

Mayor D. Dwayne Tuggle called a regular monthly meeting of the Amherst Town Council to order on February 12, 2025, at 7:00 P.M. in the Council Chambers of the Town Hall at 174 S. Main Street.

It was noted that a quorum was present as follows:

P	D. Dwayne Tuggle	P	Andra Higginbotham
P	Janice N. Wheaton	P	Michael Driskill
P	Jared S. Martin	P	Kenneth S. Watts

Also present were the following staff members:

Sara E. McGuffin	Town Manager	Ryan Watts	Police Chief
Tracie Morgan	Dep. Town Manager/Treas.	Becky Cash	Water/Wastewater Operator
Kelley Kemp	Town Attorney - Remote		
Vicki K. Hunt	Clerk of Council		

Recitation of the Pledge of Allegiance to the Flag was followed by an invocation given by Andra Higginbotham.

Mr. Driskill made a motion, seconded by Mr. Higginbotham, to approve a Resolution honoring Charles Thompson for his contributions to the Town of Amherst.

There being no discussion, the motion carried 5-0 via the roll call method as follows:

D. Dwayne Tuggle		Andra Higginbotham	Aye
Janice N. Wheaton	Aye	Michael Driskill	Aye
Jared S. Martin	Aye	Kenneth Watts	Aye

A copy of the resolution is attached to and made a part of these minutes.

Town Manager McGuffin gave a report on an application received from Stuart Johnson to rezone 3.47 acres located at the end of Vista Drive (Tax Map Nos. 82-A-47 and 96A 1 1 B 6, 33), which, if approved, would rezone the property from A-1 to R-1. At its meeting on December 4, 2024, the Planning Commission voted to recommend that Town Council approve the rezoning request.

Mayor Tuggle opened a duly advertised public hearing at 7:03 PM on consideration of the application of Stuart Johnson to rezone 3.47 acres located at the end of Vista Drive (Tax Map Nos. 82-A-47 and 96A 1 1 B 6, 33), from A-1 to R-1.

Town Manager McGuffin read a comment from Sally Massie Glynn, Town of Amherst resident, indicating her support of the rezoning request.

There being no one else present who wished to speak on the matter, the public hearing was closed at 7:04 p.m.

Mr. Driskill made a motion that was seconded by Mr. Higginbotham to approve the application to rezone 3.47 acres located at the end of Vista Drive (Tax Map Nos. 82-A-47 and 96A 1 1 B 6, 33), from A-1 to R-1 as recommended by the Planning Commission and staff.

After discussion, the motion carried 4-1 according to the following:

D. Dwayne Tuggle		Andra Higginbotham	Aye
Janice N. Wheaton	Nay	Michael Driskill	Aye
Jared S. Martin	Aye	Kenneth Watts	Aye

Town Manager McGuffin gave a report on proposed amendments to Town Code Chapter 24, Article 5, related to Floodplains to comply with updated FEMA requirements for floodplain regulation and management in order to remain eligible for the National Flood Insurance Program. These changes are required by the Department of Conservation and Recreation and must be made no later than February 14, 2025, in order to ensure that there is no lapse in coverage for any property owner in the town. The proposed amendments were advertised for a public hearing for two consecutive weeks, as required by State Code. Because the public hearing was not set by Town Council, staff requested ratification of the public hearing.

Mr. Higginbotham made a motion that was seconded by Mr. Martin to ratify the setting of a public hearing on determination of whether to amend Town Code Chapter 24, Article 5, related to Floodplains, as recommended by staff.

There being no discussion, the motion carried 5-0 via the roll call method as follows:

D. Dwayne Tuggle		Andra Higginbotham	Aye
Janice N. Wheaton	Aye	Michael Driskill	Aye
Jared S. Martin	Aye	Kenneth Watts	Aye

Town Manager McGuffin gave a report on the proposed amendments to Town Code Chapter 24, Article 5, related to Floodplains to comply with updated FEMA requirements for floodplain regulation and management in order to remain eligible for the National Flood Insurance Program. At its meeting on February 5, 2025, the Planning Commission voted to recommend that Town Council approve the amendments to Chapter 24, Article 5, Floodplains.

Mayor Tuggle opened a duly advertised public hearing at 7:11 p.m. on determination of whether to amend Town Code Chapter 24, Article 5, related to Floodplains to comply with updated FEMA requirements for floodplain regulation and management in order to remain eligible for the National Flood Insurance Program.

There being no one present who wished to speak on the matter, the public hearing was closed at 7:11 PM.

Mr. Watts made a motion that was seconded by Mr. Higginbotham to approve the amendments to Town Code Chapter 24, Article 5, related to Floodplains to comply with updated FEMA requirements for floodplain regulation and management, as recommended by the Plan and staff.

After discussion, the motion carried 5-0 according to the following:

June Driskill	Aye		Anne Webster Day	Absent
Janice Wheaton	Aye		John Vandervelde	Aye
William Jones	Aye		Veda Butcher	Absent
Clifford Hart	Aye			

A copy of the ordinance is attached hereto and made a part of these minutes.

Mayor Tuggle opened the floor to citizen comments.

Tom Martin, Chief of Amherst First Department, came forward on behalf of the Amherst Fire Department, with an update on fire department services and accomplishments, and to request removal of the capital funding expense stipulation in connection to the Town's annual donation to the Fire Department.

Sonny Sundaramurphy, Town resident and business owner, came forward in approval of certain proposed revisions to the proposed Rules of Procedure, and in opposition of Section 18.3.P. Reintroduction of a motion, and Section 19A Effective Date.

Angela Sundaramurphy, Town resident and business owner, came forward with concerns of overnight parking between Court Street and 2<sup>nd</sup> Street.

There being no one else listed to speak on the citizen comment sign-in sheet, or otherwise, no comments were made.

Mr. Watts made a motion seconded by Mr. Martin to approve the minutes of the meeting held on January 8, 2025, as presented by staff.

There being no discussion, the motion carried 5-0 via the roll call method as follows:

D. Dwayne Tuggle			Andra Higginbotham	Aye
Janice N. Wheaton	Aye		Michael Driskill	Aye
Jared S. Martin	Aye		Kenneth Watts	Aye

Ms. Wheaton made a motion seconded by Mr. Higginbotham to approve the check registry for the month of January 2025, as presented by staff.

There being no discussion, the motion carried 5-0 via the roll call method as follows:

D. Dwayne Tuggle			Andra Higginbotham	Aye
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Janice N. Wheaton	Aye	Michael Driskill	Aye
Jared S. Martin	Aye	Kenneth Watts	Aye

Deputy Town Manager/Treasurer Morgan gave a report on an updated personnel policy which would, if adopted, replace the Town's existing personnel policy originally adopted on July 1, 2006, last revised June 9, 2021. At its work session on February 12, 2025, Town Council reviewed the proposed policy in detail and instructed staff to increase the maximum mileage for police vehicle take-home from 15 to 20 miles outside of the Town corporate limits. Staff requested that Council adopt the proposed personnel policy including this revision.

Mr. Watts made a motion, which was seconded by Mr. Martin, to adopt the personnel policy, with revision, as recommended by staff.

There being no discussion, the motion carried 5-0 via the roll call method as follows:

D. Dwayne Tuggle		Andra Higginbotham	Aye
Janice N. Wheaton	Aye	Michael Driskill	Aye
Jared S. Martin	Aye	Kenneth Watts	Aye

A copy of the Personnel Policy is attached to and made a part of these minutes.

Town Manager McGuffin gave a report on revisions to the Code of Ethics originally adopted on January 11, 2017. At Council's work session held on January 28, 2025, Town Council reviewed the original Code of Ethics in detail. Staff recommended adoption of the revised Code of Ethics as presented.

Mr. Driskill made a motion, which was seconded by Mr. Higginbotham to adopt the Code of Ethics as presented and as recommended by staff.

After discussion, the motion carried 4-1 via the roll call method as follows:

D. Dwayne Tuggle		Andra Higginbotham	Aye
Janice N. Wheaton	Nay	Michael Driskill	Aye
Jared S. Martin	Aye	Kenneth Watts	Aye

A copy of the Code of Conduct is attached hereto and made a part of these minutes.

Town Manager McGuffin gave a report on proposed revisions to the Rules of Procedure first adopted on May 8, 2019, and last revised on January 12, 2022. Proposed revisions include adding Section 4A. Adjourned or Recessed Meetings, Section 6A. Preservation of Order, and Section 18.3.P. To Prevent Reintroduction for One Year. Staff recommended deletion of Section 19A Effective Date, and that Council approve the Rules of Procedure as presented including this revision.

Ms. Wheaton made a motion that was seconded by Mr. Watts to adopt the revised Rules of Procedure as recommended by staff.

After discussion, the motion carried 3-2 via the roll call method as follows:

D. Dwayne Tuggle		Andra Higginbotham	Aye
Janice N. Wheaton	Aye	Michael Driskill	Nay
Jared S. Martin	Nay	Kenneth Watts	Aye

A copy of the Rules of Procedure is attached hereto and made a part of these minutes.

Town Manager McGuffin gave a report on the fifteen (15) year renewal process for the Town's Water Withdrawal Permit from the Department of Environmental Quality for drinking water from Buffalo River. No action was taken and the matter was deferred.

Town Manager gave a report on requirements for Sewer Connection set forth in the Town's Code. Staff recommend that Town Council set a public hearing on March 12, 2025, amending Town Code Section 22-22 Buildings within 200 feet of public sanitary sewer must be connected thereto, to allow property owners to seek a waiver to this requirement at Town Manager's discretion.

Mr. Martin made a motion that was seconded by Mr. Driskill to set a public hearing to amend Section 22-22 Buildings within 200 feet of public sanitary sewer must be connected thereto, as recommended by staff.

There being no discussion, the motion carried 5-0 via the roll call method as follows:

D. Dwayne Tuggle		Andra Higginbotham	Aye
Janice N. Wheaton	Aye	Michael Driskill	Aye
Jared S. Martin	Aye	Kenneth Watts	Aye

Town Manager McGuffin gave a report on an application of Actual Surveyors, LLC, on behalf of Sandra L. Brown, to rezone a portion of Lot 15 (Tax Map No. 95-A-1), consisting of 0.768 acres and generally known as 305 Sunset Drive, Amherst, VA which, if approved, would rezone the property from A-1 to R-1. Staff recommended that Council set a public hearing on March 12, 2025, on the application to rezone 305 Sunset Drive.

Mr. Higginbotham made a motion that was seconded by Mr. Watts to set a public hearing on the application to rezone as recommended by staff.

There being no discussion, the motion carried 5-0 via the roll call method as follows:

D. Dwayne Tuggle		Andra Higginbotham	Aye
Janice N. Wheaton	Aye	Michael Driskill	Aye
Jared S. Martin	Aye	Kenneth Watts	Aye

Mayor Tuggle opened the floor to citizen comments.

There being no one listed to speak on the citizen comment sign-in sheet, or otherwise, no comments were made.

There being no further business, on motion of Mr. Higginbotham and seconded by Mr. Martin at 6:50 PM, the meeting adjourned until March 12, 2025, at 7:00 p.m.

The motion carried 5-0 as follows:

D. Dwayne Tuggle		Andra Higginbotham	Aye
Janice N. Wheaton	Aye	Michael Driskill	Aye
Jared S. Martin	Aye	Kenneth S. Watts	Aye

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D. Dwayne Tuggle, Mayor

ATTEST: \_\_\_\_\_  
Clerk of Council

FOR APPROVAL

**Resolution**  
**of the**  
**Town Council of the Town of Amherst**

**WHEREAS**, Charles Thompson, Utilities Maintenance Foreman, a highly respected and long-time employee of the Town of Amherst, will retire on March 31, 2025, after ten years of outstanding and meritorious service to the Town of Amherst; and

**WHEREAS**, Charles has dedicated exemplary service to the Town of Amherst, consistently demonstrating outstanding commitment to the Town Utilities Maintenance Department as well as the Town of Amherst, and has significantly contributed to the well-being of our community; and

**WHEREAS**, Charles has worked tirelessly overseeing and contributing to the beautification efforts of the Town of Amherst; and

**WHEREAS**, in addition to his role as Utilities Maintenance Foreman, Charles has made a lasting, positive impact making a difference in the lives of countless individuals while serving the Amherst community and portraying the role of Santa Claus at Town Christmas events; and

**WHEREAS**, Charles has consistently responded with ingenuity, imagination, and foresight to the duties and responsibilities given him, fulfilling them with outstanding accuracy and competency; and

**WHEREAS**, Charles has set an example of dedication to principal and has earned the admiration and respect of his colleagues and the Administration of the Town of Amherst for his dedication, collegiality, enthusiasm, professionalism, sense of humor and hard work; and

**WHEREAS**, the Town Council of the Town of Amherst takes great pleasure in recognizing the significant professional achievements of Charles Thompson and expresses its sincere gratitude for the invaluable contributions he has made to Town of Amherst.

**NOW, THEREFORE, BE IT RESOLVED**, that the Town Council hereby expresses its sincere gratitude and appreciation to Charles Thompson's for his invaluable contributions to the Town of Amherst and formally recognizes his dedication and service with this resolution; further, we wish Charles Thompson continued success in all future endeavors.

**AND FINALLY BE IT FURTHER RESOLVED**, the Clerk of the Council of the Town of Amherst is ordered to deliver an original copy of this Resolution to Charles Thompson and to spread this resolution upon the minute books of the Town Council of the Town of Amherst as a tribute to a Good Neighbor and a Friend of the Town of Amherst.

Adopted February 12, 2025.

\_\_\_\_\_  
D. Dwayne Tuggle, Mayor

Attest:

\_\_\_\_\_  
Clerk of Council



**MOTION:** Kenneth Watts  
**SECOND:** Andra Higginbotham

Regular Meeting  
February 12, 2025  
**Ord. No. 250112A**

## **ORDINANCE OF THE TOWN OF AMHERST**

### **AN ORDINANCE AMENDING THE TOWN OF AMHERST CODE TO AMEND THE PROVISIONS TO CHAPTER 24-ZONING AND SUBDIVISIONS, ARTICLE V - FLOODPLAINS, TO INCLUDE REVISIONS TO SECTION 24-294 THROUGH SECTION 24-358**

**WHEREAS**, Sections 15.2-1427 and 15.2-1433 of the Code of Virginia, 1950, as may be amended from time to time, enable a local governing body to adopt, amend, and codify ordinances or portions thereof; and

**WHEREAS**, Sections 15.2-2280, 15.2-2285, and 15.2-2286 of the Code of Virginia, 1950, as amended, enables a local governing body to adopt and amend zoning ordinances; and

**WHEREAS**, this amendment of the Town of Amherst Zoning Ordinance is required to serve the public necessity, convenience, general welfare, and good zoning practice pursuant to Section 15.2-2286(A)(7) of the Code of Virginia, as amended; and

**WHEREAS**, the proper advertisement and public hearing was conducted as required by law; and

**WHEREAS**, the full text of this amendment was available for public inspection in the Town Hall located at 174 S. Main Street, Amherst, Virginia.

**NOW THEREFORE**, BE IT ORDAINED BY THE AMHERST TOWN COUNCIL that the Town of Amherst Zoning Ordinance are amended and reenacted as follows:

### **ARTICLE V. FLOODPLAINS**

#### **DIVISION 1. GENERALLY**

## Sec. 24-294. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

**Accessory structure** means a non-residential structure which is on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure.

**Base flood/100-year flood** means a flood that, on the average, is likely to occur once every 100 years (i.e., that has a one percent chance of occurring each year, although the flood may occur in any year); the flood having a one percent chance of being equaled or exceeded in any given year.

**Base flood elevation** means the water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year. The water surface elevation of the base flood in relation to the datum specified on the community's Flood Insurance Rate Map. For the purposes of this ordinance, the base flood is the 1% annual chance flood.

**Basement** means any area of the building having its floor sub-grade (below ground level) on all sides.

**Board of zoning appeals** means the board appointed to review appeals made by individuals with regard to decisions of the zoning administrator in the interpretation of this chapter.

**Conditional Letter of Map Revision (CLOMR)** means A formal review and comment as to whether a proposed flood protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study.

**Development** means any manmade change to improved or unimproved real estate, including, but not limited to, buildings and other structures, the placement of manufactured homes, streets, and other paving, utilities, filling, grading, excavation, mining, dredging, drilling operation, or storage of equipment or materials.

**Existing manufactured home park/subdivision** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the initial effective date of these regulations.

**Expansion to an existing manufactured home park or subdivision** means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads).

**Flood** means: ~~a general and temporary inundation of normally dry land areas.~~

- (1) A general or temporary condition of partial or complete inundation of normally dry land areas from:
  - a. The overflow of inland or tidal waters; or,
  - b. The unusual and rapid accumulation or runoff of surface waters from any source.
  - c. Mudflows which are proximately caused by flooding as defined in paragraph (1)(b) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
- (2) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph 1 (a) of this definition.

**Floodplain** means:

- (1) A relatively flat or low land area adjoining a river, stream or watercourse which is subject to partial or complete inundation;
- (2) An area subject to the usual and rapid accumulation or runoff of surface water from any source.

**Floodprone area** means any land area susceptible to being inundated by water from any source.

**Floodway** means ~~the designated area of the floodplain required to carry and discharge floodwaters of a given magnitude. For the purposes of this chapter, the floodway shall be capable of accommodating a flood of the 100-year magnitude, the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot at any point within the community.~~

**Floodproofing** means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

**Flood Insurance Rate Map (FIRM)** means an official map of a community, on which the Federal Emergency Management Agency has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

**Flood Insurance Study (FIS)** means a report by FEMA that examines, evaluates and determines flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudflow and/or flood-related erosion hazards.

**Highest Adjacent Grade (HAG)** means The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**Historic structure** means any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historical district;
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - a. By an approved state program as determined by the Secretary of the Interior; or
  - b. Directly by the Secretary of the Interior in states without approved programs.

**Letters of Map Change (LOMC)** means a Letter of Map Change is an official FEMA determination, by letter, that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study.

**Letter of Map Amendment (LOMA)** means an amendment based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a land as defined by metes and bounds or structure is not located in a special flood hazard area.

**Letter of Map Revision (LOMR)** means A revision based on technical data that may show changes to flood zones, flood elevations, floodplain and floodway delineations, and planimetric features. A Letter of Map Revision

Based on Fill (LOMR-F), is a determination that a structure or parcel of land has been elevated by fill above the base flood elevation and is, therefore, no longer exposed to flooding associated with the base flood. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.

**Lowest Adjacent Grace (LAG)** means the lowest natural elevation of the ground surface next to the walls of a structure.

**Lowest Floor** means The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Federal Code 44CFR §60.3.

**Manufactured home** means ~~the same as the meaning described in the definitions section of this chapter.~~ a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

**Manufactured home park/subdivision** means a parcel (or contiguous parcels) of land divided into two or more lots for rent or sale.

**New construction**, ~~for the purpose of determining insurance rates, means structures for which the start of construction commenced on or after the effective of an initial FIRM (flood insurance rate map) or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, the term "new construction" means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.~~ means ~~s~~Structures for which the start of construction commenced on or after the effective start date of this floodplain management ordinance and includes any subsequent improvements to such structures. Any construction started after effective date of community's first floodplain management ordinance adopted by the community and before the effective start date of this floodplain management ordinance is subject to the ordinance in effect at the time the permit was issued, provided the start of construction was within 180 days of permit issuance.

**New manufactured home park/subdivision** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the initial effective date of the ordinance from which this chapter is derived.

**Post-FIRM structures** means for floodplain management purposes, a structure for which construction, other development or substantial improvement for which the "start of construction" occurred on or after the effective date of the initial Flood Insurance Rate Map.

**Pre-FIRM structures** means for floodplain management purposes, a structure for which construction, other development or substantial improvement for which the "start of construction" occurred before the effective date of the initial Flood Insurance Rate Map.

**Recreational vehicle** means a vehicle which is:

- (1) Built on a single chassis;

- (2) Four hundred square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light-duty truck; and
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use.

**Repetitive Loss Structure** means a building covered by a contract for flood insurance that has incurred flood-related damages on two occasions in a 10-year period, in which the cost of the repair, on the average, ~~equalled~~ equalled or exceeded 25 percent of the market value of the structure at the time of each such flood event; and at the time of the second incidence of flood-related damage, the contract for flood insurance contains increased cost of compliance coverage.

**Severe Repetitive Loss Structure** means a structure that: (a) Is covered under a contract for flood insurance made available under the NFIP; and (b) Has incurred flood related damage - (i) For which 4 or more separate claims payments have been made under flood insurance coverage with the amount of each such claim exceeding \$5,000, and with the cumulative amount of such claims payments exceeding \$20,000; or (ii) For which at least 2 separate claims payments have been made under such coverage, with the cumulative amount of such claims exceeding the market value of the insured structure.

**Special Flood Hazard Area** means the land in the floodplain subject to a one (1%) percent or greater chance of being flooded in any given year.

**Start of construction** means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration on any wall, ceiling, floor, or other structural part of a building, whether or not the alteration affects the external dimensions of the building.

**Structure** means for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

**Substantial damage** means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**Substantial improvement** means:

- (1) Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. The term "substantial improvement" includes structures which have incurred substantial damage regardless of the actual repair work performed.
- (2) The term "substantial improvement" does not, however, include either:
  - a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to ensure safe living conditions; or

- b. Any alteration of an historic structure, provided that the alteration will not preclude the structures continued designation as an historic structure.

Violation means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

(Zoning Ord. 2003, § 18.1-915.2)

**Sec. 24-295. ~~Purpose.~~ – Statutory Authorization and Purpose [44 CFR 59.22(a)(2)]**

Va. Code § 15.2-2283 specifies that zoning ordinances shall be for the general purpose of promoting the health, safety, or general welfare of the public and of further accomplishing the objectives of § 15.2-2200 which encourages localities to improve the public health, safety, convenience, and welfare of their citizens. To these ends, flood ordinances shall be designed to provide for safety from flood, to facilitate the provision of flood protection, and to protect against loss of life, health, or property from flood.

In accordance with these directed provisions, this ordinance is specifically adopted pursuant to the authority granted to localities by Va. Code § 15.2 - 2280.

The purpose of these provisions is to prevent: the loss of life, health, or property, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief, and the impairment of the tax base by:

- A. Regulating uses, activities, and development which, alone or in combination with other existing or future uses, activities, and development, will cause unacceptable increases in flood heights, velocities, and frequencies;
- B. Restricting or prohibiting certain uses, activities, and development from locating within districts subject to flooding;
- C. Requiring all those uses, activities, and developments that do occur in flood-prone districts to be protected and/or floodproofed against flooding and flood damage; and,
- A-D. Protecting individuals from <sup>buying</sup> buying land and structures which are unsuited for intended purposes because of flood hazards.

The purpose of these provisions is to prevent the loss of life and property, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief, and the impairment of the tax base by:

- ~~(1) — Regulating uses, activities, and development which, alone or in combination with other existing or future uses, activities, and development, will cause unacceptable increases in flood heights, velocities, and frequencies.~~
- ~~(2) — Restricting or prohibiting certain uses, activities, and development from locating within districts subject to flooding.~~
- ~~(3) — Requiring all these uses, activities, and developments that do occur in floodprone districts to be protected and/or floodproofed against flooding and flood damage.~~

(Zoning Ord. 2003, § 18.1-915.1.1)

#### **Sec. 24-296. Applicability.**

These provisions shall apply to all lands within the jurisdiction of the town and identified as being in the 100-year floodplain by the Federal Insurance Administration.

(Zoning Ord. 2003, § 18.1-915.1.2)

#### **Sec. 24-297. Compliance and liability.**

- (a) No land shall hereafter be developed, and no structure shall be relocated, constructed, reconstructed, enlarged, or structurally altered except in full compliance with the terms and provisions of this chapter and any other applicable ordinances and regulations which apply to uses within the jurisdiction of this chapter.
- (b) The degree of flood protection sought by the provisions of this chapter is considered reasonable for regulatory purposes and is based on accepted engineering methods of study but does not imply total flood protection. Larger floods may occur on rare occasions. Flood heights may be increased by manmade or natural causes, such as ice jams and bridge openings restricted by debris. This chapter does not imply that districts outside the floodplain district, or that land uses permitted within such district will be free from flooding or flood damages.
- (c) This chapter shall not create liability on the part of the town or any officer or employee thereof for any flood damages that result from reliance on this chapter, or any administrative decision lawfully made thereunder.

(Zoning Ord. 2003, § 18.1-915.1.3)

#### **Sec. 24-298. Abrogation and greater restrictions.**

This chapter supersedes any ordinance currently in effect in floodprone districts. However, any underlying ordinance shall remain in full force and effect to the extent that its provisions are more restrictive than this chapter.

These regulations are not intended to repeal or abrogate any existing ordinances including subdivision regulations, zoning ordinances, or building codes. In the event of a conflict between these regulations and any other ordinance, the more restrictive shall govern.

(Zoning Ord. 2003, § 18.1-915.1.4)

#### **Sec. 24-299 Severability**

If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance shall be declared invalid for any reason whatever, such decision shall not affect the remaining portions of this ordinance. The remaining portions

shall remain in full force and effect; and for this purpose, the provisions of this ordinance are hereby declared to be severable.

**Sec. 24-~~299~~300. Penalties.**

- (a) Any person who fails to comply with any of the requirements or provisions of this chapter or directions of the zoning officer or any other authorized employee of the town shall be guilty of a Class 1 misdemeanor and subject to the penalties therefor.
- (b) In addition to the above penalties, all other actions are hereby reserved, including an action in equity for the proper enforcement of this chapter. The imposition of fine or penalty for any violation of, or noncompliance with, this chapter shall not excuse the violation or noncompliance to permit it to continue; and all such persons shall be required to correct or remedy such violations or noncompliance within a reasonable time. Any structure constructed, reconstructed, enlarged, altered, or relocated in noncompliance with this chapter may be declared by the town council to be a public nuisance and abatable as such. Flood insurance may be withheld from structures constructed in violation of this chapter.

(Zoning Ord. 2003, § 18.1-915.1.6)

**Sec. 24-3001. Variances; factors to be considered.**

In passing upon applications for variances, the board of zoning appeals shall satisfy all relevant factors and procedures specified in other sections of the zoning ordinance and consider the following additional factors:

- (1) The danger to life and property due to increased flood heights or velocities caused by encroachments. No variance shall be granted for any proposed use, development, or activity within any floodway district that will cause any increase in the 100-year flood elevation.
- (2) The danger that materials may be swept on to other lands or downstream to the injury to others.
- (3) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
- (4) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.
- (5) The importance of the services provided by the proposed facility to the community.
- (6) The requirements of the facility for a waterfront location.
- (7) The availability of alternative locations not subject to flooding for the proposed use.
- (8) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
- (9) The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
- (10) The safety of access by ordinary and emergency vehicles to the property in time of flood.
- (11) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the site.
- (12) The repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and variance is the minimum necessary to preserve the historic character and design of the structure.

(13) No variance shall be granted for an accessory structure exceeding 600 square feet.

(~~14~~3) Such other factors which are relevant to the purposes of this chapter.

- a. The board of zoning appeals may refer any application and accompanying documentation pertaining to any request for a variance to any engineer or other qualified person or agency for technical assistance in evaluating the proposed project in relation to flood heights and velocities, and the adequacy of the plans for flood protection and other related matters.
- b. Variances shall be issued only after the board of zoning appeals has determined that the granting of such will not result in unacceptable or prohibited increases in flood heights, additional threats to public safety, extraordinary public expense, and will not create nuisances, cause fraud or victimization of the public, or conflict with local laws or ordinances.
- c. Variances shall be issued only after the board of zoning appeals has determined that variance will be the minimum required to provide relief from any exceptional hardship to the applicant.
- d. The board of zoning appeals shall notify the applicant for a variance, in writing, that the issuance of a variance to construct a structure below the 100-year flood elevation increases the risks to life and property and will result in increased premium rates for flood insurance.
- e. A record shall be maintained of the above notification as well as all variance actions, including justification for the issuance of the variances. Any variances which are issued shall be noted in the annual or biennial report submitted to the Federal Insurance Administrator.

(Zoning Ord. 2003, § 18.1-915.5)

#### **Sec. 24-30~~1~~2. Existing structures in floodplain districts.**

The substantial damage or improvement of any structure shall require full compliance with the provisions of this article.

(Zoning Ord. 2003, § 18.1-915.6)

#### **Sec. 24-303 Designation of the Floodplain Administrator [44 CFR 59.22(b)]**

The Floodplain Administrator is hereby appointed to administer and implement these regulations and is referred to herein as the Floodplain Administrator. The Floodplain Administrator may:

- A. Do the work themselves. In the absence of a designated Floodplain Administrator, the duties are conducted by the Town of Amherst chief executive officer.
- B. Delegate duties and responsibilities set forth in these regulations to qualified technical personnel, plan examiners, inspectors, and other employees.
- C. Enter into a written agreement or written contract with another community or private sector entity to administer specific provisions of these regulations. Administration of any part of these regulations by another entity shall not relieve the community of its responsibilities pursuant to the participation requirements of the National Flood Insurance Program as set forth in the Code of Federal Regulations at 44 C.F.R. Section 59.22.

#### **Sect. 24-304 - Duties and Responsibilities of the Floodplain Administrator [44 CFR 60.3]**

The duties and responsibilities of the Floodplain Administrator shall include but are not limited to:

- A. Review applications for permits to determine whether proposed activities will be located in the Special Flood Hazard Area (SFHA).

- B. Interpret floodplain boundaries and provide available base flood elevation and flood hazard information.
- C. Review applications to determine whether proposed activities will be reasonably safe from flooding and require new construction and substantial improvements to meet the requirements of these regulations.
- D. Review applications to determine whether all necessary permits have been obtained from the Federal, State, or local agencies from which prior or concurrent approval is required; in particular, permits from state agencies for any construction, reconstruction, repair, or alteration of a dam, reservoir, or waterway obstruction (including bridges, culverts, structures), any alteration of a watercourse, or any change of the course, current, or cross section of a stream or body of water, including any change to the 100-year frequency floodplain of free-flowing non-tidal waters of the State.
- E. Verify that applicants proposing an alteration of a watercourse have notified adjacent communities, the Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management), and other appropriate agencies (VADEQ, USACE), and have submitted copies of such notifications to FEMA.
- F. Advise applicants for new construction or substantial improvement of structures that are located within an area of the Coastal Barrier Resources System established by the Coastal Barrier Resources Act that Federal flood insurance is not available on such structures; areas subject to this limitation are shown on Flood Insurance Rate Maps as Coastal Barrier Resource System Areas (CBRS) or Otherwise Protected Areas (OPA).
- G. Approve applications and issue permits to develop in flood hazard areas if the provisions of these regulations have been met, or disapprove applications if the provisions of these regulations have not been met.
- H. Inspect or cause to be inspected, buildings, structures, and other development for which permits have been issued to determine compliance with these regulations or to determine if non-compliance has occurred or violations have been committed.
- I. Review Elevation Certificates and require incomplete or deficient certificates to be corrected.
- J. Submit to FEMA, or require applicants to submit to FEMA, data and information necessary to maintain FIRMs, including hydrologic and hydraulic engineering analyses prepared by or for the Town of Amherst, within six months after such data and information becomes available if the analyses indicate changes in base flood elevations.
- K. Maintain and permanently keep records that are necessary for the administration of these regulations, including:
  - 1. Flood Insurance Studies, Flood Insurance Rate Maps (including historic studies and maps and current effective studies and maps), and Letters of Map Change; and
  - 2. Documentation supporting issuance and denial of permits, Elevation Certificates, documentation of the elevation (in relation to the datum on the FIRM) to which structures have been floodproofed, inspection records, other required design certifications, variances, and records of enforcement actions taken to correct violations of these regulations.
- L. Enforce the provisions of these regulations, investigate violations, issue notices of violations or stop work orders, and require permit holders to take corrective action.
- M. Advise the Board of Zoning Appeals regarding the intent of these regulations and, for each application for a variance, prepare a staff report and recommendation.

N. Administer the requirements related to proposed work on existing buildings:

1. Make determinations as to whether buildings and structures that are located in flood hazard areas and that are damaged by any cause have been substantially damaged.
2. Make reasonable efforts to notify owners of substantially damaged structures of the need to obtain a permit to repair, rehabilitate, or reconstruct. Prohibit the non-compliant repair of substantially damaged buildings except for temporary emergency protective measures necessary to secure a property or stabilize a building or structure to prevent additional damage.

O. Undertake, as determined appropriate by the Floodplain Administrator due to the circumstances, other actions which may include but are not limited to: issuing press releases, public service announcements, and other public information materials related to permit requests and repair of damaged structures; coordinating with other Federal, State, and local agencies to assist with substantial damage determinations; providing owners of damaged structures information related to the proper repair of damaged structures in special flood hazard areas; and assisting property owners with documentation necessary to file claims for Increased Cost of Compliance coverage under NFIP flood insurance policies.

P. Notify the Federal Emergency Management Agency when the corporate boundaries of the Town of Amherst have been modified and:

1. Provide a map that clearly delineates the new corporate boundaries or the new area for which the authority to regulate pursuant to these regulations has either been assumed or relinquished through annexation; and
2. If the FIRM for any annexed area includes special flood hazard areas that have flood zones that have regulatory requirements that are not set forth in these regulations, prepare amendments to these regulations to adopt the FIRM and appropriate requirements, and submit the amendments to the governing body for adoption; such adoption shall take place at the same time as or prior to the date of annexation and a copy of the amended regulations shall be provided to Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) and FEMA.

Q. Upon the request of FEMA, complete and submit a report concerning participation in the NFIP which may request information regarding the number of buildings in the SFHA, number of permits issued for development in the SFHA, and number of variances issued for development in the SFHA.

R. It is the duty of the Community Floodplain Administrator to take into account flood, mudslide and flood-related erosion hazards, to the extent that they are known, in all official actions relating to land management and use throughout the entire jurisdictional area of the Community, whether or not those hazards have been specifically delineated geographically (e.g. via mapping or surveying).

#### **Sec. 24-305 Records [44 CFR 59.22(a)(9)(iii)]**

Records of actions associated with administering this ordinance shall be kept on file and maintained by or under the direction of the Floodplain Administrator in perpetuity.

**Secs. 24-30~~26~~—24-320. Reserved.**

## ***DIVISION 2. FLOODPLAIN DISTRICTS***

## Sec. 24-321. Description of floodplain districts.

~~(a) *Basis of districts.* The various floodplain districts shall include areas subject to inundation by waters of the 100-year flood. The basis for the delineation of these districts shall be the flood insurance study for the town prepared by the Federal Emergency Management Agency, Federal Insurance Administration, dated September 19, 2007, as amended.~~

~~(1) The floodway district is delineated, for purposes of this chapter, using the criterion that certain areas within the floodplain must be capable of carrying the waters of the 100-year flood without increasing the water surface elevation of that flood more than one foot at any point. The areas included in this district are specifically defined in table II of the above-referenced flood insurance study and shown on the accompanying flood boundary and floodway map or flood insurance rate map.~~

~~(2) The flood fringe district shall be that area of the 100-year floodplain not included in the floodway district. The basis for the outermost boundary of the district shall be the 100-year flood elevations contained in the flood profiles of the above-referenced flood insurance study and as shown on the accompanying flood boundary and floodway map or flood insurance rate map.~~

~~(3) The special floodplain district shall be that floodplain area for which base flood elevations have been provided in the FIS and FIRM but for which no floodway has been delineated. Such areas are shown as Zone AE on the maps accompanying the FIS.~~

~~(4) The approximated floodplain district shall be that floodplain area for which no delineated flood profiles or elevations are provided, but where the 100-year floodplain boundary has been approximated. Such areas are shown as Zone A on the maps accompanying the flood insurance study. For these areas, the 100-year flood elevations and floodway information from other federal, state, or other acceptable source shall be used, when available. When such other acceptable information is not available, the elevation shall be determined by using the elevation of a pt on the boundary of the identified floodplain area which is nearest to the construction site.~~

### (a) Basis of Districts

The various special flood hazard districts shall include the SFHAs. The basis for the delineation of these districts shall be the FIS and the FIRM for {community} prepared by the Federal Emergency Management Agency, Federal Insurance Administration, dated February 14, 2025, and any subsequent revisions or amendments thereto.

The Town of Amherst may identify and regulate local flood hazard or ponding areas that are not delineated on the FIRM. These areas may be delineated on a "Local Flood Hazard Map" using best available topographic data and locally derived information such as flood of record, historic high water marks, or approximate study methodologies.

The boundaries of the SFHA Districts are established as shown on the FIRM which is declared to be a part of this ordinance and which shall be kept on file at the Town of Amherst offices.

1. The **Floodway District** is in an **AE Zone** and is delineated, for purposes of this ordinance, using the criterion that certain areas within the floodplain must be capable of carrying the waters of the one percent annual chance flood without increasing the water surface elevation of that flood more than one (1) foot at any point. The areas included in this District are specifically defined in Table 9 of the above-referenced FIS and shown on the accompanying FIRM.

The following provisions shall apply within the Floodway District of an AE zone [44 CFR 60.3(d)]:

- a. Within any floodway area, no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed encroachment will not result in any increase in flood levels within the

community during the occurrence of the base flood discharge. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently-accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the Floodplain Administrator.

Development activities which increase the water surface elevation of the base flood may be allowed, provided that the applicant first applies – with the Town of Amherst’s endorsement – for a Conditional Letter of Map Revision (CLOMR), and receives the approval of the Federal Emergency Management Agency.

If Article III, Section 24-321-a is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Division 3.

b. The placement of manufactured homes (mobile homes) is prohibited, except in an existing manufactured home (mobile home) park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring, elevation, and encroachment standards are met.

2. The **AE, or AH Zones** on the FIRM accompanying the FIS shall be those areas for which one-percent annual chance flood elevations have been provided and the floodway has **not** been delineated. The following provisions shall apply within an AE or AH zone [44 CFR 60.3(c)] where FEMA has provided base flood elevations:

Until a regulatory floodway is designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within the areas of special flood hazard, designated as Zones A1-30, AE, or AH on the FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the {community}.

Development activities in Zones A1-30, AE, or AH on the Town of Amherst’s FIRM which increase the water surface elevation of the base flood by more than one foot may be allowed, provided that the applicant first applies with the {community’s} endorsement – for a Conditional Letter of Map Revision, and receives the approval of the Federal Emergency Management Agency.

3. The **A Zone** on the FIRM accompanying the FIS shall be those areas for which no detailed flood profiles or elevations are provided, but the one percent annual chance floodplain boundary has been approximated. For these areas, the following provisions shall apply [44 CFR 60.3(b)]:

The Approximated Floodplain District shall be that floodplain area for which no detailed flood profiles or elevations are provided, but where a one percent annual chance floodplain boundary has been approximated. Such areas are shown as Zone A on the maps accompanying the FIS. For these areas, the base flood elevations and floodway information from Federal, State, and other acceptable sources shall be used, when available. Where the specific one percent annual chance flood elevation cannot be determined for this area using other sources of data, such as the U. S. Army Corps of Engineers Floodplain Information Reports, U. S. Geological Survey Flood-Prone Quadrangles, etc., then the applicant for the proposed use, development and/or activity shall determine this base flood elevation. For development proposed in the approximate floodplain the applicant must use technical methods that correctly reflect currently accepted practices, such as point on boundary, high water marks, or detailed methodologies hydrologic and hydraulic analyses. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the Floodplain Administrator.

The Floodplain Administrator reserves the right to require a hydrologic and hydraulic analysis for any development. When such base flood elevation data is utilized, the lowest floor shall be elevated to or above the base flood level plus eighteen (18) inches.

During the permitting process, the Floodplain Administrator shall obtain:

- a. The elevation of the lowest floor (in relation to mean sea level), including the basement, of all new and substantially improved structures; and,
- b. If the structure has been floodproofed in accordance with the requirements of this article, the elevation (in relation to mean sea level) to which the structure has been floodproofed.

Base flood elevation data shall be obtained from other sources or developed using detailed methodologies comparable to those contained in a FIS for subdivision proposals and other proposed development proposals (including manufactured home parks and subdivisions) that exceed fifty lots or five acres, whichever is the lesser.

(b) *Overlay concept.*

- (1) The floodplain districts described above shall be overlays to the existing underlying districts as shown on the official zoning ordinance map, and as such, the provisions for the floodplain districts shall serve as a supplement to the underlying district provisions.
- (2) Any conflict between the provisions or requirements of the floodplain districts and those of any underlying district, the more restrictive provisions and/or those pertaining to the floodplain districts shall apply.
- (3) In the event any provisions concerning a floodplain district is declared inapplicable as a result of any legislative or administrative actions or judicial decision, the basic underlying provisions shall remain applicable.

(Zoning Ord. 2003, § 18.1-915.3.1)

#### **Sec. 24-322. Official zoning map.**

The boundaries of the floodplain districts are established as shown on the flood insurance rate map which is declared to be part of this chapter, and which shall be kept on file at the town offices.

(Zoning Ord. 2003, § 18.1-915.3.2)

#### **Sec. 24-323. District boundary changes.**

The delineation of any of the floodplain districts may be revised by the town council where natural or manmade changes have occurred and/or where more detailed studies have been conducted or undertaken by the U.S. Army Corps of Engineers or other qualified agency, or an individual documents the need for such change. However, prior to any such change, approval must be obtained from the Federal Insurance Administration.

(Zoning Ord. 2003, § 18.1-915.3.3)

#### **Sec. 24-324. Interpretation of district boundaries.**

Initial interpretation of the boundaries of the floodplain districts shall be made by the zoning officer. Should a dispute arise concerning the boundaries of any of the districts, the board of zoning appeals shall make the necessary determination. The person questioning or contesting the location of the district boundary shall be given a reasonable opportunity to present his case to the board and to submit his own technical evidence if he so desires.

(Zoning Ord. 2003, § 18.1-915.3.4)

## **Sec. 24-325 Submitting Model Backed Technical Data [44 CFR 65.3]**

A community's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, a community shall notify the Federal Emergency Management Agency of the changes by submitting technical or scientific data. The community may submit data via a LOMR. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements will be based upon current data.

**Secs. 24-32~~65~~—24-351. Reserved.**

## ***DIVISION 3. DISTRICT RESTRICTIONS***

### **Sec. 24-352. General provisions.**

- (a) *Permit requirement.* All uses, activities, and development occurring within any floodplain district shall be undertaken only upon the issuance of a zoning permit. Such development shall be undertaken only in strict compliance with the provisions of the ordinance and with all other applicable codes and ordinances, such as the uniform statewide building code and the town subdivision regulations. ~~Prior to the issuance of any such permit, the zoning officer shall require all applications to include compliance with all applicable state and federal laws.~~ Prior to the issuance of any such permit, the Floodplain Administrator shall require all applications to include compliance with all applicable State and Federal laws and shall review all sites to assure they are reasonably safe from flooding. Under no circumstances shall any use, activity, and/or development adversely affect the capacity of the channels or floodways of any watercourse, drainage ditch, or any other drainage facility or system. Under no circumstances shall any use, activity, and/or development adversely affect the capacity of the channels or floodways of any watercourse, drainage ditch, or any other drainage facility or system.
- (b) *Alteration or relocation of watercourses.* Prior to any proposed alteration or relocation of any channels or of any watercourse, stream, etc., within this jurisdiction a permit shall be obtained from the U.S. Corps of Engineers, the state water control board, the state marine resources commission (a joint permit application is available from any of these organizations). Furthermore, notification of the proposal shall be given by the applicant to all affected adjacent jurisdictions, the division of soil and water conservation (department of conservation and recreation), and the Federal Insurance Administration.
- (c) *Site plans and permit applications.* All applications for development in the floodplain district and all building permits issued for the floodplain shall incorporate the following information:
- (1) For structures to be elevated, the elevation of the lowest floor (including basement).
  - (2) For structures to be floodproofed (nonresidential only), the elevation to which the structure will be floodproofed.
  - (3) The elevation of the 100-year flood.
  - (4) Topographic information showing existing and proposed ground elevation.
- (d) *Manufactured homes.*
- (1) Manufactured homes that are placed or substantially improved on sites:
    - a. Outside of a manufactured home park or subdivision;
    - b. In a new manufactured home park or subdivision;
    - c. In an expansion to an existing manufactured home park or subdivision; or
    - d. In an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as the result of a flood;

shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation plus one foot and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

- (2) Manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision that are not subject to the provisions of paragraph one above shall be elevated so that either:
  - a. The lowest floor of the manufactured home is at or above the base flood elevation plus one foot;  
or
  - b. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
- (e) *Recreational vehicles*. Recreational vehicles placed on sites shall either:
  - (1) Be on the site for fewer than 180 consecutive days;
  - (2) Be fully licensed and ready for highway use;
  - (3) Meet the permit requirements for placement and the elevation and anchoring requirements for manufactured homes in subsection (d)(1)d of this section.

(Zoning Ord. 2003, § 18.1-915.4.1)

#### **Sec. 24-353. Floodway district.**

In the floodway district no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in the 100-year flood elevation.

(Zoning Ord. 2003, § 18.1-915.4.2)

#### **Sec. 24-354. Flood-fringe, special floodplain and approximated floodplain districts.**

- (a) In the flood-fringe, special floodplain and approximated floodplain districts the development and/or use of land shall be permitted in accordance with the regulations of the underlying district, provided that all such uses, activities, and/or development shall be undertaken in strict compliance with the floodproofing, and related provisions contained in the uniform statewide building code and all other applicable codes and ordinances.
- (b) Standards for the special floodplain district. Until a regulatory floodway is designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within the areas of special floodplain district, designated as zones AE on the flood rate insurance map, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point within the town.

(Zoning Ord. 2003, § 18.1-915.4.3)

#### **Sec. 24-355. Decision criteria for utilities and facilities.**

- (a) *Sanitary sewer facilities*. All new or replacement sanitary sewer facilities and private package sewage treatment plants (including all pumping stations and collector systems) shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into the floodwaters. In addition, they should be located and constructed to minimize or eliminate flood damage and impairment.
- (b) *Water facilities*. All new or replacement water facilities shall be designed to minimize or eliminate infiltration of floodwaters into the system and be located and constructed to minimize or eliminate flood damages.

- (c) *Drainage facilities.* All storm drainage facilities shall be designed to convey the flow of surface waters without damage to persons or property. The systems shall ensure drainage away from buildings and on-site waste disposal sites. The town council may require a primarily underground system to accommodate frequent floods and a secondary surface system to accommodate larger, less frequent floods. Drainage plans shall be consistent with local and regional drainage plans. The facilities shall be consistent with local and regional drainage plans. The facilities shall be designed to prevent the discharge of excess runoff onto adjacent properties.
- (d) *Utilities.* All utilities such as gas lines, electrical and telephone systems being placed in floodprone areas should be located, elevated (where possible), and constructed to minimize the chance of impairment during a flooding occurrence.
- (e) *Streets and sidewalks.* Streets and sidewalks should be designed to minimize their potential for increasing and aggravating the levels of flood flow. Drainage openings shall be required to sufficiently discharge flood flows without unduly increasing flood heights.

(Zoning Ord. 2003, § 18.1-915.4.4)

### **Sec. 24-356 - General Standards**

The following provisions shall apply to all permits:

- A. New construction and substantial improvements shall be built according to this ordinance and the VA USBC, and anchored to prevent flotation, collapse, or lateral movement of the structure.
- B. Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state anchoring requirements for resisting wind forces.
- C. New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- D. New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.
- E. Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities, including duct work, shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- F. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- G. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
- H. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

In addition to provisions A – H above, in all special flood hazard areas, the additional provisions shall apply:

- I. Prior to any proposed alteration or relocation of any channels or of any watercourse, stream, etc., within this jurisdiction a permit shall be obtained from the U. S. Corps of Engineers, the Virginia Department of Environmental Quality, and the Virginia Marine Resources Commission (a joint permit application is available from any of these organizations). Furthermore, in riverine areas, notification of the proposal shall be given by the applicant to all affected adjacent jurisdictions, the Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management), other required agencies, and the Federal

Emergency Management Agency.

J. The flood carrying capacity within an altered or relocated portion of any watercourse shall be maintained.

**Section 24-357 - Elevation and Construction Standards [44 CFR 60.3]**

In all identified flood hazard areas where base flood elevations have been provided in the FIS or generated by a certified professional in accordance with Article III, Section 3.1.A.3 the following provisions shall apply:

A. Residential Construction

New construction or substantial improvement of any residential structure (including manufactured homes) in Zones A1-30, AE, AH, and A with detailed base flood elevations shall have the lowest floor, including basement, elevated to or above the base flood level *plus eighteen (18) inches*. See Article III, Section 3.1.A.5 and Article III, Section 3.1.A.6 for requirements in the Coastal A, VE, and V zones.

B. Non-Residential Construction

1. New construction or substantial improvement of any commercial, industrial, or non-residential building (or manufactured home) shall have the lowest floor, including basement, elevated to or above the base flood level *plus eighteen (18) inches*. See Article III, Section 3.1.A.5 and Article III, Section 3.1.A.6 for requirements in the Coastal A, VE, and V zones.
2. Non-residential buildings located in all A1-30, AE, and AH zones may be floodproofed in lieu of being elevated provided that all areas of the building components below the elevation corresponding to the BFE *plus two feet* are water tight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification, including the specific elevation (in relation to mean sea level) to which such structures are floodproofed, shall be maintained by (title of community administrator).

C. Space Below the Lowest Floor

In zones A, AE, AH, AO, and A1-A30, fully enclosed areas, of new construction or substantially improved structures, which are below the regulatory flood protection elevation shall:

1. Not be ~~designed~~ ~~designed~~ or used for human habitation, but shall be used solely for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator).
2. Be constructed entirely of flood resistant materials, below the regulatory flood protection elevation;
3. Include measures to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet the following minimum design criteria:
  - a. Provide a minimum of two openings on different sides of each enclosed area subject to flooding.
  - b. The total net area of all openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding.

- c. If a building has more than one enclosed area, each area must have openings to allow floodwaters to automatically enter and exit.
- d. The bottom of all required openings shall be no higher than one (1) foot above the adjacent grade.
- e. Openings may be equipped with screens, louvers, or other opening coverings or devices, provided they permit the automatic flow of floodwaters in both directions.
- f. Foundation enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires openings as outlined above.

D. Accessory Structures

- 1. Accessory structures in the SFHA shall comply with the elevation requirements and other requirements of Article IV, Section 4.3.B or, if not elevated or dry floodproofed, shall:
  - a. Not be used for human habitation;
  - b. Be limited to no more than 600 square feet in total floor area;
  - c. Be useable only for parking of vehicles or limited storage;
  - d. Be constructed with flood damage-resistant materials below the base flood elevation;
  - e. Be constructed and placed to offer the minimum resistance to the flow of floodwaters;
  - f. Be anchored to prevent flotation;
  - g. Have electrical service and mechanical equipment elevated to or above the base flood elevation;
  - h. Shall be provided with flood openings which shall meet the following criteria:
    - (1) There shall be a minimum of two flood openings on different sides of each enclosed area; if a building has more than one enclosure below the lowest floor, each such enclosure shall have flood openings on exterior walls.
    - (2) The total net area of all flood openings shall be at least 1 square inch for each square foot of enclosed area (non-engineered flood openings), or the flood openings shall be engineered flood openings that are designed and certified by a licensed professional engineer to automatically allow entry and exit of floodwaters; the certification requirement may be satisfied by an individual certification or an Evaluation Report issued by the ICC Evaluation Service, Inc.
    - (3) The bottom of each flood opening shall be 1 foot or less above the higher of the interior floor or grade, or the exterior grade, immediately below the opening.
    - (4) Any louvers, screens or other covers for the flood openings shall allow the automatic flow of floodwaters into and out of the enclosed area.

E. Standards for Manufactured Homes and Recreational Vehicles

- 1. In zones A, AE, AH, and AO, all manufactured homes placed, or substantially improved, on individual

lots or parcels, must meet all the requirements for new construction, including the elevation and anchoring requirements in Article III, Section 3.1.A.6 and Article IV, Sections 4.2 and 4.3.

2. All recreational vehicles placed on sites must either:

a. Be on the site for fewer than 180 consecutive days, be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions); or

b. Meet all the requirements for manufactured homes in Article IV, Section 4.3.E.1.

**Sec. 24-358 Standards for Subdivision Proposals**

A. All subdivision proposals shall be consistent with the need to minimize flood damage;

B. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;

C. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards, and

D. Base flood elevation data shall be obtained from other sources or developed using detailed methodologies, hydraulic and hydrologic analysis, comparable to those contained in a Flood Insurance Study for subdivision proposals and other proposed development proposals (including manufactured home parks and subdivisions) that exceed fifty lots or five acres, whichever is the lesser.

**Secs. 24-35~~96~~—24-383. Reserved.**

This ordinance was adopted on February 12, 2025.

\_\_\_\_\_  
D. Dwayne Tuggle, Mayor

ATTEST:

\_\_\_\_\_  
Clerk of the Council

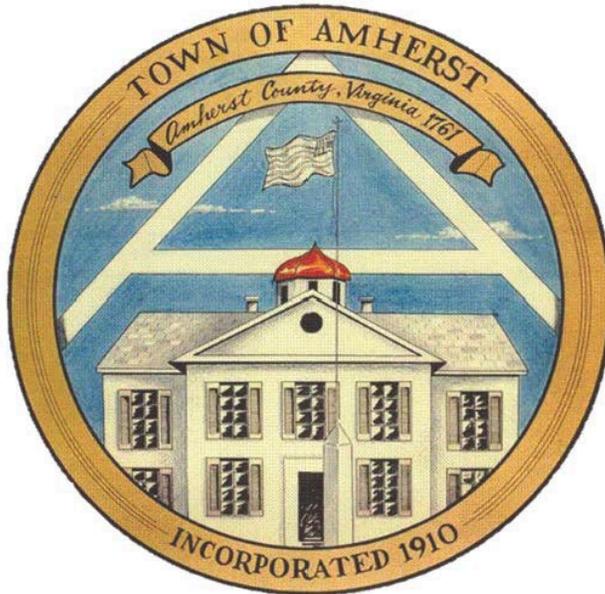


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# TOWN OF AMHERST

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## Personnel Policy



FEBRUARY 12, 2025

**1 INTRODUCTION .....6**

**1.1 Purpose of the Personnel Policy .....6**

**1.2 Organization of the Personnel Function .....6**

**1.3 Applicability of Rules .....6**

**1.4 Dissemination of Rule .....7**

**1.5 Modification of Policies.....7**

**1.6 Definitions.....7**

**2 EMPLOYMENT .....8**

**2.1 Equal Opportunity .....8**

**2.2 Employment and Internal Transfer of Relatives .....8**

**2.3 Accommodating Individuals with Disabilities .....8**

**2.4 Harassment.....8**

**2.5 Violence in the Workplace .....9**

**2.6 Violations.....10**

**2.7 Retaliation .....10**

**3 RECRUITMENT AND SELECTION.....10**

**3.1 Employment at Will.....10**

**3.2 Open Positions .....10**

**3.3 Application .....11**

**3.4 Selection.....11**

**3.5 Probationary Period .....12**

**3.6 Hiring Authority .....12**

**3.7 Substitutes in Emergency Situations.....12**

**3.8 Maintaining Applications on File .....12**

**3.9 Internal Promotions .....12**

**3.10 Resignations.....13**

**3.11 Police Department Take Home Car Policy.....13**

**3.12 Outside Employment .....13**

**4 Employee Compensation .....13**

**4.1 Job Classification .....14**

**4.2 New Employees .....14**

**4.3 Cost of Living Increase .....14**

**4.4 Merit Increase.....14**

4.5 Promotion .....14

4.6 Educational/Training Increases.....15

4.7 Demotion .....15

5 HOURS AND PAY .....15

5.1 Normal Hours of Operation .....15

5.2 Time and Payroll Reporting.....16

5.3 Meal Breaks .....16

5.4 Rest Breaks .....16

5.5 Telework.....16

5.6 Flexible Scheduling.....17

5.7 Travel Time .....17

5.8 Compensatory Time .....18

5.9 Overtime.....18

5.10 On-Call Time .....18

5.11 Emergency Call-Back .....18

5.12 Exempt Employees .....19

5.13 Additional One-Time Payments .....19

5.14 Deductions .....19

5.15 Paydays.....19

5.16 Advances.....19

5.17 Personnel Records and Changes.....20

6 ABSENCES FROM WORK.....20

6.1 Annual Leave (VRS Plan 1 and Plan 2 Members) .....20

6.2 Sick Leave (VRS Plan 1 and Plan 2 Members).....21

6.3 Paid Time Off Plan (Hybrid Employees Only) .....21

6.3.1 Paid Time Off .....21

6.3.2 Use of PTO .....22

6.4 Exempt Employee Absences.....22

6.5 Leave of Absence.....22

6.6 Donation of Leave Time.....23

6.7 Family and Medical Leave .....23

6.7.1 Purpose.....23

6.7.2 Eligible Employees.....23

6.7.3 Definitions.....24

6.7.4 When Leave is Available.....24

6.7.5 Notice of Leave.....25

6.7.6 Intermittent Leave.....25

6.7.7 Certification By a Physician or Health Care Provider .....25

6.7.8 Accrued Leave.....25

6.7.9 Unemployment .....26

6.7.10 Benefit Protection .....26

6.7.11 Reinstatement/Return to Position .....26

6.7.12 Additional Family and Medical Leave .....26

6.8 Bereavement Leave .....26

6.9 Jury Duty.....27

6.10 Subpoenaed Witness.....27

6.11 Military Leave.....27

6.12 Parental Leave .....28

6.13 Leave without Pay .....29

6.14 Holidays.....30

6.15 Notification Of Supervisor .....30

6.16 Attendance.....31

7 BENEFITS .....31

7.1 Purpose.....31

7.2 Health Insurance .....32

7.3 COBRA .....32

7.4 Employee Assistance Program .....32

7.5 Retirement Plan .....32

7.6 Life Insurance & Accidental Death & Dismemberment Insurance.....33

7.7 Reimbursement of Paid Benefits .....33

7.8 Worker’s Compensation .....33

7.8.1 Disclaimer.....33

7.8.2 Worker’s Compensation Policy.....34

7.8.3 Reporting.....34

7.8.4 Medical Treatment .....34

7.8.5 Wage Loss Benefits .....34

**7.8.6 Return To Work – Light/Modified Duty** .....35

**7.9 Unemployment Insurance** .....35

**7.10 Supplemental Insurance** .....35

**7.11 Uniforms**.....35

**7.12 Ongoing Education**.....36

**7.13 Tuition Reimbursement**.....36

**8 PERSONAL PROTECTIVE EQUIPMENT** .....36

**8.1 Purpose**.....36

**8.2 Eye Protection**.....37

**8.3 Head Protection** .....37

**8.4 Foot Protection**.....37

**8.5 Safety Vests**.....38

**8.6 Hearing Protection** .....38

**8.7 Respiratory Protection** .....38

**8.8 Training**.....38

**8.9 PPE Maintenance**.....38

**9 TRAVEL AND REIMBURSEMENT** .....39

**9.1 Eligibility for Travel Expenses** .....39

**9.2 Scope of Allowable Expenses**.....39

**10 STANDARDS** .....41

**10.1 Purpose**.....41

**10.2 Customer Service** .....41

**10.3 Communication**.....41

**10.3.1 Cell Phone Use** .....41

**10.3.2 Video/Voice Recording**.....41

**10.3.3 Business Telephone Etiquette**.....42

**10.3.4 E-Mail And USPS Mail** .....42

**10.4 Professional Image Dress/Uniform Code** .....43

**10.5 Operation Of Town-Owned Vehicles**.....44

**10.5.1 Take-Home Vehicles** .....44

**10.5.2 Rules Of The “Road”**.....44

**10.6 Smoking Policy**.....45

**10.7 Internet And Computer Resource Policy**.....45

10.8 Firearms .....46

10.9 Confidential Information .....46

10.10 Practice Of Ethical Behavior .....46

10.11 Compliance With Laws, Regulations, And Town Policies .....47

10.12 Conflict Of Interest .....47

10.13 Rules Of Conduct .....48

11 HARASSMENT POLICY .....50

11.1 Purpose.....50

11.2 Harassment.....50

11.3 Violations.....51

11.4 Investigation Of Harassment Complaints .....52

12 DRUG AND ALCOHOL POLICY .....53

12.1 Purpose And General Policy .....53

12.2 Employee Responsibilities.....53

12.3 Drug And Alcohol Testing .....54

12.4 Section 15-4: Guidelines For Reasonable Suspicion Testing.....55

12.5 Penalties.....56

12.6 Additional Considerations .....56

13 DISCIPLINARY ACTION .....56

13.1 DISCIPLINARY ACTION POLICY.....56

13.2 Forms Of Disciplinary Action .....57

14 Grievances .....58

14.1 Definition of Grievance.....58

14.2 Coverage of Personnel .....59

14.3 Operation of the Grievance Procedure .....60

14.4 Grievability and Access .....61

14.5 General Terms .....61

14.6 Rules Concerning Grievance Panels and Panel Hearings.....62

14.7 Compliance .....64

## 1 INTRODUCTION

### 1.1 Purpose of the Personnel Policy

The purpose of the Personnel Policy of the Town of Amherst, VA (herein referred to as “Policy”), is to foster a work environment that upholds integrity, fairness, and professionalism while providing guidance and support to all employees. This policy serves to establish clear expectations, promote consistency in decision-making, and ensure compliance with legal requirements and best practices in personnel management.

Through this policy, the Town of Amherst (herein referred to as “Town”) aims to attract, retain, and develop a diverse and talented workforce dedicated to serving the community with excellence. It is designed to cultivate a culture of mutual respect, open communication, and continuous improvement, where employees feel valued, empowered, and motivated to contribute to the Town's mission and goals.

By adhering to this policy, the Town of Amherst commits to promoting equal employment opportunities, fostering employee well-being, and maintaining transparency in all employment-related matters. It serves as a guiding framework to promote accountability, fairness, and efficiency in recruitment, selection, training, compensation, performance evaluation, employee relations processes, and terminations.

Ultimately, the personnel policy of the Town of Amherst, VA, underscores the Town's commitment to being a responsible employer dedicated to supporting the growth and success of its employees, thereby enhancing the quality of life for all residents and stakeholders.

This policy is not and shall not be construed as an explicit or implied contract, shall not modify any existing at-will status of any Town employee, and shall not create any due process requirements in excess of federal or state constitutional or statutory requirements. The term “at-will” means employees can terminate or be terminated at will. Exceptions are employees having written contracts signed by the Town Manager or Town Council.

### 1.2 Organization of the Personnel Function

The Town Manager is responsible for personnel administration with the Town government. The Treasurer administers these policies under the Town Manager’s supervision.

The Personnel/Human Resources function shall be under the direction of and supervision of the Town Manager. All “official” personnel files, including, but not limited to the following: employment applications, letters of appointment, reference checks, performance evaluations, notices of accommodations, training documentations and disciplinary actions shall be maintained by the Town Manager. All employee files are confidential, and copies of information contained therein may be released upon written authorization of the employee or by the requirement of State and Federal law.

***For purposes of this manual when Human Resources are mentioned, it refers to the Town Manager or Treasurer.***

### 1.3 Applicability of Rules

The Town policies apply to all Town employees except any employee specifically exempted by action of the Town Council.

Neither the Town Council nor the Town Manager is limited to strict terms of this policy because it is not possible to include every conceivable circumstance in this document. This policy is intended to serve as a framework upon which equal and fair treatment of employees may be predicated.

In addition to these policies, the Town Police Department has its own separate and additional procedures and policies to follow in day-to-day operations of the department.

All personnel matters, including disciplinary actions, are considered to be of a confidential nature by the Town.

## 1.4 Dissemination of Rule

The Town Manger will make public complete copies of the Town Personnel Policies. Each new employee of the Town will be given a complete copy of these polices and a receipt signed by the employee shall be maintained in the individual's personnel file to document distribution. Department heads are responsible for maintaining a complete, current set of policies and for bringing these items to the attention of all employees under their supervision. The Town Manager may issue memoranda interpreting situations not covered by this document to be disseminated to all employees for future application and guidance.

## 1.5 Modification of Policies

This Policy does 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 or Town Council without any notice. Any amendments to the policy made by the Town Manager or Town Council become effective on the date of the amendment unless otherwise specified.

Official changes to this document will be disseminated to all Town employees by memoranda from the Town Manager.

## 1.6 Definitions

Whenever responsibilities fall to the Town Manager under these polices, he or she may designate another to fulfill his or her responsibilities.

**Exempt Employee** – an employee who performs executive, administrative or professional duties as defined under the Fair Labor Standards Act and its regulations and is not covered by overtime pay provisions of the same Act.

**Non-Exempt Employee** – an employee who is covered under the overtime pay requirements of the FLSA.

**Full-time Employee** – an individual hired on either a salary or wage basis for an established position for an indefinite term who is expected to work a minimum of 28 hours a week.

**Manager** – the Town Manager as appointed by the Town Council.

**Part-time Employee** – an individual hired on either a salary or wage basis for an established position for an indefinite term who is expected to work an established period of time that is less than 28 hours per week.

**Probationary Employee** – a full-time or part-time employee who has worked for the Town for less than six months.

**Supervisor** – an exempt employee that has subordinate employees.

**Seasonal or Temporary Employee** – an individual hired on a term basis, *e.g.*, day, week, period of months or on a project basis. When employment is varying in scheduled hours and is limited in duration to a project or an exceptional need for service, such as employment, whether 40 hours per week or less.

The Town Manager may also make use of summer interns, Job Training Partnership Act employees or similar programs as deemed in the best interest of the Town.

## 2 EMPLOYMENT

### 2.1 Equal Opportunity

It is the policy of the Town to provide equal opportunity in employment and to administer employment policies without regard to race, color, religion, sex, age, national origin, disability, pregnancy, childbirth, or related medical conditions, marital status, sexual orientation, sexual identity or veteran or active military status. The Town will conform to all applicable laws and regulations.

This policy applies to every aspect of employment practices including, but not limited to the following:

1. Recruiting, hiring and promoting in all job classifications without regard to race, color, religion, gender, age, national origin, political affiliation, general identity, sexual orientation, national origin, pregnancy, or disability, except where such a factor can be demonstrated as a bona fide occupational qualification.
2. All decisions for hiring or promotions shall be based solely upon each individual's qualifications for the position to be filled.
3. Other personnel actions such as compensation, benefits, transfers, layoffs, training, assignments, will be administered without regard to race, color, religion, gender, age, national origin, political affiliation, general identity, sexual orientation, national origin, pregnancy, or disability.

### 2.2 Employment and Internal Transfer of Relatives

An employee cannot be supervised directly by anyone with whom the employee has a close personal relationship (i.e. family or significant other). Family is defined as related by blood or marriage; significant other is defined as two parties living in the same household. Family can include parent(s), spouse, child, sister, brother, grandparent, grandchild, or spouse's parent; including any relationship defined as a "step" relationship. Directly supervised is defined as one family member being responsible for salary recommendations, performance appraisals, hiring, firing, promoting or disciplinary action of another family member. If a family or significant other relationship is created, or develops, between two employees initially not related, one of the two employees will be expected to resign if a transfer is not available

### 2.3 Accommodating Individuals with Disabilities

The Town provides equal employment opportunities to qualified individuals with disabilities. Reasonable accommodation will be provided to a qualified employee or applicant with a disability when that employee or applicant requests accommodation. A qualified employee or applicant is one who is able to perform the essential functions of the job with or without accommodation. A request for accommodation will be denied if the accommodation is not shown to be effective, places an undue burden on the Town, or if the employee poses a direct threat to the health and safety of him or herself or others.

### 2.4 Harassment

The Town of Amherst is committed to maintaining a work environment that is free of discrimination. In keeping with this commitment, the Town will not tolerate unlawful harassment of its employees by anyone, including any supervisor, co-worker, or third party. Harassment consists of unwelcome conduct, whether verbal, physical or visual, that is based on a person's race, color, national origin, religion, age, sex, gender or disability. Harassment that affects job benefits, interferes with an individual's work performance, or creates an intimidating, hostile, or offensive work environment will not be tolerated.

Harassment may include derogatory remarks, epithets, offensive jokes, the display or circulation of offensive printed, visual or electronic, or offensive physical actions. Unwelcome sexual advances, requests for sexual favors, or other physical, verbal or visual conduct based on sex constitutes harassment when (1) submission to the conduct is required as a term or condition of employment or is the basis for employment action, or (2) the conduct unreasonably interferes with an individual's work performance or creates an intimidating, hostile or offensive workplace. Sexual harassment may include sexual propositions, innuendo, suggestive comments, sexually oriented jokes or teasing, or unwelcome physical contact such as patting, pinching, or brushing against another.

All Town of Amherst employees are responsible for helping to enforce this policy against harassment. Any employee who has been the victim of prohibited harassment or who has witnessed such harassment must immediately notify his supervisor so the situation can be promptly investigated and remedied. If it is the supervisor who is responsible for the harassment or reporting the situation to the supervisor fails to remedy the situation, complaints of harassment must immediately be reported to the Town Manager. If an employee believes it would be inappropriate to discuss the matter with the Town Manager, the employee may report it to the Mayor.

It is the Town of Amherst's policy to investigate all harassment complaints thoroughly and promptly. To the fullest extent practicable, the Town of Amherst will maintain the confidentiality of those involved. If an investigation confirms that harassment has occurred, the Town of Amherst will take corrective action. Corrective action may include discipline up to and including immediate termination of employment. The Town of Amherst forbids retaliation against anyone who has reported harassment or who has cooperated in the investigation of harassment complaints.

## 2.5 Violence in the Workplace

It is the policy of the Town of Amherst to prohibit workplace violence. Consistent with this policy, acts or threats of physical violence, including intimidation, harassment, and/or coercion, which involve or affect the Town or which occur on Town property, will not be tolerated.

Acts or threats of violence include conduct that is sufficiently severe, offensive, or intimidating to alter the employment conditions at the Town of Amherst, or to create a hostile, abusive, or intimidating work environment for one or several employees. Examples of workplace violence include, but are not limited to, the following:

1. All threats or acts of violence occurring on the Town of Amherst's premises, regardless of the relationship between Town of Amherst and the parties involved.
2. All threats or acts of violence occurring off Town of Amherst 's premises involving someone who is acting in the capacity of a representative of Town of Amherst.

Specific examples of conduct that may be considered threats or acts of violence include, but are not limited to, the following:

1. Hitting or shoving an individual.
2. Threatening an individual or his/her family, friends, associates, or property with harm.
3. Intentional destruction or threatening to destroy any Town of Amherst property.
4. Making harassing or threatening phone calls.
5. Harassing surveillance or stalking (following or watching someone).
6. Unauthorized possession or inappropriate use of firearms or weapons.

The Town of Amherst 's prohibition against threats and acts of violence applies to all persons involved in Town of Amherst 's operation, including but not limited to personnel, contract and temporary workers, and anyone else on Town of Amherst property. Violations of this policy by any individual on Town of Amherst property will lead to disciplinary action, up to and including termination and/or legal action as appropriate.

Every employee is encouraged to report incidents of threats or acts of physical violence of which he/she is aware. The report should be made to the supervisor. If it is the supervisor who is responsible for the alleged harassment or

reporting the situation to the supervisor fails to remedy the situation, complaints of harassment must immediately be reported to the Town Manager. If an employee believes it would be inappropriate to discuss the matter with the Town Manager, the employee shall report it to the Mayor.

## 2.6 Violations

An employee who believes that any portion of this policy is being violated should (1) inform the offending person(s) that the conduct is unwelcome and (2) report it immediately to the supervisor. **The report should be made in writing**; however, a report will also be accepted by phone or in person.

Charges will be promptly and thoroughly investigated and corrective actions taken if the charge is founded. If it is determined that a violation has occurred, appropriate relief for the employee(s) bringing the complaint and appropriate disciplinary action, up to and including discharge, against the person(s) who violated the policy will follow.

A non-employee who subjects an employee to harassment in the workplace will be informed of the Town's policy and appropriate actions will be taken to protect the employee from future harassing conduct.

In all cases, the Town will make follow-up inquiries to ensure that the harassment has not resumed.

An employee violating this policy will be subject to disciplinary action, including termination. The employee who brought the complaint will be provided with information on the outcome of the investigation.

## 2.7 Retaliation

Retaliation is illegal and contrary to the policy of the Town. 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 report should be made to the manager. Those who are found to be acting in a retaliatory manner will be disciplined for such conduct.

## 3 RECRUITMENT AND SELECTION

### 3.1 Employment at Will

Every employee of the Town has the status of "employee-at-will," meaning that no one has the contractual right, express or implied, to remain employed by the Town. The Town may terminate an employee's employment, or an employee may terminate their employment, without cause, and with or without notice, at any time for any reason. No supervisor or other representative of the Town has the authority to enter into any agreement for employment for any specified period of time, or to make any agreement contrary to the above. Exceptions are employees having written contracts by the Town Manager or Town Council.

### 3.2 Open Positions

In the event of any job vacancy, whether full-time or part-time, Human Resources will publicize such vacancy in appropriate sources to include, but not limited to, the Town website, print media, electronic employment websites and when applicable, professional publications.

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 pay 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. The 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.

The Virginia State and Local Government Conflict of Interests Act provides that members of an officer's or an employee's immediate family may be employed in the employee's division, department or agency only under the following conditions:

1. The employee does not participate in the decision to hire the employee's immediate family member;
2. The employee exercises no control over the employment or the employment activities of their immediate family member; or,
3. The employee is not in a position to influence the employment activities of their immediate family member.

Based on the above criteria, the Town shall not hire an employee's spouse or immediate family member, as defined in Section 2.2 of this Manual, or those living in the same household as the employee, in a supervisor-subordinate relationship.

If the relative relationship that violates this policy is established after employment, the two employees involved shall decide who will seek a position change, if a position is available for which that individual qualifies, or who is to terminate Town employment. If a decision is not made within 30 calendar days, the Town Manager shall make the decision.

Department Heads shall ensure that this policy is enforced when making recommendations for employment, promotions, transfers or demotions. Any concerns or questions regarding an applicant's or an employee's eligibility under this policy shall be directed to the Town Manager.

### **3.3 Application**

All applicants for the Town employment must fill out and furnish complete information on the Town of Amherst Employment Application for the position for which they apply. Providing false information or omitting information on an application may be grounds for dismissal from Town employment.

Except for seasonal student workers, applicants are expected to have a high school diploma or its equivalent. Those persons applying for positions which require the operation of a motor vehicle must present a valid driver's license at the time of employment. All applicants for the Town shall be required to meet established standards specified in the job description for the particular position as a condition of employment.

### **3.4 Selection**

Department heads shall examine applications and interview applicants for employment upon request of the Town Manager and recommend applicants for filling vacancies existing with their departments. The Town Manager has the final approval for filling vacancies, with the exception of Chief of Police, which is appointed by the Town Council.

All job offers from the Town are subject to receipt of a satisfactory background check report and drug screening. The background check could include a check of driving record with the State Division of Motor Vehicles, a check with references, an investigation of criminal history record, credit check and education verification.

### **3.5 Probationary Period**

All new full-time and part-time employees serve a one year probationary period which shall be utilized for closely observing the employee's work, for securing the most effective adjustment of a new employee to his position, and for rejecting an employee whose performance does not meet the required standards. The Town Manager shall have the authority to extend this probationary period for any employee up to an additional six months in order to further evaluate the employee's ability to meet the required standards for a Town employee. The Town Manager or immediate supervisor shall, prior to the end of the one year probationary period, notify the employee in writing of the extension of the introductory period, the reasons for the extension, and the length of the extended probationary period. There is no appeal available for an employee released during the probationary period or extended probationary period, except where discrimination is claimed. In establishing an introductory period, the Town does not abrogate or modify in any way the employment-at-will status that applies to its employment relationship with all employees.

### **3.6 Hiring Authority**

The Town Manager has complete authority for hiring (with the exception of the Chief of Police, which is hired by Town Council), promoting and discharging employees in accordance with these policies. The manager has the responsibility and authorization for administering the personnel system established by these policies.

### **3.7 Substitutes in Emergency Situations**

In order to prevent disruptions to the Town services or operations, the Town Manager or a designee may hire a substitute to fill a necessary position on a temporary basis. The Town Manager or this designee may hire individual from those applications currently on file with the town or experienced individuals known to the Town Manager or department head who hand handle the type of work involved or may make use of commercial employment services providing temporary help. It is the intent of this provision to allow the hiring of individuals on a short-term basis where an individual employee is sick or where an emergency situation has arisen.

### **3.8 Maintaining Applications on File**

Applications for an advertised position shall be maintained in a current file status for nine months and shall be considered in the event appropriate positions become available or in the event the Town needs substitutes or part-time employees. In the event that a position had been advertised and the individual who was hired fails to complete the introductory period or in the event that a similar vacancy occurs, the Town Manager shall have the discretion to fill the position from current applications on file or to readvertise the position. It is the intention of this provision that all qualified applicants be considered and that the Town not be required to readvertise a position where there are numerous qualified applicants on file and where sufficient publication has recently been completed.

### **3.9 Internal Promotions**

It is the policy of the Town to promote existing employees to positions for which they are qualified when vacancies occur. Where an employee is qualified to be promoted to a vacancy, the Town Manager may fill the position from among current Town employees without necessity of advertising for the position. A qualified Town employee,

based upon merit and experience, who seeks the vacancy may be considered as a candidate for promotion by the Town Manager.

### **3.10 Resignations**

Employees are requested to give notice in writing no less than 2 working weeks prior to resigning. Professional and supervisory personnel are requested to give notice 4 working weeks before resigning. Failure to provide the requested notice may result in the loss of payout of accrued leave time. Upon notification of intent to leave the employment of the Town, the Town may designate a date earlier than that which the employee requested. Employees whose employment is terminated by the Town for any reason will receive only those wages earned by them as a result of hours worked and accrued leave. Accrued leave will be paid according to the annual leave policy. Refer to Chapter 6: ABSENCES FROM WORK for further discussion regarding leave and Chapter 7: BENEFITS for further discussion regarding Town benefits and resignation of employment. The W-2 for the last year of earnings will be mailed to the address of record. Human Resources should be notified of any change in address prior to receiving the last W2.

### **3.11 Police Department Take Home Car Policy**

The Town Council of the Town of Amherst, in order to encourage police officers to reside close to Town, and to eliminate undue wear and tear on Town owned vehicles, has a mileage limitation for take home police vehicles. Unless other arrangements are made for the benefit of the Town, no officer shall have a take home Police vehicle unless the officer lives within 20 miles of the Town corporate limits.

Take home vehicles accrue to the Town's benefit by:

- 1) Improving the availability of such officers to work in the event of emergency, inclement weather, vehicle breakdown, etc.
- 2) Enhanced safety of individuals who live in the same neighborhood as a police officer. This will also help make those more desirable and therefore positively influence property values.

### **3.12 Outside Employment**

The Town considers itself to be the primary employer for all employees who are not temporary or part-time and requires that activities away from the job must not adversely affect the employee's job performance or compromise the Town's interest.

Before seeking or accepting outside or self-employment, employees are cautioned to consider carefully the demands that such additional employment will create. Outside employment will not be considered an excuse for poor job performance, absenteeism, tardiness, refusal to travel, or refusal to work overtime or different hours. In addition, prior written permission must be obtained from the manager before such activities commence.

Employees will also avoid conflicts of interest and situations that give the appearance of the conflict of interest. Except for work done as a Town employee, the Town's public works employees are not to install water or sewer facilities, whether they are to be owned and operated by the Town or privately owned, that are or reasonably could be expected to connect to the Town's system.

In addition, employees are not to conduct any outside business during paid working time.

## **4 Employee Compensation**

The total compensation of employees consists of regular pay for full and part-time employees, and authorized overtime pay for full-time employees, the employer's contributions to employee benefits, holiday pay, and various forms of leave with pay. Leave policies, found in Section six (6), should be reviewed.

#### **4.1 Job Classification**

The Town has a classification plan which is an officially approved system of grouping positions into appropriate classes. Every job is evaluated according to the kind of work and the degree of responsibility assigned. Jobs having similar duties and responsibilities are assigned or placed into the same class. Each class is evaluated in comparison with other classes and is assigned to a pay grade in the compensation plan. The Town, at all times, attempts to maintain a prevailing wage scale competitive with the particular job market and/or locality.

The Town's proposed pay plan maintains the current steep structure including thirty pay grades that are 6% apart and 2% between each step.

As part of the evaluation of every job, the Town will have on file a job description for each position. The job description will contain a job title, job status the essential functions of the position, the physical requirements of the position, and the qualifications and experience the Town would seek in filling the position.

#### **4.2 New Employees**

The established pay range for the pay grade for the job will be explained to the employee upon employment. New employees hired by the Town are normally brought into their position at the starting salary in the pay grade established for that position by the Classification and Compensation Plan. New employees have an one year probationary period. When placing an employee within the pay range for a position, allowances may be made for previous experience and academic credentials where they have a direct bearing on job performance and requirements, with the approval of the Town Manager.

#### **4.3 Cost of Living Increase**

The Town recognizes that as the market shifts, employees' base salaries should shift with the adjustments. Therefore, it is Town practice to adjust each employees' salary July 1st of each year with the start of the fiscal year. This adjustment will be equal to the amount of inflation based on the Consumer Price Index as of December 31<sup>st</sup> of the preceding year. At the Council's discretion, the increase may take place during other times of the year. The first step in each grade will also be adjusted by the yearly CPI rate to stay competitive with the market for hiring of new employees.

#### **4.4 Merit Increase**

If an employee's performance is satisfactory or better at the time of his/her performance evaluation, the employee may receive a merit increase if approved by Council in the yearly budget process. All employee evaluations will take place prior to June 30<sup>th</sup> of each year. Merit increases are based on the employee's evaluation score and where the employee's regular rate falls in his/her job grade. If an employee's evaluation is satisfactory, they will be moved up one step in the grade associated with their position. Steps are increased at 2%. Any increase received is effective on July 1<sup>st</sup> with the start of the fiscal year. Performance evaluations and the increases associated with them are not eligible for grievance under the Town's grievance policy.

#### **4.5 Promotion**

An employee may be promoted into either a vacant position or a newly created position established by Town Council. The Town Manager will have the authority to promote employees who can perform the essential functions, and meet the requirements, of the vacant position or newly created position. Employees who have demonstrated continuing excellence in their current position and a strong aptitude for improvement may be advanced to a vacant position, for which they do not meet all of the qualifications, on a provisional basis. These employees must meet goals for learning set by the supervisor and the Town Manager or Police Chief within 6 months after their provisional advancement. If an employee is promoted, his/her pay may be increased to the starting salary in the new grade. If the starting salary of the new grade fails to increase the rate of pay by at least five percent, then the employee will receive at least a five percent increase. A provisionally advanced employee will not receive an increase until the goals are met, and the promotion is made final. Promoted employees will be given an evaluation 6 months after the date of their promotion, at which time they may receive a merit increase if their performance exceeds expectations.

#### **4.6 Educational/Training Increases**

Pay adjustments may also be given for additional certifications or educational trainings as they are received. Examples of this are plant employees passing each level of water and wastewater license requirements or newly graduated police officers gaining additional certifications.

#### **4.7 Demotion**

Under certain circumstances, an employee may be involuntarily demoted to a position on a lower grade. This action will take place in accordance with applicable laws and regulations, and a meeting will be held prior to the demotion between the Town Manager, appropriate department head, and the employee. A written record of the meeting will be made and distributed to the attendees and the employee's personnel file. At that time, the employee's salary may be adjusted to the appropriate position in the new pay grade based on experience, qualifications, etc. An employee may also request a voluntary demotion into a vacant position on a grade lower than the position that the employee currently occupies. In such an event, the employee will be paid his/her current salary until the start of the next fiscal year. After the start of the next fiscal year, the employee's salary will be adjusted to the appropriate position in the new pay grade based on experience, qualifications, etc.

### **5 HOURS AND PAY**

#### **5.1 Normal Hours of Operation**

Normal hours of operation for the public for each department are as follows:

- Town Hall – 9:00 a.m. to 5:00 p.m. Monday through Friday. Administrative employees may elect to start their schedule at any time between 7:00 and 8:30 a.m. The schedule must be on a regular basis, have the approval of the department head and Town Manager and maintain coverage of the office for the purpose of serving the public.
- Police Department – 7:00 a.m. to 12:00 a.m. . The Police Chief may schedule Police Officers for additional hours as appropriate.
- Public Works/Maintenance Department – 7:00 a.m. to 3:30 p.m. Monday through Friday.
- Water and Wastewater Plant –. Typical daily schedule will be 6:00 a.m to 4:00 p.m or as necessary to meet regulatory requirements and the demands of the system.

Department heads have the flexibility to schedule employees to cover operations as appropriate

## 5.2 Time and Payroll Reporting

For the purpose of calculating pay, the scheduled workweek for full-time employees consists of 40 hours. The Town Police Department follow an 80-hour schedule over a two-week period. The Town workweek starts at midnight on Friday and ends at 11:59 pm the following Friday. Police hours start at midnight on Friday and end two weeks later at 11:59 pm.

All Town employees are responsible for correctly recording hours worked. Supervisors will inform employees how, and by what method, to record time. It is very important that employees record time correctly and that the hours worked are reported accurately so that supervisors have the correct information to turn in for payroll preparation and record keeping every pay period to comply with wage and hour regulations. Employees must certify the accuracy of hours worked. Employees with questions concerning hours worked, or other concerns about time sheets or timecards, should consult their supervisor or department head.

Timesheets are due Monday morning following the ending of the two week pay period.

Employees are required to request any leave off in advance when practicable (see Section 6-1, Section 6-3 and Section 6-15) from their supervisor. Such time will also be recorded by the employee's time reporting method.

## 5.3 Meal Breaks

Employees are required to take at least 30 minutes for meal breaks. Meal breaks do not count as hours worked in computing pay and/or overtime. Employees must "clock out" or otherwise record the time they stopped work prior to starting the meal break, and "clock in" or otherwise record the time they ended the meal break upon returning to work. Flexible work scheduling may be used for the purpose of extending a meal break with the employee's start time being advanced or end time being extended as approved by his supervisor. Certain employees, such as police officers, as approved by the manager, may have their meal break(s) included as a part of their regularly scheduled workday if required to stay on premises or duty during scheduled lunch breaks.

## 5.4 Rest Breaks

Employees shall have two 15-minute rest breaks per day, which are included within the total required hours of work. Such breaks may not accumulate from one shift or one day to another.

## 5.5 Telework

Telework is a work arrangement that allows employees to work at home or at some other off-site location for all or some of their regularly scheduled work hours. Although not all jobs can be performed satisfactorily from other locations, the Town recognizes that, in some cases, telecommuting arrangements can provide a mutually beneficial option for both the Town and employees.

Not all jobs can be performed from off-site locations. In general, positions requiring face-to-face interaction with customers and office personnel are not suitable for telecommuting arrangements. Occasional telework requests are approved on a case-by-case basis, are infrequent, and are not regularly scheduled. Approval must be documented, which can be done by email. Occasional telework may be used when an employee:

- 1) Has a personal need at home;
- 2) Has a temporary workplace disruption;
- 3) Has other circumstances approved by the supervisor.

Regular telework arrangements are for ongoing telework and must be supported by a written agreement that specifies the requirements and details of the arrangement. The arrangement can last for a defined period or can continue indefinitely with regular review.

Supervisors should work with the employee to determine if their request to telework is feasible. The employee's readiness for telework, the needs of the department, communication and impact of the telework on other department members should be taken into consideration. Supervisors should consider whether the employee has a record of satisfactory performance in the workplace and has demonstrated the ability to:

- Prioritize and meet deadlines
- Accomplish tasks with minimal supervision
- Communicate effectively
- Manage time effectively

Before approving the request, supervisors should consider changes needed to ensure their team continues to meet its objectives. Supervisors should ensure that the employee and work product will be managed as effectively as on-site employees.

The employee and supervisor must complete the Telework Agreement, Alternate Work Location Safety Checklist and Town Owned or Leased Equipment Provided to the Employee forms. The completed forms shall be submitted to the Human Resources Manager to be filed in the employee's personnel file. The agreement may be terminated by either the employee or supervisor.

## 5.6 Flexible Scheduling

Flexible work scheduling may be considered within the standard workweek so long as the standard hours in a workweek, normally 40, are not altered. Some examples are:

- Arrive earlier in the morning and leave earlier in the afternoon.
- Arrive later in the morning and leave later in the afternoon.
- Work four 10-hour days.
- Work four 9-hour days and one 4-hour day.
- Work some other similar permanent or seasonal scheduling option(s)
- 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, the supervisor may approve such only after consultation with the manager.

## 5.7 Travel Time

Under the provisions of the federal Fair Labor Standards Act, non-exempt employees who attend lectures, meetings, or training programs in another location and return home the same day will be paid for the time spent traveling to and from the other site. If the employee leaves from, or returns to, his/her home rather than the work location, the normal commute time to and from his/her regular work location may be deducted.

Travel that keeps an employee away from home overnight is paid during normal working hours on regular working days, and during corresponding hours on nonworking days. Travel away from home outside of regular working hours as a passenger on an airplane, train, boat, bus, or automobile is not considered compensable work time.

## 5.8 Compensatory Time

It is Town policy to provide Non-exempt employees compensatory time off in lieu of overtime pay at a rate of one- and one-half hours for every hour worked over 40 hours during a regular work week. Compensatory time is subject to supervisor approval.

An employee shall not accrue more than 80 hours of compensatory time. If 80 hours or more of compensatory leave has accrued, then overtime shall be paid.

The manager is responsible for limiting compensatory time accrual and shall report the accrual of any employee's compensatory time above 80 hours to the Town Council. Employees shall be paid the value of the accrued compensatory time upon termination of their Town employment at their final rate of pay concurrent with the final paycheck. As part of a supervisor's responsibility for meeting departmental budgetary limitations, he is also responsible for limiting compensatory time accrual to that end.

Hours worked does not include any hours paid, but not worked, as in Personal Time Off, holidays, or similar time off.

Department heads and superintendents may schedule personnel for comp time when necessary. Comp time will be held to an absolute minimum and will be reported on the employee time records as such. Any planned comp time will be discussed with the Town Manager prior to the work being accomplished. Employees may not work comp time without permission from their supervisor.

In order to control costs, employees may be asked to work a reduced schedule at the end of a work week to adjust for excess hours worked earlier in the work week. Similarly, employees may be asked to work a reduced schedule at the beginning of the week to adjust for excess hours anticipated later in the work week.

Compensatory time is accrued at one- and one-half hours for every overtime hour worked, and paid at the employee's regular rate of pay.

## 5.9 Overtime

Overtime will be paid out rather than earning compensatory time in the event that employees within a department are required to work due to staffing shortages. Staffing shortages are defined as having an active posted position opening. In the case of the Town Police, staffing shortages are also defined as having a newly hired employee in training at the police academy. A temporary increase in workload does not constitute a staffing shortage and any hours worked over 40 will be earned as compensatory leave.

## 5.10 On-Call Time

Some employees are assigned to standby and call back in the event they are needed ("standby status"). An employee assigned this status is expected to be available to report to work if contacted by an appropriate Town official or is otherwise notified of a problem within his or her area of responsibility. It is expected that if called, the employee will respond immediately.

An employee on standby status during weekends will receive two hours of pay for a Saturday and two hours of pay for a Sunday.

## 5.11 Emergency Call-Back

The Town will pay overtime rates for emergency situations, even if the employee does not actually work more than 40 hours in a week, where employees have emergency call-back work. The emergency overtime rates will only

apply to those hours worked on the emergency, plus one hour of travel time. Travel time will apply only if the employee is actually “called back” to work after clocking out for the day and leaving the work premises. Travel time will not apply if the employees are asked to remain on duty after their regular shift. Actual emergency hours worked and travel times will be noted on the time records as such by the supervisor.

Emergency Situations include, but are not limited to:

1. Blocked/Broken Sewer Line;
2. Blocked/Broken Water Line;
3. Pump Station Issues;
4. Snow/Ice Preparedness and/or Removal;
5. Storm situations where conditions if not corrected may be hazardous to citizens;
6. Police Department requests for assistance

The department head over the affected areas will assign the appropriate personnel for the situation. The department heads will coordinate with the Town Manager on any questionable situation.

The Town Manager may declare other events, not defined herein, as an emergency situation.

This does not apply to exempt employees.

## **5.12 Exempt Employees**

Employees classified as exempt under the federal Fair Labor Standards Act are not eligible for overtime pay.

## **5.13 Additional One-Time Payments**

The Town Council may grant a bonus to an employee to recognize superior service to the Town.

## **5.14 Deductions**

Certain payroll deductions are required by law and are automatically withheld from an employee’s check. These deductions include, but are not limited to: Federal Income Tax, FICA, Virginia Income Tax, Medicare, garnishments and retirement deductions. The Town may also adopt other programs and benefits, which can be paid for through payroll deduction with the employee’s written authorization. Employees who wish to discontinue voluntary deductions must do so in writing. Pretax voluntary deductions may not be discontinued until the next open enrollment date unless there is a qualifying event as defined by law.

## **5.15 Paydays**

Employees are to be paid every two weeks on a Thursday, via direct deposit. Each payday represents the wages earned through the end of the preceding pay period.

## **5.16 Advances**

There are no advances against wages not yet earned.

### 5.17 Personnel Records and Changes

Payroll and personnel records are kept on file in the Town Hall.

For the Town to maintain accurate personnel and payroll records for each employee, it is very important to notify Human Resources immediately if changes occur to any of the following: (1) address; (2) telephone number; (3) name or marital status; (4) number of dependents; (5) beneficiary; (6) employment status (from part-time to full-time, etc.); (7) any employee deduction information; (8) status of the employee’s driver’s license; and (8) the name of the person to be notified in the event of an emergency. Changes should be reported in writing.

The Town maintains a confidential personnel record on all active employees. Personnel records are retained for 5 years after an employee terminates his/her employment. Payroll records are retained for 5 fiscal years. Employees may view their own personnel records. This information is confidential and will not be released without the employee’s permission, subject to, and in accordance with, the Virginia Freedom of Information Act and the Privacy Protection Act of 1976.

The access, dissemination, and purging of information contained in the files shall be in accordance with the Privacy Protection Act of 1976 and the Virginia Freedom of Information Act.

## 6 ABSENCES FROM WORK

### 6.1 Annual Leave (VRS Plan 1 and Plan 2 Members)

Full-time employees will accrue paid annual leave for personal purposes at the following rates and shall be used on an hour-for-hour basis.

- 0-5 years (3.69 hours/2 weeks)
- 6 - 10 years (4.62 hours/2 weeks)
- 11-15 years (5.55 hours/2 weeks)
- 16 years or more (6.46 hours/2 weeks)

Annual leave shall be scheduled and approved in advance by the manager or supervisor. Annual leave shall not be used until all compensatory leave is used. Annual leave is not eligible at all times as the manager and supervisors have a primary obligation to ensure that the Town’s service to the citizens is carried out.

Employees with previous VRS service shall be credited for that service in the calculation of their annual leave time.

If a holiday is observed during an employee’s vacation leave, it is not counted as a vacation day.

Each employee may accumulate a maximum of 288 hours of annual leave. Annual leave above that amount shall expire and may not be accumulated or used. If an employee resigns in good standing, the employee will receive 100% of their accrued annual leave, up to the 288 maximum. In good standing is defined as:

- a. Resigned with at least a 2-week written notice (4-week notice for exempt personnel); or
- b. Was terminated because of a Reduction–In–Workforce, or similar circumstance that was no fault of the employee (i.e. job elimination, etc.).

If an employee is terminated for cause (i.e. disciplinary, attendance, violation of Town policy, poor performance, etc.), or leaves/quits/resigns without proper notice, then he/she will forfeit any and all annual leave.

## 6.2 Sick Leave (VRS Plan 1 and Plan 2 Members)

Sick leave shall accrue at the rate of 3.69 hours per two (2) weeks for all employees, regardless of years of service. When taken, shall be used on an hour for hour basis. Sick leave may only be used to cover any absence from work because of a personal illness, injury, or physical incapacity (other than incurred in the line of duty) that prevents the employee from performing his/her job or exposure to contagious disease, when the employee's presence on duty would jeopardize the health of fellow workers or the public. Sick leave can be used for appointment for examination and treatment related to health and for illnesses or death of the immediate family. The "immediate family" includes: the employee's parents, spouse's parents, grandparents, spouse's grandparents, wife, husband, children, brother, sister, and any relative living in the employee's household.

When an employee is absent for sick leave they shall inform their supervisor at the earliest possible time, to assure full coverage of departmental work responsibilities. Failure to notify your supervisor could result in disciplinary actions.

If an employee is away from work for three (3) or more consecutive workdays, the employee will be asked to provide a doctor's statement and may be asked to provide a written release from his physician to return to work. An employee must keep his supervisor informed of his work status through regular contact.

An illness, injury, or medical condition that involves inpatient care in a hospital, hospice, or residential medical care facility, or an incapacity that lasts more than three consecutive workdays may be considered a serious health condition and subject to the requirements of the Family Medical Leave Act if at any time the Town employs 50 employees within 75 miles of a worksite. The Town may also designate leave as FMLA leave without a request from the employee.

A request for extended sick leave use may require verification by the department head concerned and/or the Town Manager, such as a certificate of a physician describing the disability, stating that the employee was unable by reason of the disability to be on duty during the entire period covered by the application and where extended absence is indicated, the probable duration of the disability

Each employee may accumulate a maximum of 520 hours of sick leave. Sick leave above that amount shall expire and may not be accumulated or used. All accumulated sick leave is forfeited upon separation from employment with the Town. Accumulated sick leave is not compensable for any reason.

## 6.3 Paid Time Off Plan (Hybrid Employees Only)

Hybrid Employees will receive PTO in place of annual leave and sick leave. Holidays and all other forms of paid leave are separate and remain outside the PTO structure. VRS Plan 1 or Plan 2 will follow the traditional vacation and sick leave policies.

VRS Hybrid plan employees that are absent due to sickness, injury or disability will use PTO or other accrued leave for the first 7 consecutive calendar days. At the end of the initial 7-day period, the employee will then transition into Short Term Disability where they will continue to receive 60% of their weekly salary up to 125 working days from the initial day absent.. Employee may supplement the remaining 40% of their pay with accrued PTO leave. Long-term disability may be available after short-term disability expires.

### 6.3.1 Paid Time Off

PTO is a single category of leave to be used in lieu of traditional annual leave and sick leave. When properly scheduled, PTO can be used for vacations, personal or family business, illness, family illness, doctor's appointment, and other reasons. PTO cannot be used until it has been accrued and must be approved in advance for planned absences. For unplanned absences, employees must follow department procedures for supervisor approval.

PTO is accrued based on years of service for each completed pay period of service at the following rates:

- 0-5 years (5 hours/2 weeks)
- 6 - 10 years (6 hours/2 weeks)
- 11-15 years (7 hours/2 weeks)
- 16 years or more (8 hours/2 weeks)

The maximum amount of PTO hours that can be carried over each pay period are 520.

All unused PTO leave in excess of the carry over allowable is forfeited each pay period. It is the employee's sole responsibility to monitor his or her PTO balance. Any notices received by management are a courtesy and do not relieve employees of the responsibility to monitor PTO balances.

When employees have exhausted all of their PTO, they may be placed in a leave-without-pay status. During the time employees are in a leave-without-pay-status, they will not accrue PTO leave.

### 6.3.2 Use of PTO

PTO leave shall be scheduled and approved in advance by the manager or department head. PTO leave shall not be used until all compensatory leave is used. PTO leave is not eligible at all times as the manager and supervisors have a primary obligation to ensure that the Town's service to the citizens is carried out.

Request for PTO in case of illness should follow **6.15 Notice of Supervisor**.

If an employee resigns in good standing, the employee will receive up to the 288 of accrued PTO. In good standing is defined as:

- a. Resigned with at least a 2-week written notice (4-week notice for exempt personnel); or
- b. Was terminated because of a Reduction-In-Workforce, or similar circumstance that was no fault of the employee (i.e. job elimination, etc.).

If an employee is terminated for cause (i.e. disciplinary, attendance, violation of Town policy, poor performance, etc.), or leaves/quits/resigns without proper notice, then he/she will forfeit any and all PTO leave.

## 6.4 Exempt Employee Absences

If an exempt employee is absent for a portion of a workday, the federal Fair Labor Standards Act requires that the employee be paid full salary for the remainder of the day. If an exempt employee is absent a full day for sickness or other authorized reason, it is considered a paid leave absence and is subtracted from the appropriate leave accrual balance.

## 6.5 Leave of Absence

A leave of absence is defined as extended time off with or without pay (2 weeks or more), and is granted upon approval by the Town Manager, and the employee's department head. To be eligible for a leave of absence, the employee must be employed for 6 months. Failure to return to work at the end of the leave could result in discharge. The dates of the leave are to be defined when receiving approval. If that is not possible, the employee is required to call and speak to his/her supervisor regarding the status of the absence every Monday morning.

If the leave of absence is unpaid, it becomes Leave Without Pay and is covered under Section 6-13.

## 6.6 Donation of Leave Time

Accrued vacation leave may be donated from one employee (the donating employee) to another (the leave recipient) provided **all** of the following criteria are met.

- 1) Leave Recipient
  - a) Must have exhausted all accrued leave of any kind.
  - b) Leave must be for his/her own serious illness or the serious illness of a family member.
  - c) Leave must not be on an intermittent basis.
  - d) Must not be a Hybrid VRS Member which enables Short-Term and Long-Term Disability Leave. This only applies if a Hybrid VRS Member has reached their one-year eligibility anniversary.
  - e) Must have certification from a physician that he/she is unable to perform his/her job duties.
  - f) Must not have light duty assignment available or must have certification from a physician that he/she is unable to perform light duty.
  - g) Must not be on suspension or probation for any reason.
  - h) Must not have received a warning or any other disciplinary action (Chapter 12: DISCIPLINARY ACTION) for any situation relating to attendance and/or absenteeism during the previous 6 months.
  - i) Must submit a written request to receive donated leave.
- 2) Donating Employee(s)
  - a. Must get approval from supervisor prior to donating leave.

## 6.7 Family and Medical Leave

Section 825.108 of the Federal Medical Leave Act states that political subdivisions of the State, which would include counties, cities and towns are considered covered employers for FMLA purposes. However, section 825.108 (d) goes on to state that “employees of public agencies must meet all of the requirements of eligibility, including the requirement that the employer employ 50 employees at the worksite or within 75 miles.”

As of the date of the approval of this policy, the Town of Amherst does not employ 50 employees at any one worksite or within 75 miles, therefore, employees of the Town would not be eligible for FMLA. If at any time in the future, the Town’s employment number reaches 50 employees, the following provisions will be put in place.

### 6.7.1 Purpose

The purpose of this policy is to provide a leave of absence to eligible employees due to the birth, adoption or foster care placement of a child or the serious health condition (as defined in this policy) of the employee or an employee’s family member. In all events the Family and Medical Leave Policy will be administered in accordance with the requirements of the Family and Medical Leave Act of 1993 (“FMLA”), and any amendments or updates to same.

### 6.7.2 Eligible Employees

1. The employee must have been employed by the Town at least 12 months; and

2. The employee must have worked 1250 hours during the 12 months immediately preceding the start of the Family and Medical Leave.
3. The employee must work in an office or work site where 50 or more employees are employed by the Town within 75 miles of that office or work site. The distance is to be calculated by using available transportation by the most direct route.

### 6.7.3 Definitions

A “child” is defined as a son or daughter who is either under 18, or incapable of self-care, and for whom the employee has legal responsibility.

A “serious health condition” is defined as an illness, injury, impairment, or physical or mental condition that involves inpatient care in a hospital, hospice, or residential medical care facility; or continuing treatment by a health care provider.

“Continuing treatment” may be met through (1) a period of incapacity of more than three consecutive, full calendar days plus treatment by a health care provider twice, or once with a continuing regimen of treatment; (2) any period of incapacity related to pregnancy or for prenatal care; (3) any period of incapacity or treatment for a chronic serious health condition; (4) a period of incapacity for permanent or long-term conditions for which treatment may not be effective; or (5) any period of incapacity to receive multiple treatments (including recovery from those treatments) for restorative surgery, or for a condition which would likely result in an incapacity of more than three consecutive, full calendar days absent medical treatment.

If an employee asserts a serious health condition under the requirement of a “period of incapacity of more than three consecutive, full calendar days and any subsequent treatment or period of incapacity relating to the same condition,” the employee’s first treatment visit (or only visit, if coupled with a regimen of continuing treatment) must take place within seven days of the first day of incapacity.

If an employee asserts that the condition involves “treatment two or more times,” the two visits to a health care provider must occur within 30 days of the first day of incapacity.

“Periodic visits” for treatment of a chronic serious health condition are defined as at least twice a year.

### 6.7.4 When Leave is Available

Eligible employees may take up to 12 work weeks of Family and Medical Leave during the course of any 12-month period. The 12-month period restarts each January 1<sup>st</sup> and runs with the calendar year. If any Family and Medical Leave was taken in the same calendar year preceding a request for Family and Medical Leave, that previous leave is counted as part of the 12 work weeks.

Eligible employees are entitled to a total of 12 work weeks of unpaid leave during any 12-month period under the following circumstances:

1. For the birth and care of the newborn child of the employee.
2. When an employee adopts a child or accepts placement of a foster child.
3. When the employee or employee's child, stepchild, spouse or parent has a serious health condition.
4. For certain qualifying exigencies arising out of the fact that an employee’s spouse, son, daughter, or parent is on covered active duty or has been notified of an impending call or order to covered active duty in the Armed Forces.

For birth, adoption, or placement of a foster child, the leave applies equally to male and female employees. Leave for a child's birth, adoption or placement must be taken within 12 months of that event, and the right is forfeited if not taken during that time.

Spouses working for the Town are allowed an aggregate of 12 weeks Family and Medical Leave for birth or placement of a child, or to care for a sick parent. They cannot each take 12 weeks in this instance. Each is entitled to 12 weeks for their own serious health condition or to care for a child or spouse, provided Family and Medical Leave has not been taken during the previous 12 months.

Eligible employees are entitled to up to a total of 26 work weeks of unpaid leave during a single 12-month period to care for a spouse, son, daughter, parent, or next of kin who is a covered military service member recovering from a serious injury or illness incurred in the line of duty on active duty. Eligible employees on Military Caregiver Leave are entitled to a combined total of 26 work weeks of all types of FMLA leave during a single 12-month period which begins on the first day of the leave and ends 12 months later. If all 26 weeks are not used by the end of the 12-month period they are forfeited.

### **6.7.5 Notice of Leave**

If the need for leave is foreseeable, the employee must give the Town at least 30-days written notice of the necessity of the leave. If in the event of an emergency this is not feasible, the employee should give as much notice as is practicable.

Employees undergoing foreseeable medical treatment must make a reasonable effort to schedule the treatments so as not to unduly disrupt the Town's operations.

For leave of longer than 2 consecutive weeks, the employee is required to call and speak to his/her supervisor advising the supervisor of the status of the absence every Thursday.

### **6.7.6 Intermittent Leave**

Family and Medical Leave may be taken intermittently, or through the use of a reduced work schedule, whenever medically necessary to care for a seriously ill family member, or because the employee is seriously ill and unable to work. If intermittent Family and Medical Leave is for the birth or placement of a child, both the Town and the employee must agree to the arrangement.

Any time taken off not associated with the specific reason for the intermittent Family and Medical Leave will not be covered under FMLA.

### **6.7.7 Certification By a Physician or Health Care Provider**

For leave for a serious health condition, whether the employee's or a family member's, the Town will require the employee to provide medical certification of the need for the leave, including information about the condition and its consequences. The certification will affirm the employee's inability to perform his/her job and, for a family member, that the employee is needed to provide this care.

If Family and Medical Leave is intermittent, medical certification will be required every 3 months. The Town may require, at its own expense, a second opinion to verify the certification.

### **6.7.8 Accrued Leave**

Accrued leave and Family and Medical Leave run concurrently. Employees are required to first use all accrued leave, the remainder of Family and Medical Leave is unpaid unless the employee qualifies for Short Term Disability or Long-Term Disability.

Employees on Family and Medical Leave are not entitled to accrue annual or sick leave.

### **6.7.9 Unemployment**

An employee is not entitled to unemployment compensation during Family and Medical Leave.

### **6.7.10 Benefit Protection**

The Town will maintain the employee's health insurance while on leave as if the employee had not taken leave, up to a maximum of 12 weeks, or 26 weeks in the case of a military caregiver. If the terms of the health insurance are modified for active employees, those modifications will also apply to any employee on leave.

Other insurance benefits provided at the expense of the Town will be continued while on leave as if the employee had not taken leave, up to a maximum of 12 weeks, or 26 weeks in the case of a military caregiver. If the terms of any insurance benefits are modified for active employees, those modifications will also apply to any employee on leave.

The employee is required to continue paying the premiums for any optional employee paid insurance while on leave. Premiums must be paid monthly by the date Human Resources designates.

If the employee fails to return to work for reasons other than serious medical problems, or other factors beyond the employee's control, the Town will require reimbursement for any insurance premiums it paid during the leave. Nothing in this policy limits the Town's right or discretion to amend, modify, interpret, or eliminate any insurance or benefit plans or policies at any time.

### **6.7.11 Reinstatement/Return to Position**

At the end of the leave, the employee will be returned to his/her former position, or a position with equivalent benefits, pay, and conditions of employment. The Town will require the employee to provide a doctor's certification of his/her fitness to perform the duties of his/her job.

### **6.7.12 Additional Family and Medical Leave**

The Town maintains the discretion to allow leave in excess of that which is allowed under the Family Medical Leave Act, or in other circumstances that do not satisfy the requirements of this policy, when the Town Manager (or Town Council in the case of an additional leave request from the Town Manager) deems such leave appropriate. For any such leave the Town will not necessarily maintain the employee's medical insurance coverage or return the employee to his or her former position as described in Sections 6-5:8 and 6-5:9 of this policy.

\*Any changes to the FMLA made by the United States Department of Labor/Wage and Hour Division will take precedence over any policies written here. All such policies are posted in all employee common areas for review.

## **6.8 Bereavement Leave**

Full-time employees are eligible for up to 3 workdays off with pay for a death in their immediate family (father, mother, sister, brother, children, spouse, grandchildren, grandparents, or spouse's parents.) The eligible days are to be taken consecutively and must include the day of the funeral. No other days are eligible for bereavement leave. If additional days of leave are required, or if leave is desired for a death of someone other than immediate family, such leave is subject to approval by the employee's department head. Leave granted in addition to bereavement leave or granted for deaths other than the family members listed above, will be charged against annual/PTO leave.

Bereavement leave is not deducted from any accrued leave. Paid bereavement leave requires that the employee is not on leave without pay.

The Town may require verification of the need for bereavement leave.

## 6.9 Jury Duty

It is the duty of every citizen to perform jury duty when called. To encourage employees to fulfill this obligation, the Town will grant leave with full pay for employees called to jury duty.

Employees must notify their supervisor that they have been called for jury duty. The employee must report to work at his/her usual time when the jury is not in session. If the employee is dismissed from jury duty so that there are at least 3 hours remaining in the regularly scheduled workday, the employee should report to work unless the employee is informed by a supervisor that he/she is not needed.

## 6.10 Subpoenaed Witness

Any employee subpoenaed as a witness shall receive full pay with the approval of the Town Manager or department head.

Employees must notify their supervisor that they have been called as a witness. The employee must report to work at his/her usual time when not required to be in court. If the employee is dismissed so that there are at least 3 hours remaining in the regularly scheduled workday, the employee should report to work unless informed by a supervisor that he/she is not needed.

## 6.11 Military Leave

Regular full-time and part-time employees, including those serving a probationary period, are eligible for military leave with or without pay. Temporary employees are not eligible for military leave with pay.

### 1) Military Leave With Pay

- a. Employees who are former members of the armed services or members of the organized reserve forces of any of the armed services of the United States, National Guard, or naval militia shall be entitled to a military leave of absence, with pay, for the purpose of federally funded military duty to include training duty. This leave shall not exceed 15 consecutive calendar days for training duty and 5 working days for emergency active duty each Federal fiscal year, October 1 – September 30.
- b. Employees who are called forth by the Governor pursuant to the Code of Virginia shall be entitled to leave with pay for the period of the ordered absence.

### 2) Military Leave Without Pay

- a. Any employee who is a member of the armed services or is a member of the organized reserve forces of any of the armed services of the United States, National Guard, or Naval Militia

(collectively “military duty”) is entitled to a leave of absence with the Town without the loss of seniority or accrued leave.

- b. An employee who is leaving for military duty must provide the Human Resources Manager with advance notice, either orally or in writing, unless it would be unreasonable to provide notice or the employee is precluded by military necessity from providing such advance notice.
- c. Status of Benefits for Employees on Leave Without Pay for Active Military Service
  - i. Service Credit – An employee on extended leave without pay due to active military service shall be treated as though they were continuously employed for purposes of determining benefits based on length of service, such as the annual leave accrual.
  - ii. Compensatory Leave – Any compensatory leave balance shall be paid in accordance with Section 13.5 at the time the employee is placed on military leave without pay.
- d. Reinstatement from Active Military Service
  - i. Conditions – Upon satisfactory completion of active military service, the employee is entitled to reinstatement to the position in which the person would have been employed if the continuous employment of such person with the employer had not been interrupted by such service, the duties of which the person is qualified to perform.
  - ii. The period an individual has to report back to work or notify the Town of their intent to return to work after military duty is based on the time spent on military duty, as follows:
    - i. For service of less than 31 days, the employee must return at the beginning of the next regularly schedule work period on the first full day after release from service taking into account safe travel home plus an 8 hour rest period.
    - ii. For service of 31 to 180 days, the employee must submit a request for reinstatement with the Human Resources Manager no later than 14 days following the completion of military duty.
    - iii. For service 181 days or more, the employee must submit a request for reinstatement with the Human Resources Manager no later than 90 days following the completion of service.
  - (ii) Conditions stated in above shall not apply when Town circumstances have changed making it impossible or unreasonable to reinstate the employee. Reinstatement may not be possible when:
    - i. The employee’s former position has been abolished at the time of reinstatement: The employee may be placed in a position of comparable status and pay to the one previously held. Employees selected to fill vacancies created by persons on military leave may be employed on a temporary basis.
    - ii. Such a position is not available: The employee shall be considered affected by a reduction in force and the provisions of the Town’s Layoff Policy shall apply.

## 6.12 Parental Leave

The Town offers Parental Leave and Pay for employees who have been employed with the Town for a minimum of 12 consecutive months, following the birth or adoption of a child younger than 18 years old. Parental Pay is the benefit of pay during the Parental Leave period based on the eligibility criteria outlined in this policy.

Parental Leave is available to an employee who has given birth to or is adopting a child. If both parents of such child are eligible employees, each shall receive parental leave, which may be taken concurrently, consecutively, or at different times. To qualify for Parental Leave under terms of an adoption an employee must be newly matched with a child for adoption by approved legal methods.

Parental Leave and Pay is not available in circumstances where a child is not newly matched for adoption, for example, when a step-parent is adopting a partner's child. Employees must provide relevant and timely notification of their intention to begin Parental Leave.

Eligibility Criteria:

1. Full-time employees will be entitled to 6 weeks (240 hours) of Parental Leave.
2. Full-time employees will be eligible for 6 weeks (240 hours) of Parental Pay at a rate equal to 60% of their gross salary.
3. Should the Town's employee count reach 50 employees within 75 miles of a worksite, Family and Medical Leave will run concurrent to the Adoption Leave. (See Section 6-5.) An employee may take the six-week Adoption Leave and still have 6 weeks of unpaid Family and Medical Leave available.
4. Employees must have been continuously employed on a full-time basis by the Town for a minimum of 12 months before they are eligible for Parental Leave.
5. Only one period of Parental Leave can be taken regardless of whether a employee gives birth to more than one child or whether more than one child is placed for adoption as part of the same agreement.
6. Parental Leave/Pay can only be granted once every 12 months, beginning with the first day of work after an Parental Leave. Example: If an employee takes Adoption Leave for 6 weeks and returns to work on October 31, the 12-month calendar for eligibility for a second adoption leave will begin on November 1. A second Parental Leave would not be available until November 1 of the following year.
7. Adopters can choose to start their leave either on the date of the child's placement, or from a fixed date that can be up to one week prior to the expected date of placement.
8. Employees are allowed to use leave time to supplement Parental Pay.
9. If additional time off is needed either before or after the six-week (240 hour) period, the employee, with the approval of his/her supervisor may use leave time if available.
10. The employee will update his/her supervisor of his/her intended date of return to full duty at least one week before returning.
11. A Parental Leave Application must be completed and approved by the Supervisor and Town Manager prior to leave being taken.

### 6.13 Leave without Pay

Leave without pay must be approved in advance of the absence. The Town Manager may grant leave without pay for an excused absence when the employee does not have sufficient leave credit to cover an absence during a given pay period. The Town Manager may grant leave without pay to employees subject to the following conditions:

1. Leave without pay shall be granted only when it is in the interests of the Town to do so.
2. All annual, sick, PTO and compensatory leave balances must be exhausted before leave without pay can be approved.
3. Leave without pay shall not extend beyond 6 months.
4. Such leave does not constitute a break in service but changes the anniversary date if the employee is absent for more than twelve (12) weeks.

At the expiration of leave without pay, the employee shall be reinstated in the position vacated or in any other vacant position in the same class, if possible.

Annual, sick and PTO leave credit shall not accrue during leave without pay.

Failure on the part of the employee to report to work at the expiration of leave without pay may be cause for disciplinary action, up to and including dismissal.

While on leave without pay, the employee will be required to reimburse the Town for the costs of benefits for the portion of time out on leave during a pay period.

## 6.14 Holidays

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

1. Any day on the Governor of Virginia's planned holiday schedule.
2. Any other day so appointed by the Town Council.

Whenever a holiday falls on a Saturday, the Friday before the actual day shall be observed as the holiday; whenever a holiday falls on a Sunday, the Monday after the actual day shall be observed as the holiday.

Employees who are scheduled by the supervisor to work a full 40-hour work week during a week in which a holiday or holidays falls may receive his or her base rate of pay and additional pay at his/her base rate for the number of holiday hours worked. For example, if one holiday reduced the number of workweek hours to 32 hours and an employee worked 40, that employee would get their regular pay plus an additional eight hours at regular rate. If two holidays within a workweek reduced the work week to 24 hours and the employee worked 40 hours, that employee would get their regular pay plus an additional 16 hours at regular rate.

Exempt supervisors will not be eligible to receive monetary compensation for a holiday.

## 6.15 Notification Of Supervisor

When an employee is unable to report for work, or expects to be late, he/she is required to notify his/her supervisor **BEFORE** the shift, giving the reason for the absence or tardiness. This enables the supervisor to reschedule personnel and rearrange the work assignment. Paid leave may or may not be authorized. If the employee has difficulty reaching the supervisor, the employee should leave a voicemail message reporting the absence or tardiness but continue to attempt to contact the supervisor. The message should include a telephone number where the supervisor can call the employee back. Text messaging is an acceptable alternative to notifying the supervisor. The employee is responsible for notifying his/her supervisor about absences or tardiness. The employee should always personally call the supervisor and speak directly to them. Do not ask someone else to call the supervisor, or to notify the supervisor of the employee's absence, unless the employee is physically unable to do so.

In the case of absences exceeding one workday, the employee is required to keep in contact with the supervisor daily, unless other arrangements have been made with the supervisor, or until the supervisor has been made aware of the approximate date of return. Leave without permission or notification is strongly discouraged by the Town and may result in disciplinary action.

An absence of three consecutive days may require a doctor's note prior to the employee's return to work, in order to document that he/she was under doctor's care during the absence and the doctor has cleared him/her to return to full duty. The employee may not be allowed to return to work until the note is presented to Human Resources and/or the supervisor. All doctor's notes should be forwarded to the main office immediately for placement in confidential files. Doctor's notes should never be kept in any files other than those maintained in the Town Hall.

For authorized leaves of absence with no definite return date such as Leave Without Pay, or Workers Compensation cases, and/or for absences of longer than 2 consecutive weeks, the employee is required to call and speak to the supervisor advising of the status of the absence every Monday.

## **6.16 Attendance**

Dependability is one of the most important characteristics we look for in our employees. Regular and on-time attendance is expected for efficient operations of the Town. Excessive absenteeism and tardiness is not only inconvenient but also cause costly problems. While it is recognized that an occasional illness or extenuating personal reason may cause unavoidable absence from work, tardiness or early departure, regular on-time attendance is required.

Days missed for being out sick with a doctor's excuse, jury duty, bereavement leave, severe weather (for non-emergency personnel) and/or any other reason that the Town may deem excusable will be excused absences. All other days missed will be considered unexcused.

Any employee that fails to maintain an acceptable attendance record may be subject to disciplinary action, up to and including termination of employment.

Excessive absenteeism is defined as three unexcused absences in a one year rolling period and is grounds for termination.

Regular attendance will be a part of an employee's annual evaluation and therefore, may result in an unsatisfactory review and failure of the employee's supervisor to approve an annual merit increase in salary as approved by Council.

Excessive absenteeism may also result in the Town requiring reimbursement of benefits paid on behalf of the employee. Please see 7.7 Reimbursement of Paid Benefits.

## **7 BENEFITS**

### **7.1 Purpose**

A paycheck does not represent the entire compensation provided by the Town. Not only do employees receive wages, but they also receive a number of employee benefits that, while not paid in cash, still represent real dollars to employees and their families. These benefits include items such as paid leave, various types of insurance, retirement plan, and others. Benefits that result in paid time off from work are covered in CHAPTER 6: ABSENCES FROM WORK. Chapter 7 addresses the remaining benefits. If employees have any questions concerning any of the employees' benefits, please ask a supervisor or the Human Resources Department.

## 7.2 Health Insurance

The Town currently offers “employee only” health insurance to full-time employees at no cost to the employee. Coverage is available the first of the month following employment. Employees should complete enrollment forms as soon as possible after employment so that they may be enrolled according to plan requirements.

Coverage continues to the last day of the month during which the employee leaves the employment of the Town, or change status from full-time to part-time, seasonal, or temporary.

The Town provides the opportunity for an employee to purchase dependent or family coverage for dependents of the employees. If an employee elects dependent coverage, he/she must pay the difference between the single premium and the dependent coverage premium elected. This purchase will be made through payroll deduction on either a pre-tax or after-tax basis. Open enrollment is offered April 15<sup>th</sup> to May 15<sup>th</sup> of each year. During the contract year changes may be made only when a qualifying event occurs. Qualifying events include: marriage, divorce, birth of a child, or loss of eligible coverage with another plan.

Town health insurance automatically covers dental and vision insurance.

## 7.3 COBRA

The Consolidated Omnibus Budget Reconciliation Act of 1985 (“COBRA”) allows covered employees or qualified beneficiaries to continue their health insurance coverage and/or dental insurance coverage at full cost for a specified period of time if a “qualifying event” occurs. A qualifying event can be: termination of employment, change of employment status from full-time to part-time, employee death, divorce or legal separation, loss of status as a dependent child, and loss of dependent coverage if the employee becomes eligible for Medicare benefits. Please contact Human Resources to discuss continuation of health and/or dental insurance coverage should one of the qualifying events occur to the employee or a qualified beneficiary. This coverage is available only for a specified period of time, and the employee pays the full cost.

## 7.4 Employee Assistance Program

The Employee Assistance Program (EAP) is offered in addition to an employee’s health insurance. The EAP is a team of professionals dedicated to supporting employees with resources, tools and training that promote productivity and work-life balance.

The EAP offers articles, online tools, podcasts, seminars, and counseling services to address common work-life concerns, including:

- 1) Substance and alcohol abuse
- 2) Depression, stress and anxiety
- 3) Family and relationship issues
- 4) Child, elder and pet care referral resources
- 5) Retirement, wills and estate planning

## 7.5 Retirement Plan

All full-time employees must join the Virginia Retirement System as required by statute. Employees are required to furnish their supervisor an acceptable proof of age for retirement record-keeping purposes.

The Town pays the employer contribution under the retirement system and the employee is required by the Commonwealth of Virginia to contribute 5% of his/her salary by means of payroll deduction to the retirement system. In the event of an employee’s termination of employment, or death while employed by the Town, the

employee or his/her beneficiaries, spouse, minor child or parent may have rights to a refund of the employee contributions or a monthly benefit under the plan. Tax implications of receiving a refund should be discussed with a tax advisor.

All aspects of the VRS are governed by state statute and by the VRS regulations. Employees wishing to know more about the current policies, benefit levels, and other information about the VRS should consult the Town Treasurer.

## **7.6 Life Insurance & Accidental Death & Dismemberment Insurance**

The Town currently offers life insurance and accidental death and dismemberment insurance policies for full-time employees through the Virginia Retirement System at no cost to the employee. Coverage is available on the first of the month following the date of employment. In the event of a natural death the amount of coverage is twice the annual salary rounded up to the nearest thousand. If the event is accidental the death benefit is four times the annual salary rounded up to the nearest thousand.

For the accidental loss of one limb or the sight in one eye, the dismemberment benefit is equal to your creditable compensation rounded to the next highest thousand. For the accidental loss of two or more limbs, total loss of eyesight or the loss of one limb and the sight in one eye, the benefit is equal to your creditable compensation rounded to the next highest thousand and then doubled.

Coverage continues to the last day of the month during which the employee leaves the employment of the Town, or change status from full-time to part-time, seasonal or temporary.

Employees are required by the Virginia Retirement System to designate beneficiaries for this benefit. All beneficiary designations and changes must be submitted through the employee's online VRS account. Human Resources can no longer accept paper designations or changes.

## **7.7 Reimbursement of Paid Benefits**

Benefits are provided by the Town in exchange for work provided by the employee. If at any time an employee is on a leave without pay status or excessive absenteeism results in an employee's leave bank to be emptied, the employee will be required to reimburse the Town for the portion of the benefits paid on their behalf for the time they were without pay.

For example, an employee is out of work without leave to cover their time for a period of three days (24 hours) during an eighty (80) hour, bi-weekly pay period. Twenty-four hours of unpaid leave during an eighty-hour pay period is thirty percent of required work missed. Therefore, the employee will be required to reimburse the Town thirty percent of the cost of benefits for that pay period.

The employee will be provided a breakdown of payment required and how the Town derived that figure.

## **7.8 Worker's Compensation**

### **7.8.1 Disclaimer**

This Policy is not a substitute for the Virginia Workers' Compensation Act ("the Act") as found in Title 65.2 of the Code of Virginia. It is also not a substitute for competent legal advice on matters relating to workers' compensation and employment law in Virginia. While every effort has been made to present the contents of the Act as accurately as possible, it should be noted that this document includes information, which may be subject to change as a result of future legislative action by the Virginia General Assembly. Case law rulings related to workers' compensation may also impact the contents and interpretation of the information contained in this Policy. For a more complete resource on workers' compensation law, employees are referred to the full text of the Act.

## 7.8.2 Worker's 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.

## 7.8.3 Reporting

Employees are required to immediately report **ALL** workplace injuries, conditions, or illnesses, to their immediate supervisor. All incidents shall be reported no matter how insignificant, and regardless of whether medical treatment is necessary or sought.

The Town of Amherst is covered under VaCorp for Worker Compensation Benefits. As part of this coverage, employees are required to call the Company Nurse Hotline for ALL injuries, no matter how insignificant. Company Nurse is available 24/7 and will advise the injured employee what to do next in the case of injury as well as advise the employee to go to an urgent care facility or to the emergency room. Even if there is no treatment necessary, Company Nurse will record the incident and notify the Human Resource Department in the event that the injury were to require treatment at some time in the future. Late reporting by the employee can result in delayed or denied workers' compensation benefits.

## 7.8.4 Medical Treatment

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

Immediately upon receipt all medical bills, reports and other medical correspondence shall be forwarded to VaCorp. Employees should bring these documents to the Human Resources Department to forward to VaCorp. All medical facility inquiries shall be referred to VaCorp.

Only VaCorp has the authority to authorize treatment, testing, physical therapy, surgery, change in physician, or second opinion, etc.

The employee shall cooperate with VaCorp. This includes supplying disability slips, medical information, keeping appointments, etc. Additionally, the employee shall keep his/her supervisor and/or Human Resources Department advised of his/her work status and cooperate with return-to-work efforts.

## 7.8.5 Wage Loss Benefits

An employee is not entitled to lost wage compensation for the first 7 days of incapacity resulting from a work-related disability. The Act includes weekends/holidays in this count, and these days do not need to be consecutive. The employee may use accrued leave for absences from work in the first 7 days. If the employee chooses not to use accrued leave, this will be excused leave without pay. It is the employee's responsibility to notify his/her supervisor regarding how he/she would like to charge the first 7 days missed from work. If a designation is not made, the employee's accrued leave will be used.

Seasonal, temporary, and part-time employees who are not eligible for annual leave, and employees who do not have earned leave available, will not receive pay for absences from work in the first 7 days. If the absence is longer than 7 days, the employee will receive compensation benefits from VaCorp in accordance with the provisions of the Worker's Compensation Act.

If the work-related disability constitutes a "serious health condition," it will be designated under the Family Medical Leave Act, ("FMLA") which will run concurrently with workers' compensation benefits.

While receiving workers' compensation benefits, any voluntary deductions are the responsibility of the employee. Premiums for Town-provided benefits will be paid for by the Town for a maximum of 12 weeks.

Accrued leave may be used for a disability resulting from a denied workers' compensation claim and, if the disability constitutes a "serious health condition," the disability will be designated under FMLA.

### **7.8.6 Return To Work – Light/Modified Duty**

The Town shall make every effort to provide light/modified duty, where practical, for employees with temporary restrictions resulting from a work-related or non-work-related disability. Light duty must be defined by the employee's physician and, therefore, 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. Light duty is not guaranteed in every department or for every situation and should not cause an undue hardship on the department or the Town.

If an employee refuses a light/modified assignment that has been approved by his/her treating physician and is within his/her capabilities, the employee's workers' compensation lost time wages benefits may be jeopardized. Additional information concerning worker's compensation coverage, regulations, and entitlements is available from Human Resources.

## **7.9 Unemployment Insurance**

The Town provides unemployment insurance to full-time employees in accordance with state law. Its purpose is to provide temporary income for workers and their families when, through no fault of their own, they have lost their job. Eligibility for, and extent of, unemployment compensation are governed by the provisions and laws of the Commonwealth of Virginia. Applications for benefits are made through the local office of the Virginia Employment Commission.

## **7.10 Supplemental Insurance**

The Town offers its full-time employees the opportunity to purchase supplemental insurance through payroll deduction. Employees are responsible for the full cost of the premiums of these policies, which will be paid through payroll deduction on either a pre-tax or after-tax basis.

Employees should complete enrollment forms as soon as possible after employment so that they may be enrolled according to plan requirements. Open enrollment is offered in June each year. During the contract year only those changes for reasons of a qualifying event may be made.

Human Resources maintains an updated list of supplemental insurance offerings and contacts.

## **7.11 Uniforms**

The Town will provide uniforms or a uniform allowance to employees as is deemed necessary by the Town in order to enhance uniformity of appearance and the ability of the public to recognize Town employees. Currently employees in the Police Department, Plants Department, and Maintenance Department are provided daily uniforms, although this is subject to change at the discretion of the Town Manager. The allowable expense for uniforms for each department will fall within the limits of the approved uniform line item of the department's budget.

When an employee leaves the employment of the Town, it is his/her responsibility to return all uniforms to the supervisor prior to the receipt of his/her final check. In the case of an employee who transfers into a position that does not require uniforms, he/she should return all uniforms to the supervisor on the first day of the new assignment.

### 7.12 Ongoing Education

The Town fully supports an ongoing education and training program in order to enhance the ability of employees to perform their duties in a safe and effective manner. Attendance will be required at safety training sessions. Hourly employees will be reimbursed for time required by their attendance beyond scheduled working hours, in accordance with the federal Fair Labor Standards Act and Town policies.

With the approval of the Town Manager or department head, the employee may receive authorized absence during duty hours to attend training sessions sponsored, or participated in, by the Town. Likewise, with the approval of the Town Manager or department head, reimbursement may be provided for reasonable expenses incurred in the participation in short courses, seminars, conferences, meetings, etc., pertaining to the employee’s responsibilities with the Town.

### 7.13 Tuition Reimbursement

The Town **may** offer tuition reimbursement for other job-related educational courses/classes. The employee **must** discuss and obtain approval for, the courses, with the department head and Town Manager **prior** to starting the course if possible reimbursement of the costs and expenses of the course by the Town is expected.

If approved, the cost of the course will be reimbursed provided the employee successfully completes the course. (This does not include the costs of books.) Successful completion is defined as:

1. A certificate of completion for a certificate course;
2. “PASS” for a “PASS/FAIL” course; or
3. “B” or better for a course in which a grade is earned.

The employee must complete an Education Assistance Agreement Form, which must be signed by the employee’s department head and the Town Manager prior to enrollment in classes. If an employee receives any education assistance, meaning payment for any classes relating to employment, and the employee terminates his/her employment, the following repayment schedule will apply:

<b>Time Elapsed from Education Assistance Payment Date to Termination Date</b>	<b>Percentage of Repayment Required</b>
12 Months or Less	100%
More than 12 Months but less than 18 Months	66%
More than 18 Months but less than 24 Months	33%

## 8 PERSONAL PROTECTIVE EQUIPMENT

### 8.1 Purpose

Proper Personal Protective Equipment (“PPE”) as is necessary for the employee to perform the essential functions of the job will be used and maintained. PPE is any material or device worn to protect a worker from exposure to, or contact with, any harmful substance or force.

The Town shall ensure that all Town-provided equipment is appropriate for the hazards employees face, and that the equipment is kept in a sanitary and reliable condition. The Town shall also ensure that all Town-provided equipment meets or exceeds federal or state safety standards and regulations. When an employee provides his/her own equipment, the Town shall ensure that the equipment is appropriate for the hazards the employee faces, meets federal and state safety standards and regulations, and that the equipment is kept in a sanitary and reliable condition.

## 8.2 Eye Protection

All employees are required to wear eye or face protection when exposed to hazards from flying particles, molten metal, liquid chemicals, acids or caustic fluids, chemical gases or vapors, or potentially injurious light radiation. Employees faced with hazards from flying particles shall wear eye protection with side protectors. Employees required to wear prescriptive lenses to correct vision must either wear eye protection with the prescription incorporated into the lens, or wear eye protection that can be worn over the prescription lenses without disturbing the position of either the safety lenses or the prescription lenses. The Town will provide non-prescription safety lenses for all qualifying employees and/or circumstances. Employees may be required to provide certification that their regular eyewear meets safety standards if so claimed. A doctor’s certification will be required for any exception to this policy.

Employees faced with the hazard of injurious light radiation shall follow the shade number guidelines enumerated in OSHA Standard CFR § 1910.133 (a) (5), et. seq.

All eye and protective devices shall comply with ANSI Z87-1-1989 “American National Standard Safety Requirements for Industrial Head Protection,” as stated in OSHA Standard CFR § 1910.135 (b) (2). Later standards issued by ANSI will be acceptable.

## 8.3 Head Protection

All employees working in construction environments, or who are otherwise faced with hazards, must wear a protective helmet (hard hat). If an employee is faced with an electrical shock hazard, a helmet that protects against shock hazards must be worn. Examples of such situations include, but are not limited to, working in and around heavy equipment; taking down trees; any overhead work; and working in excavation sites. Protective helmets will not be required if the worker is more than 30 feet away from an active job site. The Town will provide the appropriate protective helmets for all qualifying employees and/or circumstances.

All protective helmets shall comply with ANSI Z87-1-1986 “American National Standard Practice for Occupational and Educational Eye and Face Protection,” as stated in OSHA Standard CFR § 1910.133 (b)(1). Later standards issued by ANSI will be acceptable. In addition, eye and face protection must be distinctly marked to facilitate identification of the manufacturer. Employees may be required to provide certification that their personal headgear meets safety standards if so claimed. A doctor’s certification will be required for any exception to this policy.

## 8.4 Foot Protection

All employees working in areas where heavy materials or equipment are used, or where falling objects present a hazard, are required to wear shoes with steel toe protection. Most Public Works employees fall into this category.

Foot shields that can be worn over shoes will be provided for employees who may be faced with occasional job hazards where foot protection will be required. Crew supervisors, superintendents, or department heads will be responsible for ensuring that the employee obtains foot shields, when necessary, from the Safety Officer. The Safety Officer is responsible for seeing that the foot shields are worn properly.

All protective footwear shall comply with ANSI Z41-1991 “American National Standard Personal Protection-Protective Footwear,” as stated in OSHA Standard CFR § 1910.136 (b) (1). Later standards issued by ANSI will be acceptable.

The Town, in its efforts to ensure that workers are provided adequate foot protection, will reimburse each worker for their purchase of personal protective footwear that meets ANSI standards. The maximum amount reimbursed to each employee each fiscal year will be determined by Town Council as part of the budget setting process. The Safety Officer, superintendent, or department head will ensure that the footwear meets the standards before approving reimbursements under this policy. Receipts and tags to support the purchase are required from the employee.

### **8.5 Safety Vests**

Safety vests that meet federal and state regulations are to be worn when workers are working in and around public streets. These vests will incorporate reflective material such that the workers can be seen either in a work zone or working along the streets. Workers are required to secure the vests and any loose straps so the vests do not pose a hazard for getting caught in equipment or machinery in use on the job. The Town will provide the appropriate safety vests for all qualifying employees and/or circumstances. Other OSHA approved attire may be substituted for vests as deemed appropriate by the Town Manager.

### **8.6 Hearing Protection**

Employees are required to wear hearing protection in required situations in accordance with federal and state regulations. The Town will provide the appropriate hearing protection for all qualifying employees and/or circumstances.

### **8.7 Respiratory Protection**

Employees are required to wear respiratory protection in required situations in accordance with federal and state regulations. The Town will provide the appropriate respiratory protection for all qualifying employees and/or circumstances.

### **8.8 Training**

Employees will be trained in the use of any PPE they will be required to use. Employees shall know when PPE is necessary, what types of PPE to use, how to properly use the PPE, limitations of the PPE, and the proper care, maintenance, useful life, and disposal of PPE.

Employees must demonstrate that they understand the training given to them prior to performing work requiring PPE. Training sessions will be documented, with the record to include attendance, date, time, duration, and subject of the training.

### **8.9 PPE Maintenance**

Employees are required to wear PPE whenever appropriate to comply with all federal and state regulations. PPE should fit properly. If PPE does not fit, return the ill-fitting PPE to the Safety Officer for replacement.

Prior to each and every use, employees must check all PPE issued to them to ensure that there are no obvious defects. If a PPE becomes defective, the employee should return the defective PPE to their supervisor for replacement.

Loss or misplacement of PPE is no excuse for not wearing PPE. Each employee is responsible for the PPE assigned to them and should make sure the PPE is available for use at all times.

## **9 TRAVEL AND REIMBURSEMENT**

### **9.1 Eligibility for Travel Expenses**

All elected and appointed officials and employees of the Town who by reason of membership in professional organizations, attendance at meetings, enrollment in work-related training sessions, or other requirements of their official duties to travel, are eligible for travel reimbursements as defined by this section.

Employees must receive pre-authorization from their immediate supervisor prior to planning travel to ensure the travel is business-related and allowable in the budget.

Travel that is not properly pre-authorized or demonstrates inappropriate stewardship of public funds may be required to be reimbursed to the Town, as determined by the Town Manager.

### **9.2 Scope of Allowable Expenses**

The following expenses qualify to be covered by Town funds upfront or by means of reimbursement as hereinafter defined:

- 1) Automotive Travel:
  - a. When an employee of the Town is required to travel for events that are work related, it is preferred that a Town vehicle be used.
  - b. When a personal car is used, mileage will be paid at the current rate of reimbursement authorized by the Internal Revenue Service.
  - c. Reimbursement for personal vehicle use will only be granted if a Town vehicle was unavailable at the time of travel. If a Town vehicle is available and the employee still prefers to use their personal vehicle, reimbursement for mileage will not be approved.
  - d. For purposes of mileage reimbursement, mileage will be determined as beginning and ending at the employee's primary work location.
  - e. Parking expenses for parking decks in major cities will be reimbursed by the Town, regardless of whether the vehicle used is personal or Town-owned. A receipt must be provided.
- 2) Registration Fees for conferences, training, meeting, etc. Confirmation of registration, along with conference/meeting agenda should be included credit card receipt or reimbursement request.
- 3) Hotel Rooms:
  - a) The Town pays only for the single-room rate for one employee. If the employee chooses to take a significant other, child, friend, etc. on the business travel then the employee is responsible for the difference between the single-room rate and the actual costs of the additional person and accommodation.

- b) It is preferred that employees of the same gender, traveling together, will share accommodations. Exceptions are subject to a case-by-case review by the Town Manager.
- c) If two employees share a double room, the Town will pay the double-room rate for the shared room.
- d) Any personal entertainment purchased (i.e. in-room movies, etc.) should not be submitted for reimbursement or charged to the Town credit card.
- e) For single-day events, lodging will not be approved for events less than one and one-half hour of travel time between the Town and the event site.
- f) All lodging should be charged on a Town credit card with appropriate confirmations and receipts attached to credit card statement.

4) Meals Allowance:

The Town uses per diem for employee travel related meals and incidental travel expenses. No receipts are required.

The allowance for Meals and Incidental Expenses (M&IE) is determined by the per diem rates set forth by the United States General Services Administration (GSA) and based on the primary travel destination. It is broken down into allowances for breakfast, lunch, dinner, and incidentals (i.e., tips, bellhop, house cleaning service). The traveler may spend the meal allowance in any combination so long as the total trip allowance for meals is not exceeded. The allowance for incidental expenses is allowed for each day of travel. Travel days are reimbursed at 75% of the total allowable per diem based on destination. Tips are included in the per diem amounts and not reimbursed separately.

Travelers should access per diem rates for the date of their actual travel at the following link:  
<https://www.gsa.gov/travel/plan-book/per-diem-rates>.

When meals are provided in conjunction with travel events, such as conference breakfast, lunch or social dinner, the applicable M&IE rate shall be reduced by the amount shown for the applicable meal(s) in the M&IE rate table as provided by the GSA. For example, if the M&IE rate table allows a \$59 total reimbursement (\$13/breakfast, \$15/lunch, \$26/dinner, and \$5/incidentals), and lunch was provided at no cost, the total allowable reimbursement for that day would be \$44 (\$59 - \$15 lunch).

If an employee is requesting a full day of per diem, the Town will require a copy of the conference/meeting agenda to ensure meals were not provided and full per diem is necessary.

5) Official Business Meeting Meals

- a) Business meetings where officials or employees are conducting Town business during mealtime are allowable.
- b) Employees are to use discretion and provide proper justification to the Town. The following documentation is required to be submitted with the meal receipt:
  - i) Explanation of the business purpose
  - ii) Names of all participating individuals including officials or employees
  - iii) Copy of itemized restaurant receipt
  - iv) Copy of credit card receipt

Reimbursement Procedures:

- 1) The employee must complete a travel reimbursement form as soon as practicable.
- 2) The employee submits the form which will list, purpose of travel, location of travel, days of travel and itemized list of reimbursement requests.
- 3) Appropriate itemized receipts are required for reimbursement, with the exception of meals, which is reimbursed on a per diem basis.

## 10 STANDARDS

### 10.1 Purpose

Standards are developed to make our interactions with others go more smoothly. These standards apply to all Town employees and, where appropriate, elected officials.

### 10.2 Customer Service

Providing the best possible service to our citizens and visitors minimizes complaints and provides quality and prompt service. If unable to resolve a customer's complaint, the complaint should be forwarded directly to the employee's supervisor or the department head that has the appropriate area of responsibility. Customer satisfaction is of utmost importance, and every employee and elected official is empowered to ensure that our customers' needs are met or exceeded in a timely and professional manner.

### 10.3 Communication

#### 10.3.1 Cell Phone Use

Personal cell phone use should be limited.

Cell phones should be "silent" during meetings and incoming calls should be allowed to go to voice mail.

Employees should not use **any** cellular phones (business or personal) while operating town vehicles or equipment or driving while conducting Town business unless the employee is utilizing hands-free equipment. If hands-free equipment is not available and the employee should receive a call, or need to make a call, while operating a vehicle or equipment, he/she should find a safe location to pull off the road, stop completely, and then return or make the phone call.

If an employee is involved in an accident while conducting Town business and/or driving a Town vehicle while using a cell phone, any costs, damages, fees, and fines will be the sole responsibility of the driver/employee. The driver/employee will also be subject to disciplinary action up to, and including, termination of employment.

It is illegal to text while driving in Virginia and any fees or fines associated with this infraction, or an accident related to this infraction, will be the sole responsibility of the driver/employee. An employee cited for texting while driving while conducting Town business, or while operating Town vehicles or equipment, will be subject to disciplinary action up to, and including, termination.

#### 10.3.2 Video/Voice Recording

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To protect the privacy of employees, residents, and town operations, this policy establishes

guidelines for video and audio recording on town property and during the conduct of town business.

Employees are prohibited from video recording or voice recording while on town property or conducting town business unless expressly authorized. The only exception to this policy is for supervisors who may record meetings with subordinates for official documentation purposes.

This policy applies to all employees, contractors, and volunteers conducting work on behalf of the town.

1. Employees may not use personal or town-issued devices to record conversations, meetings, or activities while on town property or engaged in town business.
2. Exceptions to this policy include:
  - o Supervisors recording meetings with subordinates for official documentation.
  - o Authorized law enforcement personnel conducting official investigations.
  - o Recordings required by law, court order, or as part of an official town function (e.g., public meetings).
3. Any unauthorized recording may result in disciplinary action, up to and including termination.

Violations of this policy will be subject to disciplinary action per town policies and procedures.

### **10.3.3 Business Telephone Etiquette**

1. Greet the caller. Be sure to include “Town of Amherst” and the employee’s name.
2. Smile, the caller can hear it in the employee’s voice.
3. If the caller has a question and the employee knows the answer or can schedule the request; do so. Avoid transferring callers if at all possible.
4. If the employee needs to transfer the call, get the caller’s name and company/organization before transferring the call.
5. If the person the caller wants is not available, ask if they would like to leave a message on that person’s voicemail, otherwise take a written message.

If the employee takes a message, include:

- a. Caller name and company/organization;
  - b. Date and time of call;
  - c. Phone number where the caller can be reached if they want the call returned; and
  - d. Short message if the caller wants to provide one.
6. Make sure the written message gets to the recipient in a timely manner.

### **10.3.4 E-Mail And USPS Mail**

Town e-mail accounts are primarily for the use of the Town for Town business, and for the public to contact the Town concerning service or other requests. The Town holds exclusive right to e-mail communications to and from Town e-mail accounts.

Employees and elected officials are asked that friends and family contact personal e-mail accounts rather than Town accounts.

Personal USPS mail is to be directed to an individual's home address.

#### 10.4 Professional Image Dress/Uniform Code

The Town expects employees to dress appropriately in business or business casual attire Monday through Thursday. Because our work environment serves customers, professional business casual attire is essential. The Town prides itself on the professional atmosphere it maintains, and the positive image that employees present as representatives of the Town. We need to continue to present a professional image toward clients and the public. It is important that employees use their best judgment in dressing appropriately.

Examples of appropriate business casual attire are listed below, as well as some more common items that are not appropriate for the Town office environment. The list is not intended to be all-inclusive. Rather, these items should help set the general parameters for proper business casual wear and allow employees to make intelligent judgments about items that are not specifically addressed.

**Slacks/pants** – Slacks are acceptable, provided they are clean and wrinkle free. Leggings, accompanied by a long top or jacket are acceptable if the top completely covers the buttocks area. Inappropriate items include jeans, sweat pants, shorts, athletic pants, and pants that are excessively worn, faded, or revealing.

**Shirts** – Casual shirts with collars (for men), polo shirts, sweaters, and turtlenecks are acceptable. Inappropriate items include t-shirts, sweatshirts, tank tops, halter tops, tube tops, shirts with lettering or logos (other than Town of Amherst), midriff tops, athletic tops, and clothes that are sheer/revealing or otherwise distracting. No clothing with profanity, advertisements, alcohol, tobacco or political endorsements are allowed.

**Dresses/skirts** – Casual dresses and skirts with modest hemlines are acceptable. As a general guideline, hemlines should reach the tip of the employee's longest finger. Dresses that are sleeveless are acceptable. Mini-skirts and spaghetti straps or strapless dresses are inappropriate.

**Footwear** – Loafers, boots, flats, heels, pumps, and casual shoes or sandals (for women) are acceptable. Men must wear socks.

**Personal Hygiene** – Maintaining well-kept hair, good personal hygiene, wearing appropriate undergarments and general neat grooming is expected.

Town Police, maintenance, and plants may be issued workplace uniforms that shall be worn while performing official duties. The style and material of the uniforms shall be determined by the department head or Chief of Police.

The Town currently has a dress practice allowing more casual clothes to be worn on Fridays (Casual Fridays) or the last working day of the. Jeans are acceptable on Casual Fridays. Sweatshirts and t-shirts can be worn on Casual Fridays. Clean athletic shoes, or more casual shoes, can also be worn on these casual days. Casual dress is also acceptable on snow days.

The Town Manager has complete discretion over what is deemed appropriate or inappropriate for work.

Employees who violate the dress code will be disciplined per the Town policy outlined in CHAPTER 13: DISCIPLINARY POLICY.

## 10.5 Operation Of Town-Owned Vehicles

### 10.5.1 Take-Home Vehicles

Permission to take home Town vehicles is predicated upon the need to be able to respond to emergencies after hours and on weekends. Employees who are assigned take-home vehicles are required to respond to emergencies after hours.

Other Town employees may be assigned take-home vehicles at the discretion of Town Council.

### 10.5.2 Rules Of The “Road”

1. Notify Human Resources immediately if there is any change in the status of a driver’s license, and/or if the employee is convicted of any driving offense.
2. Smoking is prohibited in all Town vehicles.
3. Passengers who are not Town employees are not permitted in Town vehicles without Town Manager permission.
4. All traffic regulations shall be observed, including stopping at stop signs and slowing down for caution signs.
5. A safe following distance (3-second rule) shall be maintained in between vehicles.
6. Under all conditions, the vehicle will be operated at a speed that will allow the unit to be brought to a stop in a safe manner.
7. All drivers shall slow down for wet and slippery road conditions.
8. Running over loose objects/debris on the roadway surface shall be avoided.
9. The driver shall have a clear view of the path of travel while in motion.
10. Stunt driving and horseplay shall not be permitted or tolerated.
11. All employees operating or riding in Town vehicles are required to wear safety belts.
12. Pedestrians have the right of way.
13. No running vehicle shall be left unattended unless located in zone where flashing/safety/strobe lights are in use.
14. When the engine is cut off the driver shall take the keys whenever he/she leaves the vehicle, regardless of the length of time or purpose for leaving the vehicle.
15. No vehicle in need of repair shall be operated.
16. Town vehicles may not be used for pleasure or private business
17. Town vehicles may not be used during the workday to go to lunch or on other personal business.

18. At all times conserve fuel and time by adhering to defined routes and avoiding backtracking or going to an out-of-the-way location for breaks.

19. Any damage to a Town-owned vehicle must be reported to the supervisor immediately and no later than within 24 hours of occurrence.

20. Any accident involving a Town-owned vehicle must be handled as defined by the Town's drug and alcohol policy. (See Section 16.)

IMPORTANT NOTE: The Police Department has its own vehicle policy, and the policy listed here is not applicable to the Police Department.

## 10.6 Smoking Policy

For health and safety reasons, smoking in vehicles is **prohibited**.

It is expected that individuals be considerate of other people and equipment when choosing to smoke, especially in confined areas.

Infractions will subject the offender to disciplinary action up to, and including, termination of employment.

## 10.7 Internet And Computer Resource Policy

The Town recognizes the use of the internet as an important business tool; however, misuse of the internet can have an adverse impact on employee productivity and the reputation of the Town. Employees must comply with appropriate procedures, and use the internet in an acceptable manner that will not create unnecessary business risk for the Town. If an employee is unsure about what constitutes acceptable internet usage, then he/she should ask his/her supervisor for guidance and clarification.

Town employees are expected to use the internet responsibly and productively. Internet access is limited to job-related activities. Personal internet use is not permitted except for reasonably brief periods of time during an employee's lunch break or other periods when an employee is not expected to be actively performing his/her official duties. All work done on Town computers is Town property and can be accessed by the Town Manager at any time.

Job-related activities include research and educational tasks that may be found via the internet that would help an employee perform job functions.

Unacceptable use of the internet also includes, but is not limited to:

1. Using the internet for personal gain or profit.
2. Visiting internet sites that contain inappropriate, offensive, or disrespectful material.
3. Sending or posting discriminatory, harassing, or offensive messages or images on the internet or via the Town's email service.
4. Perpetrating any form of fraud or software, film, or music piracy.
5. Stealing, using, or disclosing passwords without authorization.
6. Accessing files or data without authorization.
7. Revealing confidential information about the Town.

8. Representing yourself as someone else.
9. Giving the false impression that one is representing, giving opinions, or otherwise speaking on behalf of the Town.
10. Sending or posting information that is defamatory to the Town, its services, employees, and/or customers.

All users have a responsibility to use the Town's computer resources and the internet in a professional, lawful, and ethical manner. If an employee fails to comply with this policy, he/she will face disciplinary action up to, and including, termination of employment.

## 10.8 Firearms

The Town prohibits employees from possessing firearms on Town property. This prohibition applies to firearms openly carried, as well as properly-licensed concealed-carry firearms. In accordance with Virginia Code section 15.2-915, the Town does not prohibit an employee or elected official from storing a lawfully-possessed firearm and ammunition in a locked private motor vehicle on Town property.

The Town's firearm prohibition does not prohibit a law-enforcement officer from acting within the scope of his duties or prohibit the Town Manager from authorizing qualified individuals from possessing firearms on Town property for security purposes.

## 10.9 Confidential Information

Confidentiality is the responsibility of every employee and elected official of the Town. Information acquired by reason of an employee's public position should never be discussed outside of the realm of the position. Confidential information acquired by reason of an employee's public position, and not available to the general public, should not be used for personal economic benefit or that of another party or to harass, intimidate, or defame another individual. Misuse of confidential information will lead to discharge.

## 10.10 Practice Of Ethical Behavior

Unethical actions, or the appearance of unethical actions, are unacceptable under any conditions. The policies and reputation of the Town depend to a very large extent on the following considerations.

Each employee and elected official must apply her/his own sense of personal ethics, which should extend beyond compliance with applicable laws and regulations in business situations, to govern behavior where no existing regulation provides a guideline. It is each individual's responsibility to apply common sense in business decisions where specific rules do not provide all the answers.

In determining compliance with this standard in specific situations, an employee should ask himself/herself the following questions:

1. Is my action legal?
2. Is my action ethical?
3. Does my action comply with Town policy?
4. Am I sure my action does not appear inappropriate?

5. Am I sure that I would not be embarrassed or compromised if my action became known within the Town or publicly?
6. Am I sure that my action meets my personal code of ethics and behavior?
7. Would I feel comfortable defending my actions on the 6 o'clock news?

An employee should be able to answer “yes” to all these questions before taking action.

The supervisor and/or department head is responsible for the ethical business behavior of her/his subordinates. All courses of action suggested must be weighed carefully in ethical as well as economic terms, and final decisions must be based on the guidelines provided by this policy, as well as a personal sense of right and wrong.

### **10.11 Compliance With Laws, Regulations, And Town Policies**

The Town does not tolerate the willful violation or circumvention of any Federal, state, local, or foreign law by an employee or elected official during the execution of that person's responsibilities for the Town. Nor does the Town tolerate the disregard or circumvention of Town policy or engagement in unscrupulous dealings. Individuals should not attempt to accomplish by indirect means, through agents or intermediaries, that which is directly forbidden.

Implementation of the provisions of this policy is one of the standards by which the Town will measure the performance of all levels of employees.

### **10.12 Conflict Of Interest**

Employees and/or elected officials should not expose themselves to, or become involved in, situations that could result in actual or perceived conflicts of interest with the Town. In their dealings with, and on behalf of the Town, employees and/or elected officials will exercise the utmost good faith in all transactions touching upon their duties. Employees and/or elected officials will be held to a strict rule of honesty and fair dealings between themselves and the Town.

A conflict of interest is defined as any activity, transaction, or relationship which is, or has the potential to be, inconsistent with, or opposed to, the best interest of the Town.

Except as approved by the Town Manager in writing, employees should not:

1. Engage in outside business ventures or employment that interferes with their duties or their efficiency as an employee of the Town
2. Engage in any other employment, or in a private business, or in the conduct of a profession during the hours he/she is employed to work for the Town.
3. Engage in any activity that is in competition with the Town and its mission.
4. Have a substantial interest in any firm that supplies goods or services to the Town.
5. Receive gifts, favors, or services from private persons, corporations, or officers or agents of persons or corporations having dealings with the Town, in accordance with Virginia Code § 2.2-3103 *et seq.*
6. Engage in any conduct that will likely be in violation of the Virginia Conflict of Interest Act, Virginia Code § 2.2-3100 *et seq.*

The following are the responsibilities of all employees:

1. Employees of the Town should recognize the Town as their primary employer. As such, they should not be engaged in activities that compete with the Town or seek to gain personally from their relationship with the Town.
2. Employees should disclose any conflicts of interest and/or discuss with their supervisor possible conflicts with which they may become involved.

An employee may take part-time jobs elsewhere if, in the opinion of the department head, there is no conflict with working hours or the interests of the Town. The Town Manager must be informed of all outside employment.

Employees who are involved in conflicts that have not been approved by the Town Manager may be subject to the full range of disciplinary action.

### 10.13 Rules Of Conduct

The Town has established rules and regulations, which must be complied with for the safety and well-being of employees. Most work exposures are in view of the public and, therefore, conduct shall be acceptable at all times. Employees are expected to comply with these rules and offenders will be disciplined.

For the maintenance of good conduct, the Town relies primarily upon the integrity and self-restraint of its personnel. The necessary rules are administered fairly and consistently through the disciplinary action procedure. Any employee who feels the facts and circumstances of his/her situation have not been fairly presented may appeal this decision through the steps defined in Chapter 11. The following types of behavior will lead to disciplinary action:

1. Insubordination by failure to carry out responsibilities of the employee's job, or refusal to carry out definite assignments and instructions as directed by the supervisor.
2. Repeatedly failing to follow the appropriate chain of command when discussing employee issues. Failing to follow the appropriate chain of command includes, but is not limited to, reporting an employment or personnel matter directly to a member of Town Council or the Mayor.
3. Insubordination by use of profane or abusive language to embarrass, ridicule, or degrade a supervisor, employee, or citizen.
4. Consistently failing to accomplish work assignments in a reasonable time frame, or other unsatisfactory job performance such as performance of unacceptable work in quantity and/or quality.
5. Excessive loafing or wasting time, including excessive socializing or interfering with the work of others during work hours.
6. Engaging in personal business or other pursuits during working hours.
7. Sleeping or loafing on the job during working hours.
8. Improper use of the time clock or time sheets, including failure to clock in or out or clocking in or out for another employee.
9. Failure to report to work or notify supervisors within department guidelines of a request for absence.
10. Habitual or excessive absenteeism and/or tardiness.
11. Failure to report immediately a personal accident or injury involving work or use of a Town vehicle or equipment.

12. Revealing Town information of a confidential nature to unauthorized persons.
13. Use of Town personnel, equipment, and/or vehicles for personal reasons.
14. Permitting someone who is not employed by the Town to drive or ride in Town vehicles, use Town equipment, or loiter on Town premises.
15. Removal of any Town equipment or material from Town property without permission of the Town Manager or department head.
16. Engaging in horseplay or practical jokes.
17. Careless or reckless driving of Town vehicles.
18. Smoking or striking an open flame in any area where flammable materials are used, or in unauthorized smoking areas.
19. Violating or disregarding safety rules and common safety practices contributing to unclean, unsanitary, unhealthy, or unsafe conditions in the performance of Town work and services.
20. Failure to wear personal protective equipment and use proper equipment when safety conditions require them in accordance with the policies of the Town and applicable regulatory agencies.
21. Entering a Town building or other Town property after regularly assigned work hours. (Employees may enter a Town building only for the purpose of visiting and conducting personal Town business.)
22. Leaving work areas, walking off the job, or leaving work site during work hours without permission from the supervisor.
23. Falsification of records or reports, including time records, leave records, job applications, pay or reimbursement vouchers.
24. Sabotaging operations of the Town; e.g. making intentional errors or deliberately restricting output.
25. Unapproved or unauthorized solicitation or distribution of literature on Town property (whether for a charity or not).
26. Gambling on Town property (not including friendly sporting bets for small amounts, provided the activity does not interfere with efficient operations).
27. Engaging in any relationship that affects an employee's ability to aptly accomplish the requirements of their job.
28. Unlawful, immoral, indecent, or improper behavior while in the performance of Town work or services.
29. The use of language, whether verbal or in writing, which is intended or perceived to insult, offend, or be derogatory to someone because of their race, color, ethnicity, national origin, culture, creed, political affiliation, age, disability, sex or marital status which is insulting, offensive, or derogatory to someone's race, color, ethnicity, national origin, culture, creed, political affiliation, age, disability, sex, or marital status.
30. Harassing, cursing, threatening, assaulting, or intimidating citizens, visitors or other employees.
31. An act of violence or a documented threat of violence toward another individual.

32. Consumption, being under the influence, or selling of alcohol or controlled substances on Town property during the work schedule. Town employees are subject to random testing, in accordance with the drug and alcohol testing program adopted by the Town.

33. Gross negligence, misuse, theft, willfully damaging, or maliciously hiding of Town or another employee's personal property.

34. Conviction in a court of law of any criminal offense that, in the discretion of the Town, makes the person an undesirable employee or poor employee risk in the conduct of work and services for the Town.

35. Dishonestly, withholding information, or lying.

This listing illustrates the types of misconduct that will lead to disciplinary action, but this listing is not exhaustive or all-inclusive. The Town reserves the exclusive right to consider and possibly initiate disciplinary action in any circumstance for any conduct deemed by department heads, the Town Manager, or Town Council not to be in the best interest of the Town.

## **11 HARASSMENT POLICY**

### **11.1 Purpose**

The Town is committed to having a diverse workforce with all employees and elected officials being valued for their individual capabilities and contributions, complying with all federal, state, and local laws on equal employment opportunity, and providing a workplace free from tensions involved in conduct that does not relate to the Town's operation. In particular, the hostile atmosphere created by non-work-related conduct including ethnic, racial, sexual, or religious remarks, animosity, unwelcome sexual advances, requests for sexual favors, or other similar conduct is not permitted. Harassment based race, color, ethnicity, national origin, culture, creed, political affiliation, age, disability, sex, marital status or any other grounds will not be tolerated.

Harassment arises from the dynamics of the workplace and can be based on nuances, subtle perceptions, and implicit communications. Conduct that may rise to the level of harassment includes verbal remarks (epithets, derogatory statements, slurs, jokes), physical contact (assaults, physical interference with movement or work, touching), visual displays (displaying of printed or photographic materials, objects), and other actions that may be considered demeaning or hostile.

The purpose of this policy is to promote a positive working environment for all employees and elected officials by defining and discouraging harassment, and to give guidelines to elected officials, supervisors, and employees in the event harassment occurs. References to "employee" also refer to elected officials and references to employment refer to elected officials' responsibilities as a member of Town Council and/or the committees on which they serve.

### **11.2 Harassment**

Harassment is unwelcome conduct that is based on race, color, religion, sex (including pregnancy), national origin, age, disability, or genetic information. Harassment becomes unlawful where:

1. Submission to such conduct is either explicitly or implicitly made a term of condition of employment;
2. Submission or rejection of such conduct is used as a basis for employment decisions;
3. The conduct is severe or pervasive enough to create an intimidating, hostile, or offensive work environment and/or unreasonably interferes with work performance.

Anti-discrimination laws also prohibit harassment against individuals in retaliation for filing a discrimination charge, testifying, or participating in any way in an investigation, proceeding, or lawsuit under these laws; or

opposing employment practices that they reasonably believe discriminate against individuals, in violation of these laws. (See CHAPTER 15: RETALIATION.)

Harassment towards or by any Town employee is prohibited. The Town will not tolerate harassment in the working environment and acknowledges that such conduct violates state and federal laws. If an employee feels that he/she has been harassed, he/she should report it immediately (see Section 12-3: VIOLATIONS).

Offensive conduct may include, but is not limited to:

1. Offensive jokes;
2. Slurs;
3. Epithets or name calling;
4. Animosity;
5. Physical assaults or threats;
6. Intimidation;
7. Ridicule or mockery;
8. Insults or put-downs;
9. Offensive objects or pictures; and
10. Interference with work performance.

Harassment can occur in a variety of circumstances, including, but not limited to, the following:

- 1 The harasser can be the victim's supervisor, a supervisor in another area, an agent of the employer, a co-worker, or a non-employee.
- 2 The victim does not have to be the person harassed but can be anyone affected by offensive conduct.
- 3 Unlawful harassment may occur without economic injury to, or discharge of, the victim.

### 11.3 Violations

An individual who believes that this policy is being violated, whether by a coworker, supervisor, manager, elected official, or vendors, consultants, contractors, funding sources, and/or any other parties with a business relationship with the Town, should:

1. Inform the offending person(s) that the conduct is unwelcome; and/or
2. Immediately contact one of the persons below with whom the employee feels the most comfortable. Complaints may be made verbally or in writing to:
  - a. The employee's immediate supervisor;
  - b. The employee's department head;
  - c. The Human Resources Department; and/or
  - d. The Town Manager.

Employees are not required to make complaints to any person whom the employee believes is causing, or contributing to cause, the perceived problem. Complaints involving the Town Manager, Mayor, a Council Member or individuals with a business relationship with the Town shall go directly to the Town legal counsel.

The individual wishing to make a complaint will need to provide the following information:

1. Name and job title.
2. Name of the person or persons committing the harassment.

3. The specific nature of the harassment, including how long it has gone on and any negative action(s) taken against the individual as a result of the harassment, or any threats made against the individual as a result of the harassment.
4. Witnesses to the harassment, if any.
5. Whether or not the harassment has been reported previously, and if so, when and to whom.

## 11.4 Investigation Of Harassment Complaints

Complaints will be promptly and thoroughly investigated, and disciplinary actions taken if the charge is founded. If it is determined that a violation has occurred, appropriate relief for the individual(s) bringing the complaint and, if the person(s) who violated the policy are employed by the Town, appropriate disciplinary action against the violator(s) will follow.

When any employee of the Town makes an allegation of harassment, the person to whom the complaint is made shall immediately prepare a written report of the complaint and forward it to the Town Manager. The written report should contain the information listed above, as provided by the employee. The Town Manager may investigate the complaint, or delegate another employee or employees to investigate the complaint at his/her discretion. The Town Manager may also delegate the investigation to outside parties, such as the Town legal counsel, should he/she feel that is necessary.

Complaints will be handled in a manner consistent with the Town grievance policy. The Town Manager will have the discretion to call a panel hearing in a manner consistent with the grievance policy of the Town, if necessary. In addition, employees involved in a harassment complaint maintain their access to the grievance procedures of the Town.

The investigator shall make and keep a written record of the investigation, including notes and verbal responses made to the investigator by the person making the complaint, the person or persons against whom the complaint was made, any witnesses, and any other person contacted by the investigator in connection with the investigation. The investigation should be completed within 5 workdays following the receipt of the complaint, although extensions may be granted by the Town Manager under extenuating circumstances.

Based upon the report of the investigation, the Town Manager shall determine whether the conduct of the person against whom a complaint has been made constitutes harassment. In making the determination, the Town Manager shall look at the record as a whole, and at the totality of circumstances, including the nature of the conduct in question, and the context in which the conduct occurred. The determination of whether harassment occurred will be made on a case-by-case basis.

If the Town Manager determines that the complaint of harassment is founded, he/she shall take, or cause to be taken, immediate and appropriate disciplinary action, including discharge, against the employee guilty of harassment. In the case of a non-employee, the Town Manager will take action as deemed appropriate to preserve a positive working environment for Town employees.

Determinations of disciplinary action, if taken, will be made on a case-by-case basis.

The employee who brought the complaint will be provided information on the outcome of the investigation. In the case of the allegation of harassment being made by an elected official, the investigation will be delegated to the Town legal counsel and/or other outside parties should he/she feel that is necessary. The method of investigation and any actions taken will be left to the discretion of the Town legal counsel.

In all cases, the Town will make follow-up inquiries to ensure that the harassment has not resumed.

## 12 DRUG AND ALCOHOL POLICY

### 12.1 Purpose And General Policy

The Town recognizes that alcohol and drug abuse are serious problems. The Town's goal is to establish and maintain a safe and healthy working environment, free from drug and alcohol abuse, and to protect the safety of the public while providing the highest quality of service. While elected officials are not specifically covered under this policy, they should comply with the Town's goals.

The Town is committed to assisting employees who may be experiencing problems with drugs or alcohol. The desire to assist employees does not relieve the Town of the responsibility to maintain a drug-free workplace. The use of alcohol, illegal drugs, or the misuse of prescription drugs is not acceptable in the workplace. Such behavior affects job performance and can create a danger to the public and co-workers. In addition, the use of illegal drugs is not acceptable at any time or place. All Town employees are required to follow the policy and regulations pertaining to a drug-free workplace.

Violation of this policy and regulations will subject the employee to the full range of disciplinary action.

### 12.2 Employee Responsibilities

1. While on duty, no employee shall unlawfully be under the influence of, use, consume, possess, purchase, sell, dispense, distribute, manufacture, or display any alcoholic beverages, narcotic drug, amphetamine, barbiturate, marijuana, or any other controlled substance, as defined in Schedules I through V of Section 202 of the Controlled Substances Act (21 U.S.C. § 812), and as further defined by Federal regulation at 21 CFR § 1300.11 through 1300.15. No employee will violate any federal or state criminal drug statute at any time.
  - a) "Workplace" is defined to mean any site for the performance of work by the employee, including but not limited to, any Town building or premise; any Town-owned vehicle or equipment; any building or premise used by the Town for Town business; and any non-Town property during any Town-sponsored or Town-approved activity, event, or function. "Workplace" also includes all Town-owned property such as, but not limited to, offices, desks, lockers, safes, file cabinets, toolboxes, etc.
  - b) The term "on duty" includes working time, break time, mealtime, any time on Town property, and any time attending a Town function except for Town-sponsored functions where alcohol is served as part of the function. The Town does not authorize or condone the excessive or irresponsible consumption of alcoholic beverages at Town-sponsored or business-related events.
  - c) The term "under the influence" includes not only obvious impairment but having a level of illegal drugs or alcohol in the body that produces a positive result in a drug or alcohol test.
  - d) The term "illegal drugs" as used in this policy includes not only any drug which is not legally obtainable, but any controlled substance for which the employee does not have a lawful prescription, or which the employee is using in a non-prescribed manner.
2. As a condition of employment, each employee shall abide by the terms of this Town policy and regulations as a drug-free workplace.
3. If an employee is taking a prescribed or over-the-counter drug that may affect the employee's ability to perform his/her duties safely and effectively, the employee is expected to discuss the situation with his/her supervisor.
4. 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.

5. As a condition of employment, each employee shall notify his or her supervisor of his or her conviction of any criminal drug statute no later than 5 days after such conviction.
6. No employee shall represent the Town in an official capacity while impaired by alcohol, illegal drugs, or medication.
7. No employee will engage in the use of illegal drugs or substances.
8. 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 his/her department head, or Town Manager.
9. All supervisory employees (at all levels) are responsible for enforcing Town policies, including this policy. Any illegal involvement with drugs by such a supervisory employee, whether on or off duty, would impair his or her ability to enforce these policies, in addition to the other harmful effects of such illegal activities.
10. If an employee is determined to be illegally involved with drugs or alcohol, he or she will be discharged.
11. All Town work sites and all Town-owned property are subject to drug detection inspection at the discretion of the Town. All employee desks and other spaces on the Town premises remain Town property and are subject to searches.
12. As a security matter, the Town maintains the right to carry out reasonable searches of individuals or their personal property while on Town property. This applies to employees and contractual employees, as well as others who come on Town premises.
13. Employees shall notify their supervisors in writing, no later than five calendar days if convicted of violating:
  - 1) a criminal drug law, based on conduct occurring in or away from the workplace; or
  - 2) an alcoholic beverage control law or law which governs driving while intoxicated, based on conduct occurring in or away from the workplace.

### **12.3 Drug And Alcohol Testing**

Drug and/or alcohol tests may be required in the following cases:

- 1) Where an applicant for any Town position has been given a conditional offer of employment subject to passage of a drug test;
- 2) Where there is reasonable suspicion that any Town employee, regardless of position, is using or is under the influence of illegal drugs or alcohol while on the job;
- 3) Random
- 4) Post accident
- 5) Reasonable suspicion
- 6) Return-to-duty
- 7) Follow-up testing up selection or request of management

A refusal to immediately submit to a drug and/or alcohol test when requested under the circumstances above, or a verified finding of alcohol or illegal drug use, will result in the withdrawal of a conditional offer of employment or, if already employed, will subject the employee to the full range of disciplinary action.

The substances that will be tested for are: Amphetamines, Cannabinoids (THC), Cocaine, Opiates, Phencyclidine (PCP), Alcohol, Barbiturates, Benzodiazepines, Methaqualone, Methadone and Propoxyphene.

Testing for the presence of alcohol will be conducted by analysis of breath, saliva and blood. Testing for the presence of the metabolites of drugs will be conducted by the analysis of urine, blood, hair, saliva and sweat.

Any employee who tests positive may be immediately removed from duty, suspended without pay for a period of 30 days, referred to a substance abuse professional for assessment and recommendations, required to successfully complete recommended rehabilitation including continuing care, required to pass a Return-to-Duty test and sign a Return-to-Work Agreement, subject to ongoing, unannounced, follow-up testing for a period of five years and terminated immediately if he/she tests positive a second time or violates the Return-to-Work Agreement.

An employee will be subject to the same consequences of a positive test if he/she refuses the screening or the test, adulterates or dilutes the specimen, substitutes the specimen with that from another person or sends an imposter, will not sign the required forms or refuses to cooperate in the testing process in such a way that prevents completion of the test.

#### **12.4 Section 15-4: Guidelines For Reasonable Suspicion Testing**

It is not possible to describe here all of the situations in which the Town might believe there are reasonable grounds to suspect that an employee may be under the influence of drugs and/or alcohol in violation of this policy, but the following guidelines are provided as an aid in administering and enforcing the Town's Drug-Free Workplace Policy. These guidelines are not meant to cover every situation; however, they are designed to help avoid allegations of unlawful treatment. These guidelines cannot be used as a substitute for good judgment; each situation must be reviewed on a case-by-case basis. When a supervisor, in his or her judgment, has reason to believe that an employee has used, and is under the influence of, drugs and/or alcohol, the supervisor should ask his/her supervisor to corroborate the observations. The following examples, alone or in combination, may comprise reasonable suspicion. The list is not all-inclusive.

- 1) Unexplained inability to perform normal job functions.
- 2) Slurred speech.
- 3) Smell of alcohol or drugs on breath.
- 4) Any unusual lack of physical coordination or loss of equilibrium.
- 5) Unexplained hyperactivity or depression and withdrawal.
- 6) Unexplained inability to think or reason at the employee's normal level.
- 7) Bizarre behavior.
- 8) Possession of alcohol or illegal drugs; or the presence of alcohol, alcohol containers, illegal drugs, or drug paraphernalia in an area subject to the employee's control.
- 9) Information provided by a reliable and credible person.

If, during normal working hours, reasonable suspicion is confirmed, the department head shall contact the Town Manager to discuss the observations and to determine the appropriate course of action. If the employee is to be tested, he/she will be transported to the designated collection center for the necessary drug tests.

If the employee refuses to be tested, the employee shall be immediately suspended from duty without pay and transported home. The refusal of an employee to submit to a reasonable suspicion test shall comprise insubordination and will subject the employee to the full range of disciplinary action.

The supervisor who orders a drug test shall document in writing the conduct giving rise to the reasonable belief of drug use within 24 hours of the observed behavior. It should include any statements made, and any action taken, by persons involved in the incident. All records should immediately be sent to the Town Manager.

## **12.5 Penalties**

The first positive test result for drugs or alcohol for any employee may result in the employee being suspended from work without pay. The employee will be required to be evaluated by a Substance Abuse Professional for possible treatment. Once the Substance Abuse Professional states that the employee may return to work, the employee will be on probation for a minimum of 2 years. During this probation period, the employee will be subject to random drug and alcohol tests. However, nothing in this section shall prohibit the Town from instituting further penalties in lieu of, or in addition to, suspension and probation, up to, and including, termination of employment.

Any employee who tests positive for drugs and/or alcohol a second time while on probation will immediately be dismissed from employment with the Town. Any positive test result that occurs after completion of a probation period may be grounds for dismissal.

Employees within the Amherst Police Department are governed by Police rules and policies regarding drug testing and penalties for testing positive in addition to those contained herein.

## **12.6 Additional Considerations**

The Town recognizes that alcohol and drug abuse and addiction are treatable illnesses. We also realize that early intervention and support improve the success of rehabilitation. To support our employees, our drug-free workplace policy:

- 1) Encourages employees to seek help if they are concerned that they or their family members may have a drug and/or alcohol problem.
- 2) Encourages employees to utilize the services of qualified professionals in the community to assess the seriousness of suspected drug or alcohol problems and identify appropriate sources of help.
- 3) Ensures the availability of a current list of qualified community professionals.
- 4) Offers all employees and their family members assistance with alcohol and drug problems through the Employee Assistance Program (EAP).
- 5) Allows the use of accrued paid leave while seeking treatment for alcohol and other drug problems.

Treatment for alcoholism and/or other drug use disorders may be covered by the employee benefit plan. However, the ultimate financial responsibility for recommended treatment belongs to the employee.

## **13 DISCIPLINARY ACTION**

### **13.1 Disciplinary Action Policy**

Conduct and work performance are unacceptable, and the violation of rules and regulations established for employees will result in disciplinary action.

For many types of behavior, the Town’s disciplinary action policy gives the employee an opportunity to correct the behavior through counseling and warnings. The first time the employee exhibits the problem, the disciplinary action may be in the form of a verbal warning from his/her supervisor to improve. If the condition is not corrected or improved, further disciplinary action will be taken. If the problem is still not resolved, additional actions may be taken. Finally, the employee may be discharged if the problem has not been resolved.

All meetings with the employee will:

1. Identify the problem.
2. Explain the expected corrective action.
3. All conferences resulting in a written warning, probation, suspension, involuntary demotion, or discharge should include the employee, the supervisor, the department head, and the Human Resources Department.
4. The employee should sign any document placed in his/her personnel file.
5. Copies of any documentation placed in the employee personnel file will be given to the employee.

### 13.2 Forms Of Disciplinary Action

The disciplinary actions listed here are the most common forms of disciplinary action but are not exclusive. In addition, the Town reserves the right to skip any step(s) in the disciplinary action policy that it deems appropriate, take any of the listed or unlisted actions, combine actions, or otherwise discipline employees in accordance with applicable laws and regulations, as it may determine to be in the best interest of the Town. The amount and type of disciplinary action used in any particular situation will depend on the facts and circumstances. The department head, with the input of Human Resources, will determine the appropriate disciplinary action.

Disciplinary actions may include:

1. **VERBAL CONFERENCE:** Supervisor or department head may discuss conduct in private with an employee, with the discretion of keeping notes, with no record generated for the personnel files.
2. **VERBAL WARNING:** A conference will be held in private with the employee explaining the problem, and written documentation will be placed in the personnel file.
3. **INCIDENT REPORT:** Supervisor or department head will complete a written Incident Report which will be placed in the employee’s personnel file. This action may be in conjunction with any other action.
4. **WRITTEN WARNING:** Supervisor or department head will write a memo discussing the problem, expected resolutions, and time frame for the resolutions. The memo will be discussed in a conference with the employee, and placed in the employee’s personnel file.
5. **PROBATION:** An employee may be placed on probation if problem behavior warrants it in the opinion of the department head. This is a definite time period in which to correct the problem. A conference with the employee will be held prior to the probation and will be documented. A mid-term progress report will be part of the probation action and a date for this report will be established. The Town Manager or Police Chief must concur with the goals and the time frame of the probation.
6. **SUSPENSION:** An employee may be suspended either with or without pay, in accordance with the rules of the Fair Labor Standards Act. No employee shall be suspended without pay for a period of longer than 2 weeks. An employee suspended without pay will also not accrue any leave time for the month in which the suspension without pay occurs. A conference with the employee will be held prior to the suspension and will be documented. The conference may be waived if circumstances require an immediate suspension, in which case the circumstances will be documented. Department heads have the authority to suspend employees after conferring with the Town Manager.

7. INVOLUNTARY DEMOTION: Under certain circumstances the Town may demote an employee to a position on a lower grade. This action will take place in accordance with applicable laws and regulations, and a conference will be held prior to the demotion. A record of the conference will be made, along with the employee's new position. The Town Manager shall authorize demotions.

8. DISCHARGE: In a conference held prior to discharge the employee will be informed in writing of the reason for the discharge. The conference should be documented. The conference may be waived if circumstances require immediate discharge, in which case a record of the events will be generated. The Town Manager shall authorize all discharges. Examples of the types of behavior that are most likely to lead to discharge are described in Section 10.13: RULES OF CONDUCT.

## 14 Grievances

Code of Virginia § 15.2-1506, -1507 mandates that the Town will have in place a Local Government Grievance Procedure. Section 15.2-1507 specifies the general form of the grievance procedure.

The Town has a grievance procedure to afford an immediate and impartial method for the resolution of disputes arising between the municipality and Town employees. This procedure provides for an orderly resolution of complaints and grievances with complete freedom from discrimination, coercion, recrimination, restraint, or reprisal. Nothing in the grievance procedure shall be construed to modify the rights of the Town to justly hire, transfer, promote, or dismiss employees or determine the methods, means, and personnel with which operations are conducted.

The Town shall encourage resolution of employee problems and complaints, wherein employees can freely discuss their concerns with immediate supervisors and upper management levels. However, to the extent such concerns cannot be resolved, the grievance procedure shall afford an immediate and fair method of the resolution of disputes which may arise between the Town and its employees.

### 14.1 Definition of Grievance

- 1) A grievance is a complaint or dispute by an employee relating to his employment, including but not necessarily limited to:
  - a) Disciplinary actions, including disciplinary demotions, suspensions, and dismissals provided that such dismissals result from formal discipline or unsatisfactory job performance.
  - b) The application of personnel policies, procedures, rules, and regulations, and the application of ordinances and statutes.
  - c) Acts of retaliation as the result of the use of or the participation in the grievance procedure or because the employee has complied with any law of the United States or of the Commonwealth of Virginia, has reported any violation of such law to a governmental authority, has sought any change in law before the United States Congress or the General Assembly of Virginia, or has reported an incident of fraud, abuse, or gross mismanagement.
  - d) Discrimination on the basis of race, color, creed, religion, political affiliation, age, disability, national origin, or sex.
- 2) Management Rights and Prerogatives

Management responsibilities: Management reserves the exclusive right to manage the affairs and operations of local government. Accordingly, pursuant to Virginia Code section 15.2-1507(A)(2), the following complaints are nongrievable:

- a) Establishment and revision of wages or salaries, position classification, or general benefits.
- b) Work activity accepted by the employee as a condition of employment, or work activity which may reasonably be expected to be a part of the job content.
- c) The contents of ordinances, statutes, or established personnel policies, procedures, rules, and regulations.
- d) The methods, means, and personnel by which work activities are to be carried on, including but not necessarily limited to:
  - i) The provision of equipment, tools, and facilities necessary to accomplish tasks.
  - ii) The scheduling and distribution of manpower/personnel resources.
  - iii) Training and career development.
  - iv) The hiring, promotion, transfer, assignment, and retention of employees in positions within the Town's service.
  - v) Failure to promote except where the employee can show that established promotional policies or procedures were not followed or applied fairly.
  - vi) The relief of employees from duties or taking action as may be necessary to carry out the duties, of the Town in emergencies.
  - vii) Direction and evaluation of the work of Town employees.
  - viii) Termination, layoff, demotion, or suspension from duties because of lack of work, reduction in force, or job abolition, except where such action affects an employee who has been reinstated within the previous six months as the result of the final determination of a grievance. In any grievance brought under the exception to this paragraph, the action shall be upheld upon a showing by the Town that:
    - (a) There was a valid business reason for the action, and
    - (b) The employee was notified of the reason in writing prior to the effective date of the action.

## 14.2 Coverage of Personnel

- 1) Except as noted below, all non-probationary full-time and part-time employees are eligible to file grievances under this procedure. The following are the exceptions:
  - a) Key officials of the Town. For purposes of this procedure, a key official is defined as the head of any separate Town department.
  - b) Members of boards and commissions.
  - c) Employees whose terms of employment are limited by law.
  - d) Officials and employees who serve at the will or pleasure of an appointing authority.
  - e) Appointees of elected individuals or elected groups.
  - f) Probationary employees in matters concerning their dismissal. Probationary employees may, however, use this procedure for complaints or disputes other than dismissals that are determined to be grievable.

- g) Temporary, limited term, and seasonal employees.
  - h) Law enforcement officers as defined in Chapter 10.1 (§2.1-116.1, et seq.) of Title 2.1 of the Code of Virginia whose grievance is subject to the provisions of Chapter 10.1 and who have elected to proceed pursuant to those provisions in the resolution of their grievance, or any other employee electing to proceed pursuant to any other existing procedure in the resolution of his grievance.
- 2) The Town Manager shall determine the officers and employees (by position) excluded from this grievance procedure and shall maintain a list of such excluded positions.

### 14.3 Operation of the Grievance Procedure

**Step 1.** An employee who believes he has a grievance and wishes to utilize this procedure shall discuss the grievance informally with his immediate supervisor within twenty calendar days of the occurrence of the incident giving rise to the grievance or within twenty calendar days following the time when the employee reasonably should have gained knowledge of its occurrence. A response to the grievance shall be communicated, either orally or in writing, to the grievant within ten calendar days.

*Note: If the complaint is alleging discrimination or retaliation by the immediate supervisor the grievance may be presented at Step 1 to the department head or, if there is no department head above the immediate supervisor to the Town Manager. If Step 1 is with the Town Manager, Step 2 is omitted and the written grievance is presented to the Town Manager. The grievance proceeds immediately to Step 3.*

**Step 2.** If the grievant is not satisfied with and does not accept the Step 1 response, or if a response is not provided within the required time frame, the grievant may proceed by putting the grievance in writing on the Grievance Form which is attached to this procedure. The Grievance Form shall be delivered, by mail or in person, to the department head within ten calendar days of receipt of the supervisor's response or the deadline for that response, whichever occurs first. If the immediate supervisor is the department head, the written grievance should be presented to the Town Manager and it will proceed as if it were at Step 3.

The grievant shall specify the relief that he expects to gain through the use of this procedure. The department head shall promptly meet with the grievant. Normally, the only persons who may be present at the meeting or hearing shall be the agency head, the grievant, and the appropriate witnesses. The department head shall render a written response to the grievance within ten calendar days following receipt of the completed request form with a copy of the response being sent to the manager. By mutual consent of the grievant and the department head, the grievant may skip Step 2 and proceed directly to Step 3.

**Step 3.** If the grievant does not accept the response at Step 2, or if the department head fails to respond within the required time frame, the grievant shall indicate his desire to advance the grievance to Step 3 on the Grievance Form. The Grievance Form shall be delivered by mail or in person, directly to the Town Manager within ten calendar days following receipt of the Step 2 response or immediately after the deadline for that response, whichever occurs first. If the Town Manager determines (or has previously determined) that the complaint is grievable, a meeting with the grievant, the grievant's representative if there is one, a representative of the affected department and the Town Manager will be held within five days. Appropriate witnesses for each side, and such other persons as the Town Manager or the grievant may want to call, may be present to offer testimony only. The Town Manager shall render a written response to the grievance within ten calendar days following receipt of the completed request form.

In the event that the Town Manager determines that the complaint, or a portion of the complaint, is not grievable, the grievant may appeal that decision to the Circuit Court as set out in Section IV(B) of this procedure.

**Step 4.** If the grievant does not accept the Step 3 written response, or if the Town Manager fails to respond within the required time frame, and the grievant wishes to advance to a grievance panel hearing, the grievant shall complete step 4 of the Grievance Form.

The Grievance Form shall be delivered, by mail or in person, directly to the Town Manager within ten calendar days following receipt of the Step 3 response or the deadline for that response, whichever occurs first. The Grievance Form shall contain the name of the person whom the grievant desires to serve on the grievance panel. The grievant shall not name a person to serve on the grievance panel unless and until the grievant has received that person's consent to do so. The grievance shall be heard by an impartial grievance panel as set out in Section VI of this procedure.

#### 14.4 Grievability and Access

Grievability and access are determined by the Town Manager generally after the grievance reaches Step 3. Only after the Town Manager has determined that a complaint is grievable and/or the grievant has access to the procedure may a grievance be advanced through Steps 3 and 4. Should the question of grievability or access arise at Step 2 the grievant or the department head may request a ruling on grievability and/or on access by the Town Manager. The Town Manager shall render a decision within ten calendar days of receipt of the ruling request and shall send a copy of the decision to the grievant and the department head.

The Town Manager's decision on grievability and/or access may be appealed to the Circuit Court of the County. Such appeals shall be instituted by the grievant by filing a notice of appeal with the Town Manager within ten calendar days from the date the grievant received the decision. Within ten calendar days after the filing of the notice of appeal, the Town Manager or his designee shall transmit to the Clerk of the Circuit Court a copy of the Town Manager's decision on grievability or access to the procedure, a copy of the notice of appeal, a copy of the grievance record, and copies of all exhibits. A list of the evidence furnished to the Court shall also be furnished to the grievant. The appeal will be heard by the Court as provided by law. The decision of the Court is final and is not appealable.

#### 14.5 General Terms

Except as otherwise noted, the following rules apply to all levels of grievance hearings.

- A. Time intervals specified in Steps 1 through 4 may be extended by mutual consent of the parties.
- B. When a deadline falls on a Saturday, Sunday, or Town holiday, the next calendar day that is not a Saturday, Sunday, or Town holiday shall be considered the last calendar day.
- C. All grievance meeting and hearings shall be held during normal Town working hours unless both the grievant and the Town Manager should mutually agree otherwise.
- D. Town employees who are necessary participants at grievance hearings shall not lose pay for time necessarily lost from their jobs and will not be charged leave because of their attendance at the grievance proceedings.
- E. At the Step 3 meeting, the grievant, at his option, may have present a representative of his choice. If the grievant is represented by legal counsel, the Town likewise has the option of being represented by counsel.
- F. The use of recording devices or a court reporter is not permitted at Step 1, 2, and 3 meetings. Only Step 4 hearings may be recorded.
- H. Hearings are not intended to be conducted like proceedings in court and the rules of evidence do not necessarily apply.
- I. At Step 4, the grievance panel shall have the discretion to limit the attendance at the hearing of persons not having a direct interest in the hearing.
- J. At the request of either party, Step 4 hearings shall be private.

- K. Except in grievances involving discipline or in cases where the grievance panel determines otherwise, the grievant shall present his evidence first.
- L. The grievance panel shall determine the propriety of and the weight to be given the evidence submitted.
- J. Both the grievant and the Town may call appropriate witnesses. All witnesses, including the grievant, shall be subject to examination and cross-examination.
- N. Witnesses shall be present only while actually giving testimony and shall otherwise be excluded from the room.
- O. The grievant shall not be entitled to financially recover more than that which he has lost; the grievant's costs are not to be assessed against the Town.
- P. Where a grievant has obtained partial relief at one level of this grievance procedure but decides to appeal to the next higher level, the filing of a request form to the next higher level shall constitute rejection of, and relinquishment of any claim to, any and all relief granted at the previous level.
- Q. Each party shall bear the costs and expenses, if any, of his legal counsel or representative.

#### 14.6 Rules Concerning Grievance Panels and Panel Hearings

- A. Selection of Grievance Panel.
  - 1. Within five calendar days of receipt of the Step 4 request form, the Town Manager shall appoint a member to serve on a grievance panel. The member selected by the grievant and the member selected by the Town Manager shall then select a third member.
  - 2. If the panel member appointed by the grievant and the panel member appointed by the Town Manager or his designee cannot agree upon a third panel member within 20 calendar days of the Town's receipt of the selection of the first two panel members, then the chief judge of the Circuit Court shall choose an impartial, third panel member. The third panel member shall act as chair of the panel.
- B. Eligibility to Serve on Grievance Panel.
 

The panel shall not be composed of any persons having direct involvement with the grievance being heard by the panel, or with the complaint or dispute, giving rise to the grievance. Managers who are in a direct line of supervision of a grievant, persons residing in the same household as the grievant, and the following relatives of a participant in the grievance process or a participant's spouse are prohibited from serving as panel members: spouse, parent, child, descendants of a child, sibling, niece, nephew, and first cousin. No attorney having direct involvement with the subject matter of the grievance, nor a partner, associate, employee, or co-employee of the attorney shall serve as a panel member.
- C. The following rules apply to Step 4 grievance panels and the conduct of Step 4 grievance panel hearings:
  - 1. The grievant shall bear the reasonable costs and expenses, if any, of his panel member.
  - 2. The Town shall bear the reasonable costs and expenses, if any, of its panel member and those of the third panel member unless the grievant objects. Upon objection, the reasonable

costs and expenses of the third panel member shall be shared equally between the Town and the grievant.

3. No person shall receive any compensation, whether monetary or otherwise, for his time in serving as a member of a grievance panel. Notwithstanding this prohibition, a Town employee serving as a member of a grievance panel may receive his usual Town pay for the period he serves on such a panel.
4. The panel shall promptly set the date, time, and location for hearing the grievance and shall notify the parties.
5. The Town shall provide the panel with copies of the grievance record prior to the hearing, and shall provide the grievant with a list of the documents furnished to the panel.
6. Each party shall furnish to the other with copies of all documents, exhibits, and a list of witnesses it intends to use at the panel hearing seven calendar days in advance of the hearing.
7. Both the grievant and the Town may be represented by legal counsel or other representative at the panel hearing. Such representatives may examine, cross-examine, question, and present evidence on behalf of the grievant or the Town before the panel without being in violation of the provisions of Virginia Code §54.1-3904.
8. The panel shall have the authority to determine the admissibility of evidence without regard to the burden of proof so long as a full and equal opportunity is afforded to all parties for the presentation of their evidence. The Town shall present its evidence first in grievances challenging a disciplinary action and shall have the burden of persuasion on such issue.
10. All evidence shall be presented in the presence of the panel and the parties except by mutual consent of the parties.
11. The decision of the panel should be rendered as soon as possible, but, in any case, not later than five calendar days following the conclusion of the hearing.
12. The panel shall have the authority, if it finds (based on the greater weight of the evidence) that the grievant has been denied a benefit or wrongly disciplined without just cause (where such cause is required) to reverse, reduce, or otherwise modify such action and, where appropriate, to order the reinstatement of such employee to his former position with back pay.
  - a. Back pay shall not exceed pay for time actually lost or paid leave required to be taken due to such suspension or discharge, in an amount the panel believes equitable up to the amount of actual loss.
  - b. Any award of back pay shall be offset by interim earnings the grievant earned during the period of separation.
  - c. The panel also has the power to sustain, modify or reverse the Town's action.
13. The panel shall not have authority to do any of the following:
  - a. Formulate policies or procedures.
  - b. Alter existing policies or procedures.
  - c. Circumscribe or modify the rights afforded the parties in this procedure.

- d. Grant relief greater than that which the grievant has requested in the request form.
- 14. The majority decision of the panel, acting within the scope of its authority, shall be final and binding, subject to existing policies, procedures, and law.
- 15. The question of whether the relief granted by a panel is consistent with written policy shall be determined by the Town Manager or his designee, unless the Town Manager or his designee has a direct personal involvement with the event or events giving rise to the grievance, in which case the decision shall be made by the Attorney for the Commonwealth for the County.
- 16. Either party may petition the Circuit Court for an order requiring implementation of the panel decision.

**14.7 Compliance**

Except as noted in paragraph VII(B), after the initial submission of the grievance to the immediate supervisor, the failure of either party to comply with all substantial procedural requirements of this procedure without just cause shall result in a decision in favor of the other party on any grievable issue, provided the party not in compliance fails to correct the noncompliance within five work days of receipt of written notification by the other party of the noncompliance. Such written notification by the grievant shall be made directly to the Town Manager.

If one of the management respondents in Steps 1, 2, or 3 does not respond to the grievance, the grievant at his option may move the grievance to the next level by submitting it without the response to the next Step or the grievant can provide the Town Manager notice of the non-compliance as set forth in paragraph VII(A).

The Town Manager shall determine compliance issues. Compliance determinations made by the Town Manager or his designee shall be subject to judicial review, which shall be initiated by the grievant filing a petition with the Circuit Court of the County within

thirty calendar days of the compliance determination. **Grievance Hearing Form**

- Please type or print -

Name of Grievant	Job Title
Department	Telephone Number(s)

**Step 2 – Department Head Meeting:** To be completed by the grievant at Step 2 only and filed with the grievant’s department with a copy sent to the Manager.

- 1. Date of the incident-giving rise to this grievance. \_\_\_\_\_
- 2. Date of the grievant’s first awareness of the incident. \_\_\_\_\_
- 3. Have you had a Step 1 informal hearing with your immediate supervisor? \_\_\_ Yes \_\_\_ No (check one)
- 4. If yes, when? \_\_\_\_\_
- 5. Person(s) against whom this grievance is directed.

\_\_\_\_\_

6. Specify the incident that resulted in this grievance. (Use separate sheets if necessary.) \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

7. Specify the policy(ies), rule(s), or regulation(s) at issue. (Use separate sheets if necessary.) \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

8. Specify why the action taken was not proper. (Use separate sheets if necessary.)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

9. Specify the relief sought. (Use separate sheets if necessary.) \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Signature of grievant

\_\_\_\_\_  
Date submitted

\*\*\*\*\*

**Department Head Response:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Signature of departmental head and date

\_\_\_\_\_  
Date grievance was received

\*\*\*\*\*

**Request for Step 3 –Town Manager Meeting:** To be completed by the grievant at Step 3 only and filed directly with the Manager’s office.

I wish to have my grievance heard at the Step 3 (Town Manager) level. I understand that, by requesting to have my grievance heard at Step 3, I am giving up the relief, if any, that was awarded to me at Step 2.

\_\_\_\_\_  
Signature of grievant

\_\_\_\_\_  
Date submitted

\*\*\*\*\*

**Town Manager Response:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Signature of Town Manager and date

\_\_\_\_\_  
Date grievance was received

\*\*\*\*\*

**Request for Step 4 – Grievance Panel Hearing:** To be completed by the grievant at Step 4 only and filed directly with the Town Manager.

1. I wish to have my grievance heard at the Step 4 (grievance panel) level. I understand that, by requesting to have my grievance heard at Step 4, I am giving up the relief, if any, that was awarded to me at Step 3.

2. Name of grievant's panel member: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Telephone Number: (Home) \_\_\_\_\_ (Work) \_\_\_\_\_

\_\_\_\_\_  
Signature of grievant

\_\_\_\_\_  
Date submitted

**Town Panel Member**

Name of Town's panel member: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Telephone Number: (Home) \_\_\_\_\_ (Work) \_\_\_\_\_

**CERTIFICATION OF DISABILITY AND REASONABLE ACCOMMODATION**

Dear Health Care Provider:

**The Town of Amherst, Virginia** has a reasonable belief, based on objective evidence, that the ability of its employee, **[EMPLOYEE NAME]**, to perform essential job function(s) is impaired by a medical condition and **[EMPLOYEE NAME]** is under your treatment for this condition. Your assistance, therefore, is necessary to determine if the employee can perform the essential job function(s) with or without a reasonable accommodation in the workplace. Please respond to the following questions based on your medical expertise.

**Background**

An employee has a disability if he or she has an impairment that substantially limits one or more major life activities or has a record of such an impairment. “Substantially limits” under the Americans with Disabilities Act (as amended) (“ADAAA”) has been broadened to allow someone with an impairment to be “regarded as” having a disability, even without the perception that the impairment limits a major life activity, provided that the impairment does not have an actual or expected duration less than or equal to six months. The employee must present medical evidence of impairment under the ADAAA.

The ADAAA provides examples of “major life activities,” including “caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, working, and the operation of a major bodily function, such as functions of the immune system, normal cell growth and digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine and reproductive functions.”

**Please answer these questions to help determine disability and reasonable accommodation. Your prompt reply to this request is appreciated by [DUE DATE].**

1) Please review the attached **job description**. If no job description is attached, please discuss the position with the employee to determine the employee's essential job duties.

2) Does the employee have a physical or mental impairment?  
 Yes  No

3) What is the impairment or the nature of the impairment?

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4) How long is the impairment expected to last?  
 # of days  # of weeks  # of months  Permanently.

5) Does the impairment substantially limit a major life activity as compared to most people in the general population?  
 Yes  No

6) If you answered "Yes" to the Question 5, what major life activity(ies) is/are affected?

- |  |   |                                   |                                   |   |
|--|---|-----------------------------------|-----------------------------------|---|
| <input type="checkbox"/> Bending         | <input type="checkbox"/> Hearing                    | <input type="checkbox"/> Reaching | <input type="checkbox"/> Speaking | <input type="checkbox"/> Other<br>(describe): |
| <input type="checkbox"/> Breathing       | <input type="checkbox"/> Interacting w/others       | <input type="checkbox"/> Reading  | <input type="checkbox"/> Standing |   |
| <input type="checkbox"/> Caring for self | <input type="checkbox"/> Learning                   | <input type="checkbox"/> Seeing   | <input type="checkbox"/> Thinking |   |
| <input type="checkbox"/> Concentrating   | <input type="checkbox"/> Lifting                    | <input type="checkbox"/> Sitting  | <input type="checkbox"/> Walking  |   |
| <input type="checkbox"/> Eating          | <input type="checkbox"/> Performing Manual<br>Tasks | <input type="checkbox"/> Sleeping |                                   |   |

7) What limitation(s) is interfering with the employee's job performance?

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8) What job function(s), if any, is the employee having difficulty performing or may have difficulty performing because of the limitation(s)?

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9) How does the employee's limitation(s) interfere with the employee's ability to perform the job function(s)?

---

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10) What suggestions, if any, do you have for possible reasonable accommodations to permit the employee to perform the employee's essential job functions? The recommended accommodations must be necessary for medical reasons and not for convenience or personal preference:

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11) The employee's typical schedule is Monday through Friday \_\_\_\_ a.m. to \_\_\_\_ p.m. What, if any, adjustments need to be made to the employee's work schedule to enable the employee to perform the essential functions of that position?

---

---

12) How would your suggestions improve the employee's job performance?

---

---

13) How long will the employee need the above reasonable accommodation to perform the employee's essential job functions?

\_\_\_\_ # of days \_\_\_\_ # of weeks \_\_\_\_ # of months \_\_\_\_ Permanently.

If unable to provide a timeframe, when will the employee be medically reevaluated?

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14) If any of your recommended accommodations cannot be provided, would the employee still be able to perform some or all of the essential job functions?

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15) Please provide any additional comments or suggestions:

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**Provider Information** (to be completed by healthcare provider completing this form)

\_\_\_\_\_  
Provider Name (Please Print)

\_\_\_\_\_  
Provider Signature                      Date

\_\_\_\_\_  
Type of Practice/Area of Specialization

Licensed: \_\_\_\_ Yes \_\_\_\_ No

---

Provider Address and Phone Number

**Please return this completed form to Employee and the person listed below no later than [DUE DATE].** If you have any questions, please contact:

**[REDACTED], Human Resources**

**[EMPLOYER NAME]**

**[EMPLOYER ADDRESS]**

**[EMPLOYER ADDRESS]**

**[EMPLOYER PHONE and FAX]**

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

## **PERSONNEL POLICIES MANUAL ACKNOWLEDGEMENT**

The Town of Amherst Personnel Policies Manual, and any subsequent updates, is available on the Town website and the Town open network drive, to which all employees have access. A printed copy is maintained by each Department Head. I understand that it is my responsibility to read, familiarize myself with the policies and understand the matters set forth in this Manual. I understand that I may at any time request a printed copy of the 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 a supervisor, the terms of this Manual will govern. I understand that no statement contained in this Manual creates a guarantee of continued employment or creates any obligation, contractual or otherwise, on the part of the Town.

I understand that my employment with the Town is at-will and nothing in the Personnel Policies Manual is intended to change the at-will nature of our relationship. I understand and acknowledge that the Town 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.

By signing below, I acknowledge receipt of the Personnel Policies Manual.

---

EMPLOYEE NAME

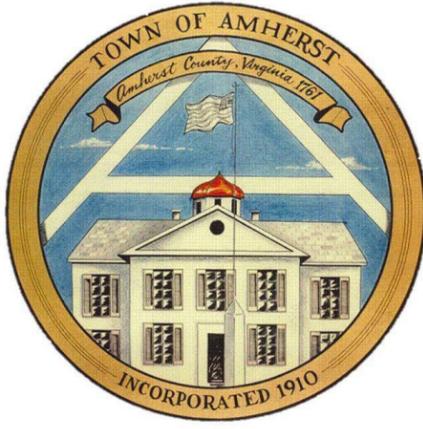
---

EMPLOYEE SIGNATURE

---

DATE

***A copy of this acknowledgment shall be kept by the HR Office as part of the employee's personnel file and one shall remain in the employee's Personnel Policies Manual.***



# AMHERST TOWN COUNCIL

## CODE OF ETHICS

We recognize the honor and privilege of public office, and we commit ourselves to upholding public trust in our work as responsible stewards of our home, the Town of Amherst, and hereby adopt these principles:

1. We shall uphold all federal, state, and local laws, adhering to the Charter of the Town of Amherst, while respecting the individual rights of our citizens.
2. We are committed to upholding our special obligations, as elected officials, under the Freedom of Information Act and the Conflict of Interest Act.
3. We recognize the needs of all citizens, avoiding discrimination through the dispensation of special favors or unfair privileges, when making decisions based upon the entirety of the Town's interests.
4. We will respect the will of Council as a body by accepting the decisions of Council and following the Rules of Procedure.
5. We will remember that all resources derive from the citizens and we hold a responsibility to use those resources carefully and responsibly for the public good.
6. We will avoid the appearance of speaking on behalf of the body unless specifically tasked to do so.
7. We shall communicate honestly and fairly with other Council members, staff, and citizens, assuming good intent, and speaking respectfully to all.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2025.

\_\_\_\_\_  
D. Dwayne Tuggle, Mayor

\_\_\_\_\_  
Andra Higginbotham, Vice Mayor

\_\_\_\_\_  
Janice N. Wheaton, Council Member

\_\_\_\_\_  
Jared S. Martin, Council Member

\_\_\_\_\_  
Kenneth S. Watts, Council Member

\_\_\_\_\_  
Michael H. Driskill, Council Member

**RULES OF PROCEDURE  
OF  
AMHERST TOWN COUNCIL**

**SECTION 1. AUTHORITY**

These rules are adopted pursuant to the authority provided in Charter Article 3.12.

These rules are intended to supplement the Town Charter. When a conflict arises between this document and the Town Charter, the Town Charter is the controlling document. Unless otherwise provided by charter, ordinance or these rules, the procedure for Town council meetings shall be guided by Robert's Rules of Order, 11<sup>th</sup> Edition and whenever these rules and Robert's Rules of Order conflict, these rules shall govern.

**SECTION 2. TIME AND PLACE OF REGULAR BUSINESS MEETING**

The council shall meet in formal session at 7:00 p.m., on the second Wednesday in each month in the council chambers, Town Hall, 174 S. Main Street, Amherst, VA. The meetings of the council shall be open to the public except when in the judgment of the council the public welfare shall require executive meetings under § 2.2-3711 of the Code of Virginia.

(Town Code § )

**SECTION 3. SPECIAL, CLOSED AND EMERGENCY MEETINGS**

The Town Manager may call special meetings at the insistence of the Mayor or any two members of council in writing at a time and location to be duly advertised in compliance with Virginia State Code.

In addition to regular and special meetings, closed meetings and emergency meetings may be scheduled and held. Notification requirements for closed meetings and emergency meetings are governed by the Virginia Code.

- A. For special meetings, the purpose and nature of the meeting will dictate whether public comment will be allowed. Time for public comment may or may not be allocated depending on the nature of the meeting and at the discretion of Council.
- B. The only items Council may consider in closed meetings are those permitted by the Virginia Freedom of Information Act and identified in the motion convening the closed meeting.

**SECTION 3A. REMOTE PARTICIPATION IN MEETINGS**

- A. Council members may participate in meetings of the Council by electronic communication means from a remote location that is not open to the public, provided that such participation is approved by the Mayor (or other presiding officer pursuant to Section 6; hereafter in this Section, the "Mayor"). Such participation shall comply with this Section and § 2.2-3708.2 of the Code of Virginia.
- B. On or before the day of a meeting, a Council member desiring to participate remotely shall notify the Mayor that:
  - 1. Such Council member is unable to attend the meeting due to:

- (i) a temporary or permanent disability or other medical condition that prevents the Council member's physical attendance (in which case, the minutes shall record this basis for remote participation, but need not record the exact nature of the disability or medical condition); or
  - (ii) a family member's medical condition that requires the member to provide care for such family member, thereby preventing the member's physical attendance (in which case, the minutes shall record this basis for remote participation, but need not record the exact nature of the family member's disability or medical condition); or
- 2. Such Council member is unable to attend the meeting due to a personal matter (in which case, the Council member shall identify, with specificity, the nature of the personal matter; and the Council shall include in its minutes the specific nature of the personal matter cited by the Council member). However, participation by a Council member pursuant to this paragraph shall be limited each calendar year to two meetings or 25 percent of the meetings held per calendar year rounded up to the next whole number, whichever is greater.
- C. An individual Council member may participate from a remote location only if a quorum of the Council is physically assembled at the primary or central meeting location, and the Council has made arrangements for the voice of the remote participant to be heard by all persons at the primary or central meeting location.
- D. The location from which a Council member participates remotely shall be recorded in the Council's minutes; however, the location need not be open to the public.
- E. This Section shall be applied strictly and uniformly, without exception, to the entire membership of the Council, and without regard to the identity of the Council member requesting remote participation or the matters that will be considered or voted on at the meeting. The Mayor shall consult the Town Attorney for review of the Council member's request for compliance with the Code of Virginia and this Section, and shall approve the request if the Council member qualifies for remote participation under this Section. If a member's participation from a remote location is disapproved because such participation would violate this policy, the reasons for such disapproval shall be recorded in the minutes with specificity.

#### **SECTION 4. CANCELLATION OF MEETINGS**

At any meeting, the governing body may fix the day or days to which a regular business meeting shall be continued, rescheduled or cancelled if the mayor, or vice-mayor, in the absence of the mayor, finds and declares that weather or other conditions are such that it is hazardous for members to attend the regular business meeting. Such finding shall be promptly communicated to the council members and the press. All hearings and other matters previously advertised shall be conducted at the continued meeting and no further advertisement is required.

#### **SECTION 4A. ADJOURNED OR RECESSED MEETINGS**

A meeting of the Council is adjourned when the Council has finished its business and is bringing the meeting to a close, with the intention of holding another meeting at a later date. A meeting of the Council is recessed when the Council takes a break between sittings, and after the recess, business is resumed.

#### **SECTION 5. QUORUM; PROCEDURE IN ABSENCE OF QUORUM**

A quorum is required to conduct official Town business. The mayor and five town councilmen shall constitute the council of the town. A majority of the members of the council shall constitute a quorum for the transaction of business. Vacancies in office do not count towards determining a quorum. The mayor shall have no right to vote in the council, except in case of a tie he shall have the right to break the same by his vote; but he shall have the right to veto. In the event a quorum is not present, the meeting shall stand adjourned to a time and place agreed upon by a majority of the members present. (Quorum defined, Code of Virginia, § 15.2-1415)

After the name of any member has been recorded as present at any meeting of the town council, he shall not absent himself previous to adjournment unless by consent of the council.

## **SECTION 6. PRESIDING OFFICER**

- A. The Mayor shall preside at all meetings unless absent or must relinquish the chair due to a conflict of interest. The Mayor shall retain all rights and privileges of the office of the mayor as set out in the Town charter when acting in this capacity.
- B. In the Mayor's absence the Vice Mayor of the council shall preside over the meeting. The Vice Mayor shall retain all rights and privileges of a member of council when acting in this capacity.
- C. Should the Mayor and Vice Mayor not be present to preside at a meeting, then the member of council with the most seniority will chair the meeting:
  1. Should either the Mayor or the Vice Mayor of the council arrive, the temporary presiding officer shall relinquish control of the meeting immediately upon the conclusion of the item presently being discussed; and
  2. The presiding officer shall retain all rights and privileges of a member of council when acting in this capacity.

## **SECTION 6A. PRESERVATION OF ORDER**

- A. At meetings of the Council, the presiding officer shall preserve order and decorum. The presiding officer shall have the following powers:
  1. To rule motions in or out of order, including any motion not germane to the subject under discussion or patently offered for obstructive or dilatory purposes;
  2. To determine whether a speaker has gone beyond reasonable standards of courtesy in his or her remarks, and to entertain and rule on objections from other Councilmembers on this ground;
  3. To entertain and answer questions of parliamentary law or procedure;
  4. To call a brief recess at any time; *and*

5. To adjourn in an emergency.

- B. A decision by the presiding officer under any of the first three (3) powers listed above may be appealed to the Council upon motion of any Councilmember. Such a motion is in order immediately after a decision under those powers is announced and at no other time. The Councilmember making the motion need not be recognized by the presiding officer, the motion does not require a second, and the motion, if timely made, may not be ruled out of order. There are two (2) exceptions to this right of appeal.
- C. The presiding officer may adjourn without the Council's vote or appeal in an emergency, and he or she may also call a brief recess without a vote at any time, when necessary to "clear the air" and thus reduce friction among the Councilmembers.
- D. While a meeting of the Council is in session, all Council members will treat one another with respect, courtesy, and exhibit appropriate decorum. Council members shall not insult, demean, or belittle one another or the Town's staff while a meeting of the Council is in session.

#### **SECTION 7. TOWN ATTORNEY AS PARLIAMENTARIAN**

The Town Attorney shall serve as the Parliamentarian for the purposes of interpreting these Meeting Procedures, and the Code of Virginia as amended and Robert's Rules of Order, as may be directed by the presiding officer, or as required as a result of a point of order raised by one or more Councilors.

#### **SECTION 8. AGENDA AND MATERIALS**

The Town Manager shall ensure a proposed agenda is prepared for the Mayor's consideration seven business days before the meeting. The agenda of every regular Council meeting is approved by the Mayor. Any Council member desiring to add items to the proposed agenda should submit them to the Town Manager and the Mayor ten business days before the meeting.

#### **SECTION 9. ORDER OF BUSINESS AT REGULAR BUSINESS MEETINGS**

The order of business at regular business meetings of the town council shall be set out in the printed agenda and shall include, but not be limited to the following items:

1. Call to order
2. Determination of Quorum
3. Salute to the Flag
4. Invocation
5. Announcements/Proclamations
6. Citizen Comment (other than public hearings)
7. Public Hearings and Presentations
8. Approval of the Consent Agenda
9. Minutes
10. Appointments
11. Staff Reports
12. Reports of boards, commissions, and committees
13. Discussion Items
14. Matters from Staff
15. Matters from Council
16. Matters from Mayor

17. Citizen Comments
18. Closed Session (as needed)
19. Adjournment

## **SECTION 10. CITIZEN COMMENT**

Two periods for Citizen comment will be reserved for every regular meeting of the council. Persons wishing to speak during citizen comment must sign the “speaker’s roster” with the person’s name and address and the topic upon which the person wishes to speak not later than the call to order.

The chair shall have the authority to establish a time limit for each speaker whether speaking as an individual or as representing any group or organization. Order of speakers will be determined on first register, first speak basis. The presiding officer may allow additional persons to speak if they have not signed the speaker’s roster.

- If speaking as an individual, each speaker has no less than 3 minutes per item for discussion not including council and/or staff response time.
- If representing any group or organization, each speaker if speaking has 5 minutes per item for discussion not including council and/or staff response time.

If a member of the public wishes to speak on an item that is scheduled for a public hearing at that same meeting, the speaker shall wait until that public hearing.

Councilors may, after obtaining the floor, ask questions of speakers during citizen comment. Councilors shall use restraint when exercising this option, and shall attempt to limit questioning to no more than three minutes. The presiding officer may intervene if a councilor is violating the spirit of this guideline.

## **SECTION 11. PUBLIC HEARINGS**

Council will conduct public hearings on specific topics as required by law or as Council otherwise deems appropriate. The purpose of a public hearing is for Council to receive public comments on a specific topic.

During a public hearing, each speaker must limit his or her comments to the specific application or matter for which the public hearing has been scheduled. No person may speak more than once during any public hearing.

- Staff is encouraged to limit presentations to 10 minutes or less.
- Each Council member may ask staff clarification questions and is encouraged to limit his questions to 3 minutes or less not including staff response time.
- Applicants are limited to 10 minutes for presentations.
- Each Council member may ask applicants clarification questions and is encouraged to limit his questions to 3 minutes or less inclusive of applicant response time.
- After the public has had the opportunity to speak on the public hearing item Council members are encouraged to limit their time to 3 minutes or less each for discussion and debate not including staff response time.

## **SECTION 12. WRITTEN COMMUNICATIONS TO COUNCIL**

Every petition, communication or address to the town council shall be in respectful language and, except in cases where it is otherwise allowed, shall be in writing. Unsolicited communications to the mayor and/or council concerning matters on the agenda shall be forwarded to the council in the agenda packet, but shall not be individually itemized on the agenda.

### **SECTION 13. CONSENT AGENDA**

In order to expedite the council's business, the approval of minutes and other routine agenda items shall be placed on the consent agenda.

1. All items on the consent agenda shall be approved by a single motion, unless an item is pulled for further consideration.
2. Any item on the consent agenda may be removed for separate consideration by any member of the council.
3. For the purposes of this rule, separate consideration means any proposal to adopt a different course of action than that recommended in the staff report, a determination that debate on a proposed course of action is deemed desirable, any questions to staff on an item, and any item where a member of council must declare a conflict of interest.

### **SECTION 14. MINUTES**

#### **I. Generally.**

- A. The clerk of council shall keep the minutes of the town council in such manner as to indicate with certainty each ordinance and resolution passed by the council, and shall transcribe them in books to be maintained in his office for such purpose, and these books shall be accurately indexed.
- B. The minutes shall contain the following information:
  1. The date, time, and place of the meeting;
  2. The members present;
  3. The motions, proposals, resolutions, orders, ordinances, and measures proposed and their disposition;
  4. The results of all votes and the vote of each member by name;
  5. The substance of any discussion on any matter; and
  6. A reference to any document discussed at the meeting

#### **II. Approval.** The council shall approve all minutes of any meeting.

- A. All minutes shall be approved within ninety days of the meeting having occurred.
- B. The draft minutes shall be submitted to the council as part of the council's packet prior to the meeting where they will be discussed.
- C. Any member of the council may request an amendment or correction of the minutes prior to a final vote being taken on the minutes.

### **SECTION 15. DISCUSSION ITEMS**

Discussion items may be considered during regular or special town council meetings if:

- A. A majority of all members of town council are present to vote on a discussion item requiring a majority of the council to pass; or
- B. A quorum of all members of town council are present to vote on discussion items requiring a quorum of the council to pass.

## **SECTION 16. MAYOR AND COUNCIL COMMENT**

At each regular business meeting of the town council an item will be included on the agenda for “Council Comment” and “Mayor’s Comment.” At that time, the mayor and council members shall have up to five minutes to make comments of general interest on matters such as public issues, community events or milestones, or constituent concerns. With the consent of the council, the chair may delete or reduce the time for comments in the event the time for the council to conduct its business is constrained or the agenda is unusually lengthy.

## **SECTION 17. APPLICATION OF ROBERT’S RULES OF ORDER**

The provisions of Robert’s Rules of Order, 11<sup>th</sup> Edition, shall govern the council in its meetings, except in so far as such provisions are inconsistent with law, the Town Charter, and modified by the special rules of order as set forth below. In the event that there is an inconsistency between the respective rules of order, the special rules shall control.

## **SECTION 18. SPECIAL RULES OF ORDER**

### **Motions, Debate, and Voting**

- I. Motions.** All motions shall be distinctly worded.
  - A. The following rules shall apply to motions:
    1. If a motion does not receive a second, it dies.
    2. The council will discuss a motion only after the motion has been moved and seconded. Nothing in this section prevents general discussion or expression of opinions before a motion is made.
    3. Any motion shall be reduced to writing if requested by a member of the council.
    4. A motion to amend can be made to a motion that is on the floor and has been seconded.
    5. No motion shall be received when a question is under debate except for the following:
      - a. To lay the matter on the table;
      - b. To call for the previous question;
      - c. To postpone;
      - d. To refer; or
      - e. To amend.
    6. A motion may be withdrawn by the mover at any time without the consent of the council.
    7. Amendments are voted on first, then the main motion if voted on as amended.
    8. A member of the council may have a motion which contains several elements divided, but the mover shall have the right to designate which element will be voted on first.
    9. A call for the question is intended to close the debate on the main motion; does not require a second and is not debatable.
      - a. A call for the question fails without a majority vote.
      - b. Debate on the main subject resumes if the motion fails.
    10. A motion that receives a tie vote fails.
    11. The presiding officer shall repeat the motion prior to a vote.

- B. Motion to Reconsider. A motion to reconsider may only be made by a member of the prevailing side. Any member may second the motion.
  - 1. No motion shall be made more than once.
  - 2. The motion shall be made before the final adjournment of the meeting when the item goes out of possession of the council.
- C. Motion to Adjourn. A motion to adjourn shall be always in order and shall be decided without debate.

**II. Debate.** The following rules shall govern the debate of any item being discussed by the council:

- A. Every member desiring to speak shall address the presiding officer, and, upon recognition by the presiding officer, shall confine him/herself to the question under debate, at all times acting and speaking in a respectful manner.
- B. A member, once recognized, shall not be interrupted when speaking unless it is to be called to order, or as herein otherwise provided.
- C. In any debate no member of the council shall speak more than once on the same question until all others have spoken who desire to do so, nor more than twice on the same question, unless by consent of the council.
- D. When two or more members of the town council determine to speak at the same time, the presiding officer shall name the one to speak.
- E. The mayor, when presiding at a meeting of the council, without vacating the chair, may give his reasons for any decision made by him on any point of order and such decision shall be made without debate.
- F. The presiding officer shall have the privilege of closing the debate.

**III. Voting.** Every member of the town council present when a question is put on an ordinance or resolution, unless interested or excused from voting, by the council, shall vote on one or the other side of such question. No member of the town council who has any personal or pecuniary interest in the result of any question before the council shall vote upon such question.

The following rules shall apply to voting on matters before the council.

- A. Consent Agenda. The majority of a quorum vote of all members of the council present is required to approve the matters on a consent agenda.
- B. Resolutions. A majority of quorum shall be required to pass a resolution.
- C. An Ordinance Involving a Fee or Fine. An ordinance involving a fee or fine exceeding the sum of one hundred dollars shall require a majority of the council to pass. An ordinance involving a fee or fine in the sum of one hundred dollars or less shall require a majority of a quorum to pass.
- D. An Ordinance Not Involving a Fee. An ordinance which does not involve a fee or a fine shall require a majority of a quorum to pass.
- E. Emergency Ordinance. An emergency ordinance shall require the unanimous vote of all members present.
- F. Budget. The budget shall require a majority of a quorum to pass.
- G. Franchise. A majority of a quorum shall be required to pass an ordinance granting a franchise.
- H. Elections and Appointments to Office. There shall be a recorded vote on every ordinance having for its object elections. Every appointment to office by the council shall be viva voce and the vote shall be recorded.

- I. Suspension of Rules. A unanimous vote of all members of the council present shall be required to suspend or rescind a rule contained in these rules of procedure, however, rules appearing herein which also appear in the Charter shall not be suspended or rescinded.
- J. Appeals From Decisions on Points of Order. Any member may appeal to the town council from the decision of the mayor on any question of order, a majority vote of those present being necessary to overrule the mayor.
- K. Recorded Votes: All votes shall be recorded in the minutes. The "ayes" and "nays" on any question shall be recorded.
- L. Ties. Tie votes shall indicate a denial of the proposal. If the tie is a matter that has been appealed from a lower town body or commission, a tie shall render the lower body's decision approved.
- M. Expulsion of Member of Council. A vote of at least two-thirds of the members shall be required for the town council to expel a member of the council for misconduct in office.
- N. Vote Required For Decision. All questions before the town council, except where otherwise provided in the Charter, the Town Code, or these Rules, shall be decided by a majority vote of those present.
- O. Motion to Reconsider: Such motion shall require a majority of the votes of the members present, unless a greater number of votes was required to pass the measure, in which event the motion to reconsider shall not prevail, except upon the vote of as great a number of members as was required to pass the measure.
- P. Prevent Reintroduction for One Year. Once a motion has been defeated, the reintroduction of the motion shall not be in order for one year, unless reintroduced by a member of the prevailing side of the vote, which may occur one time within the year timeframe.

## **SECTION 19. EFFECTIVE DATE**

An ordinance, resolution or bylaws passed by council shall become effective thirty days from its passage unless otherwise stated in the ordinance or resolution.

## **SECTION 20. ETHICS, DECORUM, OUTSIDE STATEMENTS**

- I. **Ethics.** All members of the council shall review and observe the requirements of the Amherst Town of Amherst Code of Ethics and state ethics law. All members of town council shall refrain from:
  - A. Disclosing confidential information.
  - B. Taking action which benefits special interest groups or persons at the expense of the town as a whole.
  - C. Expressing an opinion contrary to the official position of the council without so saying.
  - D. Conducting themselves in a manner so as to bring discredit upon the government of the town.
- II. **Decorum.**
  - A. The presiding officer shall preserve decorum during meetings and shall decide all points of order, subject to appeal of the council.
  - B. Members of the council shall preserve decorum during meetings, and

shall not, by conversation or action, delay or interrupt the proceedings or refuse to obey the orders of the presiding officer or these rules.

- C. Members of the town staff and all other persons attending meetings shall observe the council's rules of proceedings and adhere to the same standards of decorum as members of council.

### **III. Statements to the Media and Other Organizations**

- A. Representing Town. If a member of the council, to include the mayor, appears as a representative of the town before another governmental agency, the media, or an organization to give a statement on an issue, the member may only state the official position of the town, as approved by a majority of the council.
- B. Personal Opinions. If a member of the council, to include the mayor, appears in their personal capacity before another governmental agency, the media, or an organization to give a statement on an issue, the member must state they are expressing their own opinion and not that of the town before giving their statement.

### **SECTION 21. CENSURE [AND REMOVAL]**

- A. The council may enforce these rules and ensure compliance with town ordinances, charter, and state laws applicable to governing bodies. If a member of council violates these rules, town ordinances, the Town Charter or state laws applicable to governing bodies, the council may take action to protect the integrity of the council and discipline the member with a reprimand or removal as provided for in the Town Charter.
- B. The council may investigate the actions of any member of council and meet in executive session to discuss any finding that reasonable grounds exist that a violation of these rules, local ordinance, the Town Charter or state laws applicable to governing bodies has occurred.

### **SECTION 22. AMENDMENT TO RULES OF PROCEDURE**

These Rules of Procedure may be amended by a vote of the majority of full Council.

Adopted this 12<sup>th</sup> day of February 2025.