is not available. Employees who, of their own will and without authorization, leave work before an official closing time, as well as employees who report for work late or who do not report at all, will be required to use earned annual vacation or other leave for days or hours taken.

Employees on paid sick or annual vacation leave are not required to use paid leave time for any day when Town offices are closed for inclement weather.

Section 5. Annual Vacation Leave

Probationary Employees, serving a probationary period following initial appointment, may accumulate vacation leave but shall not be permitted to take vacation leave during the probationary period unless the denial of such leave will create an unusual hardship. Vacation leave may be taken during this period only with the prior approval of the appointing authority. Law enforcement officers shall be allowed to take accumulated vacation leave after three (3) months of service. Employees that leave during the first three months of their employment shall not be paid for any accumulated vacation leave.

Rate of Accumulation

Any regular, full time employee working the basic 40 hour work week shall earn annual vacation leave at the following rate:

(a) Each employee with fewer than two (2) years of service shall earn annual vacation leave at the rate of five-sixths ($5/6$) day per subsequent completed month, or ten (10) days for each subsequent completed year of service.

(b) Each employee with two (2) to five (5) years of service shall earn annual vacation leave at a rate of one (1) day per subsequent completed month, or twelve (12) days per each subsequent completed year of service.

(c) Each employee with five (5) years of service shall earn annual vacation leave at a rate of one and one-fourth ($1\frac{1}{4}$) days per subsequent completed month, or fifteen (15) days per each subsequent completed year of service.

(d) Each employee with ten (10) to twenty (20) years of service shall earn annual vacation leave at a rate of one and one half ($1\frac{2}{3}$) days per subsequent completed month or twenty (20) days per each subsequent completed year of service.

Each employee who has previous state or local government service shall be credited for that service for annual vacation leave accrual purposes in an amount equal to that credited toward retirement in the North Carolina Teachers and State Employees Retirement System or the North Carolina Local Government Employees Retirement System, as verified by those systems.

Each employee who is employed as a temporary employee and is subsequently made a regular employee with no break in service will receive hour-for-hour credit for his or her time in the temporary position for annual vacation leave accrual purposes and, at the Department Head's discretion, for probationary/provisional period purposes.

Annual vacation leave will be credited to each employee at the beginning of the following month during which leave is earned. Annual vacation leave may not be taken until it has been earned and credited to the employee's account. A new employee will accumulate annual vacation leave but will not be permitted to take annual vacation leave during his provisional or probationary period of employment unless the denial of such leave will create an unusual hardship, and only upon the recommendation and approval of the Town Manager.

Maximum Accumulation

Annual vacation leave may be accumulated without any applicable maximum until June 30th, the end of the fiscal year. If the employee separates from service, payment for accumulated annual vacation leave shall not exceed thirty (30) days. Accumulated vacation leave in excess of thirty (30) days shall be converted to sick leave. This converted sick leave shall be used in the same manner as accrued sick leave and may be used for authorized sick leave purposes only. Like regular sick leave, any unused converted sick leave may be counted toward creditable service at retirement subject to and in accordance with the provisions of the North Carolina Local Government Employees Retirement System.

Manner of Taking Leave

Annual vacation leave may be taken as earned by a regular employee subject to the approval of the employee's supervisor. New employees may take earned annual vacation leave after the first six (6) months of service. Exempt employees are encouraged to take annual vacation leave in full day increments. In addition, all Department Heads and other employees so designated by the Board of Commissioners are encouraged to take at least five (5) consecutive workdays of accrued annual leave per calendar year.

Payment upon Separation

An employee, who separates from Town service after giving appropriate notice and upon returning all Town property issued to that employee, shall be paid for annual vacation leave accumulated to the date of separation not to exceed a maximum of thirty (30) days. Where an employee is involuntarily separated from employment under egregious circumstances, accumulated annual vacation leave may be withheld, at the discretion of the Town Manager.

The estate of an employee who dies while employed by the Town shall be entitled to payment for all of the accumulated annual vacation leave, up to the 30-day maximum.

Scheduling of Annual Vacation Leave

Annual vacation leave shall be granted only as earned and as approved by the Department Head at such time or times when such leave will least interfere with the efficient operation of the Town business. Annual vacation leave will not ordinarily be granted when the employment of temporary help will be necessary during the absences of the regular employee.

The employee shall be required to give at least two (2) weeks notice to the employee's Department Head of the employee's desire to take annual vacation leave. Department Heads must submit to the Town Manager a written request to take annual vacation leave.

Annual vacation may be used for sick leave purposes after sick leave has been exhausted.

Charges for Annual Vacation Leave

Annual vacation leave may be taken in units of no less than one (1) hour. Exempt employees are encouraged to take annual vacation leave in units of no less than one (1) full day. Only scheduled workdays shall be charged in calculating the amount of leave taken.

Previous Leave Credit

An employee who separates in good standing and who is re-hired may receive credit for previous service for the purpose of accruing annual vacation leave. The total months of previous service will be recognized at the end of the six-month provisional period, or probationary period, if applicable.

Section 6. Sick Leave

Sick leave with pay is not a right which an employee may demand but a privilege granted by the Board of Commissioners for the benefit of an employee when appropriate.

Sick leave may be granted for:

- (a) The employee's own, or parent, spouse, or dependent child's scheduled medical procedure, medical appointment, dental appointment, sickness or bodily injury.
- (b) An employee's actual period of temporary disability and a reasonable time for recovery there from.
- (c) Quarantine or exposure to a contagious disease when continuing to work might jeopardize the health of others.

Notification of the desire to take sick leave should be submitted to the employee's supervisor prior to the leave or not later than two (2) hours after beginning of a scheduled workday. In the event of onset of illness which precludes in-person notification of the supervisor, the employee is responsible for notifying the Department Head by telephone. In the case of Department Heads requesting sick leave, the Town Manager shall be notified.

A Department Head or the Town Manager may request a doctor's certification or other appropriate proof to substantiate reasons for use of sick leave. Employees absent or on sick leave for three (3) consecutive scheduled work days or longer must complete a request form for FMLA leave, if determined to be appropriate by the Town Manager.

Bereavement Leave

Bereavement Leave is granted for:

Death in the employee's immediate family, not to exceed five (5) days for any one occurrence. Immediate family, for this purpose, is defined as spouse, parent, sibling, parent, child, parent-in-law, step-parent, step-child, son-in-law, daughter-in-law, or grandparent. This leave is not to be counted against the employee's vacation or sick time and is not a right, but a privilege granted by the Board of Commissioners. (Additional leave time, under exceptional circumstances, may be authorized by the Town Manager.)

Rate of Accumulation of Sick Leave

Each regular and probationary/provisional full-time employee, occupying a permanently established budgeted position requiring a basic workweek shall earn sick leave on a monthly basis at the rate of one (1) day for each month worked, or twelve (12) days for each completed year of service. Sick leave earned by regular employees having a workweek with greater or fewer hours than the basic workweek shall be determined in accordance with the formula set forth in Section 7 of this Article. The Town will not advance sick leave to any employee who has exhausted applicable sick leave.

Department Heads shall notify the Town Manager, by or before the 2nd day of each month, concerning the date and time of beginning and ending sick leave for members of their department.

Maximum Accumulation of Sick Leave

Sick leave may be accumulated in unlimited amounts.

Manner of Taking Sick Leave – Exempt Employees

Exempt employees are encouraged to utilize sick leave in units of no less than full day increments.

Verification of Sick Leave

The employee's Department Head or the Town Manager may require a statement from an employee's physician, indicating that the employee was unable to report for work so that there will be no abuse of sick leave privileges. Statements will be required for absences in excess of three (3) consecutive scheduled work days. In that event, an employee will also be required to have his or her physician

complete an FMLA leave request as such leave may be designated by the Town as FMLA leave, if appropriate. At the expiration of an authorized sick leave, the employee's Department Head or the Town Manager may require a physician's statement confirming that the employee is able to resume his or her normal activities.

Sick Leave (Separation & Retirement Credit)

Sick leave and vacation leave shall run concurrently with any leave taken pursuant to the provisions of The Family and Medical Leave Act of 1993 (FMLA), as more specifically provided for in Section 8 of this Article. An employee must exhaust all available paid sick and vacation leave prior to taking unpaid leave pursuant to the FMLA.

At the time of retirement, employees who are members of the North Carolina Local Government Employees Retirement System are allowed one (1) month or retirement credit for each twenty (20) days of accrued sick leave.

Section 7. Calculation of Holiday, Annual Vacation Leave and Sick Leave for Employees working other than a basic workweek.

Holiday leave, annual vacation leave, and sick leave earned by regular employees having a workweek with greater or fewer hours than the basic workweek shall be determined in accordance with the following formula:

Holiday pay will be given to part time employees if the day falls on their normal work scheduled day. Employees who normally would be scheduled off on any given holiday will not be paid for that holiday.

Section 8. Family and Medical Leave Policy

A family and/or medical leave of absence shall be defined as an approved absence available to eligible employees for up to twelve weeks of unpaid/paid leave per year under particular circumstances that are critical to the life of a family. The leave provided by this section will be implemented in accordance with the general provisions of the Family and Medical Leave Act.

FMLA leave may be taken when the employee is unable to perform the functions of his or her position due to a serious health condition; when the employee is needed to care for a child, spouse or parent with a serious health condition; for the birth of the employee's child; or for the placement of a child with the employee for adoption or foster care.

In order to be eligible for leave, an employee must have worked for the Town for a total of at least 12 months and must have worked at least 1250 hours during the preceding 12-month period. An eligible employee may be granted a leave of absence with or without pay for up to twelve (12) workweeks by the Town Manager. However, where a husband and wife both work for the Town the two employees are limited to a combined total of 12 weeks of family leave to cover the time off they need after the birth or placement of a child or to care for a seriously ill parent.

Any benefit to which an employee is entitled pursuant to his or her employment with the Town, including sick and vacation leave will run concurrently with FMLA leave. The Town requires that an employee use any accrued sick leave and then any accrued vacation leave during and concurrent with the twelve week Family Medical Leave period. An employee taking family or medical leave must first exhaust all applicable paid leave benefits, after which time the remainder of the family or medical leave period shall be unpaid leave.

Section 9. Overtime Compensation

For employees whose regular work schedule is 40 hours per week, the employee shall receive straight-time pay for a standard 40-hour workweek, with the provision that:

- an additional amount equal to 1½ times the employee's regular hourly rate times the number of hours worked in excess of 40 shall be added to the base pay or;
- an employee shall be given compensatory time off, with the pre-approval by a Supervisor, on the basis of 1½ times the amount of time worked beyond 40 hours during a week.

The following provisions apply to Overtime Compensatory Time:

- Overtime compensatory time may be accumulated up to a maximum of 40 hours (60 hours straight time). Any overtime worked above this amount may be paid in the employee's next regular paycheck.
- Request by the employee for use of overtime compensatory time requires 2(two) week notice and approval by town manager and supervisor. A request to use comp time cannot be denied to an employee unless the compensatory time off will unduly disrupt town's operations.
- An employee may not object to being sent home since they are not being sent home without pay – comp time is paid time-off. Overtime compensatory time shall be taken before any vacation or sick leave. Employee will be required to use accrued comp time concurrently with FMLA leave, turning unpaid leave into paid leave.
- Overtime compensatory time shall be taken within 45 days of being earned but no later than June 30th of each year. Should the use of compensatory time create an undue hardship to the town or disrupt operations the employee will receive pay for the compensatory time.

If an employee separates before taking overtime compensatory time, it shall be paid in a lump sum upon separation.

- If an employee transfers to an exempt-FLSA position or another department before taking overtime compensatory time, it shall be paid in the current or next regular paycheck.

Employment with the Town of Oriental for non-exempt employees is subject to hours of work and overtime pay/compensatory time polices and the employee must sign a form acknowledging that it has been explained that it is the Town's policy to give time off in lieu of monetary compensation, wherever possible, for hours worked beyond 40 in a work week. Agreement to this is a condition of employment with the Town; failure or refusal to sign such agreement will prevent employment of that person. This signed form shall become a permanent part of the employee's personal record.

ARTICLE VIII -- SEPARATION, DISCIPLINARY ACTION, AND REINSTATEMENT

Section 1. Types of Separation

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

Section 2. Resignation

A minimum of two (2) weeks' notice is expected of all resigning personnel. Such notice should be given to the Town Administrator (or in the case of police personnel, to the Police Chief).

Employees who do not give proper notice (2 weeks for most employees, 30 days for department heads) will not be paid for their accumulated vacation upon termination. In exceptional circumstances, as determined by the Town Board, this provision may be waived.

Three days without reporting to work or contacting the appropriate official shall be considered a resignation.

Section 3. Reduction in Force

In the event that a reduction in force becomes necessary, consideration shall be given to the quality of each employee's past performance, organizational needs, and seniority, in that order, in determining those employees to be retained. Employees who are laid off because of reduction in force shall be given at least two (2) week's notice of anticipated layoff. No regular employee shall be separated while there are temporary employees serving in the same class in the department, unless the permanent employee is not willing to transfer to the position held by the temporary employee.

Section 4 - Disability

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

Section 5. Death

All compensation due in accordance with Article VII Section 4(f) of these policies 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.

Section 6. Disciplinary Actions

An employee may be suspended or demoted by the Town Manager because of failure in performance of duties or failure in personal conduct. The employee will be provided a written notice including the proposed effective date, reasons for the action, and appeal rights available to the employee.

Section 7 - Failure in Performance of Duties

An employee whose work is unsatisfactory over a period of time shall be notified by the supervisor in what way the employee's work is deficient and what must be done if the work is to be satisfactory.

An employee who is suspended, demoted or dismissed for unsatisfactory performance of duties shall receive at least three warnings before disciplinary action is taken. First, one or more oral warnings must be issued by the employee's supervisor; second, an oral warning with a follow-up letter to the employee which sets forth the points covered in their discussion must be issued by the supervisor; and third, a written warning must be issued by the appointing authority serving notice upon the employee that corrective action must be taken immediately in order to avoid disciplinary actions. The supervisor and appointing authority must record the dates of their discussions with the employee, the performance deficiencies discussed, the corrective actions recommended and the time limits set, and file such information in the employee's personnel file.

The employee must be allowed at least ten (10) workdays to respond to the charges before any determination is made by the department head concerning suspension, demotion, or dismissal.

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

- (a) inefficiency, negligence or incompetence in the performance of duties;
- (b) careless, negligent or improper use of Town property or equipment;
- (c) physical or mental incapacity to perform duties;
- (d) discourteous treatment of the public or other employees;
- (e) absence without approved leave;
- (f) habitual improper use of leave privileges; and
- (g) habitual pattern of failure to report for duty at the assigned time and place.

Prior to termination of employment, the employee will have the opportunity to discuss the dismissal and the reasons for the dismissal recommendation with the supervisor or appointing authority.

Section 8. Failure in Personal Conduct

An employee may be suspended, demoted or dismissed for causes relating to personal conduct detrimental to Town service (1) in order to avoid undue disruption of work, (2) to protect the safety of persons or property, or (3) for other serious reasons.

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

- (a) fraud in securing appointment;
- (b) conduct unbecoming a public officer or employee;
- (c) conviction of a felony or of a misdemeanor which would adversely affect performance of duties, or the entry of a pleas of “no contest” to either;
- (d) misappropriation of Town funds or property;
- (e) falsification of Town records for personal profit or to grant special privileges;
- (f) reporting to work under the influence of alcohol or narcotic drugs or partaking of such things while on duty or while on public property, except that prescribed medication may be taken within the limits set by a physician so long as medically necessary;
- (g) willful damage or destruction of property;
- (h) willful acts that would endanger the lives and property of others;
- (i) acceptance of gifts in exchange for “favors” or “influence”;
- (j) incompatible outside employment or conflict of interest;
- (k) violation of political activity restrictions.

An employee demoted or dismissed for causes related to personal conduct shall be given a statement of the charges, be allowed to respond in writing, and be given a prompt written statement of the decision of the appointing authority. These steps shall be taken before the disciplinary action except in cases outlined in Sections 9, 10, and 11 of this article, where a written statement will be sent to the employee by certified mail.

Section 9. Disciplinary Suspension

An employee who is suspended for disciplinary reasons shall be relieved temporarily of all duties and responsibilities and shall receive no compensation for the period of suspension.

Section 10. Immediate Disciplinary Suspension

An employee may be suspended without notice by their supervisor for causes related to personal conduct in order to avoid undue disruption of work, to protect the safety of persons or property, or for other serious reasons. When a supervisor suspends an employee they shall tell the employee to leave Town property at once and remain away until further notice.

A written summary giving the circumstances and facts leading to the suspension shall be prepared; one copy shall be delivered to the employee by certified mail, and one copy shall be filed in the employee’s personnel folder.

Section 11. Non-Disciplinary Suspension

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

Section 12. Dismissal

All dismissals shall be preceded by an automatic three (3) day suspension without pay pending completion of an investigation by the appointing authority. If the appointing authority determines that a dismissal action is appropriate, such dismissal shall be effective at the end of the three (3) day suspension. If a dismissal is made at the end of this period, a written summary giving the circumstances and facts leading to the dismissal shall be prepared. A copy of the summary shall be delivered to the employee by certified mail and one copy shall be filed in the employee's personnel folder.

Section 13. Employee Appeal

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

Section 14. Reinstatement

An employee who resigns while in good standing or who is dismissed because of reduction in force may be reinstated within one (1) year of the date of separation, with the approval of the department head. An employee who enters extended active duty with the Armed Forces of the United States, The Public Health Service or with a Reserve component of the Armed Forces will be granted reinstatement rights commensurate with Chapter 43 of Public Law 93-508. An employee who is reinstated shall be credited with previous service and previously accrued sick leave and will receive all benefits provided in accordance with this policy and state law. The salary paid a reinstated employee shall be as close as reasonably possible, given the circumstances of each employee's case, to the salary previously attained by the employee.

ARTICLE IX -- GRIEVANCE PROCEDURE, DISCRIMINATORY AND ADVERSE ACTION APPEAL, AND WHISTLEBLOWER POLICY

Section 1. Grievance and Adverse Action – Definitions

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

A grievance might involve alleged safety or health hazards, unsatisfactory physical facilities, surroundings, materials or equipment, unfair or discriminatory supervisory or disciplinary practices, unjust treatment by fellow workers, unreasonable work quotas, or any other grievance relating to conditions of employment.

An adverse action is a demotion, dismissal, reduction in pay, layoff, or an undesirable transfer or suspension.

Section 2. Policy

In order to maintain a harmonious and cooperative relationship between the Town and its employees, it is the policy of the Town to provide for the settlement of problems and differences through an orderly grievance procedure. Every permanent employee shall have the right to present his or her problem, grievance, or adverse action appeal to any Town Board member or Town Manager free from interference, coercion, restraint, discrimination, or reprisal.

It is the responsibility of supervisors, consistent with authority delegated to them, to consider and take appropriate action promptly and fairly on a grievance or adverse action appeal of any employee.

In adopting this policy the Town sets forth the following objectives to be attained in this procedure:

- 1) Assure employees of a way in which they can get their problems or complaints considered promptly, fairly, and without fear or reprisal.
- 2) Encourage the employees to express themselves about how the conditions of work affect them as employees.
- 3) Get better employee understanding of policies, practices and procedures which affect them.
- 4) Provide employees with assurance that actions are taken in accordance with policies.
- 5) Provide a check on how policies are carried out by supervisors.
- 6) Give supervisors a greater sense of responsibility in their dealings with employees.

Section 3. Discrimination Appeal Procedure

Any applicant for Town employment, Town employee, or former Town employee who has reason to believe that employment, promotion, layoff, or termination of employment was forced upon him or her because of age, sex, race, color, national origin, religion, creed, sex, or physical requirements constitute a bona fide occupational qualification necessary to proper and efficient administration, shall have the right to appeal directly to the Town Board. A regular Town employee has the right to appeal using the grievance procedure outlined in Section 3 of this article if so desired. An employee or applicant must appeal an alleged act of discrimination within thirty (30) days of the alleged discriminatory action.

Section 4. Back Pay Awards

Back pay and benefits may be awarded to reinstated employees in suspension, demotion, dismissal, and discrimination cases.

Section 5. Whistleblower Policy

The Town of Oriental requires directors, officers and employees to observe high standards of business and personal ethics in the conduct of their duties and responsibilities. As employees and representatives of the Town of Oriental, we must practice honesty and integrity in fulfilling our responsibilities and comply with all applicable laws and regulations.

Reporting Responsibility

This Whistleblower Policy is intended to encourage and enable employees and others to raise serious concerns internally so that the Town of Oriental can address and correct inappropriate conduct and actions. It is the responsibility of all board members, officers, employees and volunteers to report concerns about violations of the Town of Oriental's code of ethics or suspected violations of law or regulations that govern the Town of Oriental's operations.

No Retaliation

It is contrary to the values of the Town of Oriental for anyone to retaliate against any board member, officer, employee, or volunteer who in good faith reports an ethics violation, or a suspected violation of law, such as a complaint of discrimination, or suspected fraud, or suspected violation of any regulation governing the operations of the Town of Oriental. An employee who retaliates against someone who has reported a violation in good faith is subject to discipline up to and including termination of employment.

Reporting Procedure

The Town of Oriental has an open door policy and suggests that employees share their questions, concerns, suggestions or complaints with their supervisor. If you are not comfortable speaking with your supervisor or you are not satisfied with your supervisor's response, you are encouraged to speak with the Town Manager of the Town of Oriental (or Board, if against the Manager). Supervisors and managers are required to report complaints or concerns about suspected ethical and legal violations in writing to the Town of Oriental's Town Manager, who has the responsibility to investigate all reported complaints. Employees with concerns or complaints may also submit their concerns in writing directly to their supervisor or the Town Manager. The Town of Oriental's Town Manager is responsible for ensuring that all complaints about unethical or illegal conduct are investigated and resolved. The Town Manager will advise the Town Board of all complaints and their resolution and insure compliance activity relating to accounting or alleged financial improprieties. If the Complaint is against the Town Manager the Complaint can be written to the Town Board and the Mayor of the Town.

Accounting and Auditing Matters

The Town of Oriental's Town Manager (or Board, if against the Manager) shall be immediately notified of any concerns or complaints regarding corporate accounting practices, internal controls or auditing and work with the Town until the matter is resolved.

Acting in Good Faith

Anyone filing a written complaint concerning a violation or suspected violation must be acting in good faith and have reasonable grounds for believing the information disclosed indicates a violation. Any allegations that prove not to be substantiated and which prove to have been made maliciously or knowingly to be false will be viewed as a serious disciplinary offense.

Confidentiality

Violations or suspected violations may be submitted on a confidential basis by the complainant. Reports of violations or suspected violations will be kept confidential to the extent possible, consistent with the need to conduct an adequate investigation and consistent with applicable North Carolina General Statutes concerning personnel confidentiality.

Handling of Reported Violations

The Town of Oriental's Town Manager (or Board, if against the Manager) will notify the person who submitted a complaint and acknowledge receipt of the reported violation or suspected violation. All reports will be promptly investigated and appropriate corrective action will be taken if warranted by the investigation.

ARTICLE X -- EMPLOYEE BENEFITS

Section 1. Unemployment Insurance

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

Section 2. Medical and Dental Insurance

All qualified regular full time employees working thirty two (32) or more hours per week, and available ninety (90) days from the hire date are provided medical and dental insurance. The Town pays for this coverage, unless the employee waives the coverage. Part time employees may opt to pay for insurance for themselves and all employees may opt to pay for dependent coverage if they so desire.

Section 3. Retirement Benefits

The Town provides a retirement program for employees through the North Carolina Local Governmental Employees' Retirement System. Each employee appointed to a permanent position and working one thousand (1000) or more hours per year shall be required to join the Town's retirement plan.

Section 4. Law Enforcement 401K & Separation Allowance

The Town of Oriental provides contributions to a 401K deferred compensation plan for active law enforcement personnel as required in Chapter 143 of the General Statutes of North Carolina.

Section 5. Uniforms

The Town furnishes uniforms for police. These uniforms are the responsibility of the employee. The cost of any avoidable damage or loss of the uniform shall be paid by the employee. Should the employee leave the service of the Town, all uniforms and Town supplied equipment shall be returned.

ARTICLE XI -- PERSONNEL RECORDS AND REPORTS

Section 1. Personnel Records Maintenance

Such personnel records as are necessary for the proper administration of the personnel system will be maintained by the personnel officer. The Town shall maintain in personnel records only information that is relevant to accomplishing personnel administration purposes.

The following information on each Town employee shall be maintained:

- a) Name
- b) Age
- c) Date of original employment or appointment to Town service
- d) Current position title
- e) Current salary
- f) Date and amount of most recent change in salary
- g) Date of most recent promotion, demotion, transfer, suspension, separation, or other change in position description
- h) Immigration I-9 form

Section 2. Access to Personnel Records

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

- (a) All disclosures of records shall be accounted for by keeping a written record (except for authorized persons processing personnel actions) of the following information; name of employee; information disclosed; date information was requested; name and address of the person to whom the disclosure is made; and purpose for which information is requested. This information must be retained for a period of two years.
- (b) Upon request, records of disclosure shall be made available to the employee to whom it pertains.
- (c) An individual examining a personnel record may copy the information; any available photocopying facilities may be provided and the cost may be assessed to the individual.
- (d) Any person denied access to any record shall have a right to compel compliance with these provisions by application to a court for a writ of mandamus or other appropriate relief.

Section 3. Confidential Information

All information contained in a Town employee's personnel file, other than the information listed in Section 1 of this Article, will be maintained as confidential in accordance with the requirements of G.S. 160A-168 and shall be open to public inspection only in the following instances;

- (a) The employee or their duly authorized agent may examine all portions of their personnel file, except, (1) letters of reference solicited prior to employment, and (2) information concerning a medical disability, mental or physical, that a prudent physician would not divulge to their patient.
- (b) A licensed physician designated in writing by the employee may examine the employee's medical record.
- (c) A town employee having supervisory authority over the employee may examine all material in the employee's personnel file.

- (d) By order of a court of competent jurisdiction, any person may examine all material in the employee's personnel file.
- (e) An official of an agency of the State or Federal government, or any political subdivision of the State, may inspect any portion of a personnel file when such information is deemed by the Town Manager to be necessary and essential to the pursuance of a proper function of the inspecting agency, but no information shall be divulged for the purpose of assisting in a criminal prosecution of the employee or for the purpose of assisting in investigation of the employee's tax liability. However, the official having custody of such records may release the name, address, and telephone number from a personnel file for the purpose of assisting in a criminal investigation.
- (f) An employee may sign a written release, to be placed with their personnel file, that permits the person with custody of the file to provide, either in person, by telephone, or by mail, information specified in the release to prospective employees educational institutions, or other persons specified in the release.
- (g) The Town may inform any person of the employment or non-employment, promotion, demotion, suspension, or other disciplinary reasons for that personnel action. Before releasing the information, the Town Manager shall determine in writing that the release is essential to maintaining the level and quality of Town services. This written determination shall be retained in the office of the Town Manager, and is a record available for public inspection and shall become part of the employee's personnel file.
- (h) Each individual requesting access to confidential information will be required to submit satisfactory proof of identity.
- (i) A record shall be made of each disclosure and placed in the employee's file (except of disclosures to the employee and the supervisor).

Section 4. Records of Former Employees

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

Section 5. Remedies of Employees Objecting to Material in Their File

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

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

G.S. 160A-168 provides that any public official or employee who knowingly and willfully permits any person to have access to any confidential information contained in an employee's personnel file, except as expressly authorized by the designated custodian, is guilty of a misdemeanor and upon conviction may be fined in an amount not to exceed five hundred dollars.

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

G.S. 160A-168 provides that any person, not specifically authorized to have access to a personnel file designated as confidential, who shall knowingly and willfully examine it in its official filing place, remove or copy any portion of a confidential personnel file shall be guilty of a misdemeanor and upon conviction may be fined in the discretion of the court but not in excess of five hundred dollars.

Section 8. Destruction of Records Regulated

No public official may destroy, sell, loan, or otherwise dispose of any public record except in accordance with G. S. 121-5, without the consent of the State Department of Cultural Resources. Whoever unlawfully removes a public record from the offices where it is usually kept, or whoever alters, defaces, mutilates or destroys it will be guilty of a misdemeanor and upon conviction will be fined not less than ten dollars, nor more than five hundred dollars as provided in G.S. 132-3.

ARTICLE XII -- IMPLEMENTATION OF POLICIES

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

Section 1. Separability

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

Section 2. Violations of Policy Provisions

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

Section 3. Effective Date

These policies shall become effective upon adoption.

Adopted this _____ day of _____, 2020

Mayor

Town Manager

Exempt Employees

- Town Manager
- Deputy Finance
- Director/Administration
- Director
- Public Works Director
- Non-Exempt

Employees

- Office Staff – All Departments
- Public Works Staff – All Departments
- Police Officers