THE ERWIN BOARD OF COMMISSIONERS MARCH 2022 REGULAR WORKSHOP MONDAY, MARCH 28, 2022 @ 6:00 P.M. ERWIN MUNICIPAL BUILDING BOARD ROOM

AGENDA

1. MEETING CALLED TO ORDER

- A. Invocation
- B. Pledge of Allegiance

2. **APPROVAL OF AGENDA**

3. **NEW BUSINESS**

- A. Updates to our Personnel Policy (Page 2)
- B. Revised ARP Policies (Page 60)
- C. Erwin Community Building Sign (Page 97)

4. **ADJOURNMENT**

New Business Item 3A

Erwin Board of Commissioners

REQUEST FOR CONSIDERATION

To: The Honorable Mayor and Board of Commissioners

From: Snow Bowden, Town Manager

Date: March 28, 2022

Subject: Updates to our Personnel Policy

We have completed some updates to our personnel policy. I would like to present this for discussion. We have combined a few items and updated some language that is currently in the policy.

Attachments:

• Personnel Policy

TOWN OF ERWIN PERSONNEL POLICY

BE IT RESOLVED by the Town Board of Commissioners of the Town of Erwin that the following policies apply to the appointment, classification, benefits, salary, promotion, demotion, dismissal, and conditions of employment of the employees of the Town of Erwin.

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ARTICLE I. GENERAL PROVISIONS

Section 1. Purpose of the Chapter

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

Section 2. At-Will Employment

The Town of Erwin is an at-will employer. Nothing in this policy creates an employment contract or term between the Town and its employees. No person has the authority to grant any employee any contractual rights of employment.

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

Section 3. Merit Principle

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

Section 4. Responsibilities of the Town Board of Commissioners

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

Section 5. Responsibilities of the Town Manager

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

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

Section 6. Responsibilities of the Human Resource Director

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

- a) policies and revisions to the personnel system for the Town Manager's consideration;
- b) changes as necessary to maintain an up-to-date and accurate position classification plan;
- c) necessary revisions to the pay plan;
- d) which employees shall be subject to the overtime provisions of the FLSA;
- e) maintenance of a roster of all persons in the municipal service;
- f) establishment and maintenance of a list of authorized positions in the municipal service at the beginning of each budget year which identifies each authorized position, class title of the position, salary range, any changes in class title and status, position number, and other such data as may be desirable or useful;

- g) development and administration of such recruiting programs as may be necessary to obtain an adequate supply of competent applicants to meet the needs of the City;
- h) development and/or coordination of training and educational programs for Town employees;
- i) development and recommendation of such administrative procedures as are necessary to implement these policies provided the administrative procedures are not in conflict;
- j) periodic evaluations of the operation and effect of the personnel provisions of this Policy;
- k) actions that are needed to address barriers to effective employee communication, productivity, engagement, and morale; and
- I) such other duties as may be assigned by the Town Manager that are not inconsistent with this policy.

Section 7. Responsibilities of Department Heads and Supervisors

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

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

Section 8. Responsibilities of Employees

Employees of the Town shall be expected to cond	luct themselves both on and off the job to reflect
favorably upon the Town and fellow employees. E	Employees are expected to:
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- a) ask questions and learn their full scope of responsibilities and perform those diligently;
- b) recognize and follow the chain of command in addressing work concerns and problems;
- c) show courtesy and respect and work cooperatively with other employees;
- d) show courtesy and respect and provide excellent customer service to citizens and taxpayers; and:
- e) learn and follow these personnel policies along with any departmental policies and procedures.

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

The personnel policy and all rules and regulations adopted pursuant thereto shall be binding on all Town employees. The Town Manager, Town Attorney, members of the Town Board of Commissioners, and advisory boards and commissions will be exempted except in sections where specifically included. An employee violating any of the provisions of this policy shall be subject to appropriate disciplinary action, as well as prosecution under any civil or criminal laws which have been violated.

Section 10. Departmental Rules and Regulations

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

Section 11. Definitions

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

Full-time employee. An employee who is in a position for which an average workweek equals at least 35 hours, and continuous employment of at least 12 months, are required by the Town.

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

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

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

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

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

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

ARTICLE II. POSITION CLASSIFICATION PLAN

Section 1. Purpose

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

Section 2. Composition of the Position Classification Plan

The classification plan shall consist of:

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

Section 3. Use of the Position Classification Plan

The classification plan is to be used:

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

Section 4. Administration of the Position Classification Plan

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

Section 5. Adoption of the Position Classification Plan

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

Section 6. Request for Reclassification

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

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ARTICLE III. THE PAY PLAN

Section 1. Definition

The pay plan includes the basic salary schedule and the "Assignment of Classes to Grades and Ranges" adopted by the Board of Commissioners. The salary schedule consists of rates of pay for minimum or beginning, maximum, and may include intervening rates of pay for all classes of positions and a designation of the standard hours in the workweek for each position.

Section 2. Administration and Maintenance

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

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

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

Section 3. Starting Salaries

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

Section 4. Trainee Designation and Provisions

Applicants being considered for employment or Town employees who do not meet all of the requirements for the position for which they are being considered may be hired, promoted, demoted, or transferred by the Town Manager to a "trainee" status. In such cases, the department head must prepare a plan for training, including a schedule. "Trainee" salaries may be no more than two grades below the minimum salary established for the position for which the person is

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being trained. A new employee designated as a "trainee" shall be regarded as a probationary employee.

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

Section 5. Probationary Pay Increases

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

Section 6. Merit Pay

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

Section 7. Merit Pay Bonus

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

Section 8. Salary Effect of Promotions, Demotions, Transfers, and Reclassifications

Promotions. When an employee is promoted, the employee's salary shall normally be advanced to the minimum level of the new position, or to a salary that provides an increase of at least 5% over the employee's salary before the promotion, provided, however, that the new salary may not exceed the maximum rate of the new salary range. The promotion pay increase aims to recognize and compensate the employee for taking on increased responsibility.

Demotions. When an employee is demoted to a position for which they qualified, the salary shall be set at the rate in the lower pay range, which provides a salary commensurate with the employees' qualifications to perform the job when the demotion is not the result of discipline. If the current salary is within the new range, the employee's salary may be retained at the previous rate if appropriate. If the demotion is the result of discipline, the salary shall be decreased at least 5%, but may be no greater than the maximum of the new range.

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

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

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

Section 9. Salary Effect of Salary Range Revisions

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

Section 10. Transition to a New Salary Plan

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

- 1. No employee shall receive a salary reduction resulting from the transition to a new salary plan.
- 2. All employees who have completed probation and are being paid at a rate lower than the probationary rate established for their respective classes shall have their salaries raised to the new probationary for their classes.
- 3. All employees being paid at a rate above the maximum rate established for their respective classes shall be maintained at that salary level until such time as the employees' salary range is increased above the employees' current salary.

Section 11. Effective Date of Salary Changes

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

Section 12. Fair Labor Standards Act and Overtime Compensation

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Employees of the Town can be requested and may be required to work in excess of their regularly scheduled hours as necessitated by the needs of the Town and determined by the Manager.

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

Employees are expected to work during all assigned periods exclusive of breaks or mealtimes. Employees are not to perform work at any time that they are not scheduled to work unless they receive approval from their immediate supervisor, except in cases of emergency.

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

Hours worked beyond the FLSA established limit will be compensated in either time off or pay at the appropriate overtime rate. Compensatory leave requires approval by the Manager when creating a balance that exceeds 100 hours. In determining eligibility for overtime in a work period, only hours actually worked shall be considered; in no event will vacation, sick leave, or holidays be included in the computation of hours worked for FLSA purposes. Non-exempt employees separating from employment shall be paid for their compensatory time balances.

Whenever practicable, departments will schedule time off on an hour-for-hour basis within the applicable work period for non-exempt employees instead of paying overtime. When time off within the work period cannot be granted, overtime worked will be compensated – pay or time off at a time and a half rate – in accordance with the FLSA.

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

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

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

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

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Employees of the Town can be requested and may be required to work in excess of their regularly scheduled hours as necessitated by the needs of the Town and determined by the Department Head. In any emergency situation, salaried employees may be switched from salary to hourly wages for the duration of the emergency period if their predominant duties are of a non-exempt nature.

Section 13. Rest Periods and Breaks

Due to the variation in work schedules and needs among departments, the Town makes no attempt to define a uniform policy for rest periods or breaks. Department supervisors may establish appropriate rest period practices which best serve the Town's interest within the work units under their supervision. Such practices shall be subject to the review of the Department Head and shall be limited to one rest period or break in the morning and one in the afternoon, no longer than 10 minutes each. Each employee's regular workday schedule will include a meal break of at least 30 minutes, but not more than one hour, near the middle of their shift. The meal breaks are unpaid time, and the two 10 minute rest periods are paid time. If an employee must miss a meal break due to an emergency situation, the supervisor will make a reasonable effort to accommodate a meal break later in the shift.

Section 14. Break Time for Nursing Mothers

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

Section 15. Call-back and Stand-by Pay

The Town provides a continuous twenty-four hour a day, seven days a week service to its customers. Therefore, it is necessary for certain employees to respond to any reasonable request for duty at any hour of the day or night. One of the conditions of employment with the Town is the acceptance of a share of the responsibility for continuous service, in accordance with the nature of each job position. If an employee fails to respond to reasonable calls for emergency service, either special or routine, the employee shall be subject to disciplinary actions up to and including dismissal by the Town Manager.

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

Stand-by. Non-exempt employees required to be on "stand-by" duty will be paid for five *hours* of work for each week (approximately 128 hours, excluding work time) of stand-by time they serve. Stand-by compensation for less than one full week shall be determined by the ratio of .04 hours of pay per one hour of stand-by time. Actual hours worked while on stand-by are calculated beginning when the employee reports to the worksite and are added to the regular total of hours worked for the week. Stand-by time is defined as that time when an employee must remain near

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an established telephone or otherwise substantially restrict personal activities in order to be ready to respond when called.

Section 16. Payroll Deduction

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

Section 17. Hourly Rate of Pay

Employees working in a part-time or temporary capacity with the same duties as full-time employees will work at a rate in the same salary range as the full-time employees. The hourly rate for employees working other than 40 hours per week, such as police officers working an average of 42 hours per week, will be determined by dividing the average number of hours worked scheduled per year by the annual salary for the position. Salary ranges can be found in the position classification plan, available for employees upon request from the town clerk.

Section 18. Longevity Pay

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

Years of Service	Longevity Amount	Years of Service	Longevity Amount
Less than 5 years	\$100	15-19	1.50%
5-9	1.00%	20-24	1.75%
10-14	1.25%	25 plus	2.00%

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

Section 19: Payment of Travel Expenses

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

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

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

Each trip to a destination outside the state must be authorized by the	ne Manager.
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Section 20: Certification Salary Increases

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

Section 21: Reimbursement of Training Expenses

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

Section 22. Pay for "Interim" assignment in a Higher Level Classification

An employee who is formally designated for a period of at least one month to perform the duties of a job that is assigned to a higher salary grade than that of the employee's regular classification shall receive an increase for the duration of the "acting" assignment. The employee shall receive a salary adjustment to the entry-level of the job in which the employee is acting or an increase of 10%. Criteria involved in determining the amount of compensation shall include:

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

The salary increase shall be temporary, and the employee shall go back to the salary he or she would have had if not assigned to the "acting" role upon completion of the assignment.

ARTICLE IV. RECRUITMENT AND EMPLOYMENT

Section 1. Equal Employment Opportunity Policy

It is the policy of the Town to foster, maintain and promote equal employment opportunities. The Town shall select employees on the basis of the applicant's qualifications for the job and award them, with respect to compensation and opportunity for training and advancement, including upgrading and promotion, without regard to age, sex, race, color, religion, national origin, disability, political affiliation, genetic predisposition or marital status. Applicants with physical disabilities shall be given equal consideration with other applicants for positions in which their disabilities do not represent an unreasonable barrier to satisfactory performance of duties with or without reasonable accommodation.

Section 2. Implementation of Equal Employment Opportunity Policy

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

Section 3. Recruitment, Selection, and Appointment

Recruitment Sources. When position vacancies occur, Department Heads shall publicize these opportunities for employment, including applicable salary information and employment qualifications. Information on job openings and hiring practices will be provided to recruitment sources, including organizations and news media available to minority applicants. In addition, a notice of vacancies shall be posted at designated conspicuous sites within departments. Individuals shall be recruited from a geographic area as wide as necessary to ensure that well-qualified applicants are obtained for Town service. The North Carolina Employment Security Commission shall normally be used as a recruitment source.

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

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

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

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

Candidates for Town employment will also be required to pass a drug test prior to employment and may be required to take a drug or alcohol test based on reasonable suspicion of use or impairment on duty.

Employees in designated safety-sensitive positions will be subject to random drug testing.

Selection. Department heads shall make such investigations and conduct such examinations as necessary to assess accurately the knowledge, skills, and experience qualifications required for the position, including criminal history where job-related using the DCI when needed. All selection devices administered by the Town shall be valid measures of job performance.

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

Section 4. Probationary Period

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

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

Disciplinary action, including demotion and dismissal, may be taken at any time during the probationary period of a new hire without following the steps outlined in this policy. A promoted employee who does not successfully complete the probationary period may be transferred or demoted to a position in which the employee shows promise of success. If no such position is available, the employee shall be dismissed. Promoted and demoted employees who are on probation retain all other rights and benefits, such as the right to use the grievance procedures.

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Upon successful completion of the probationary period, the employee is eligible to be considered for a probationary pay increase as outlined in Article III and to use annual leave as outlined in Article VII.

Section 5. Promotion

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

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

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

Section 6. Demotion

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

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

Section 7. Transfer

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

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ARTICLE V. CONDITIONS OF EMPLOYMENT

Section 1. Work Schedule and Employee Attendance

Department heads shall establish work schedules, with the approval of the Town Manager, which meet the department's operational needs in the most cost-effective manner possible.

Because Town services are essential and continuous, an employee shall avoid unnecessary absences and tardiness. Attendance and punctuality are important responsibilities of the employee, which may influence his/her future eligibility for a merit pay increase for promotion.

The employee shall be required to call their supervisor in advance to advise them when illness prevents reporting to work or when the employee expects to be late for work because of unusual and unavoidable circumstances.

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

Section 2. Political Activity

Each employee has a civic responsibility to support good government by every available means and in every appropriate manner. Each employee may join or affiliate with civic organizations of a partisan or political nature, may attend political meetings, may advocate and support the principles or policies of civic or political organizations in accordance with the Constitution and laws of the State of North Carolina and in accordance with the Constitution and laws of the United States. However, no employee shall:

- A. Engage in any political or partisan activity while on duty;
- B. Use official authority or influence for the purpose of interfering with or affecting the result of a nomination or an election for office;
- C. Be required as a duty of employment or a condition for employment, promotion, or tenure of office to contribute funds for political or partisan purposes;
- D. Coerce or compel contributions from another employee of the Town for political or partisan purposes;
- E. Use any supplies or equipment of the Town for political or partisan purposes;
- F. Display any political advertisement in or on Town property; or
- G. Be a candidate for nomination or election to office under the Town Charter.

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

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Adopted April, 2013

Section 3. Outside Employment

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

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

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

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

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

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

- A. request and obtain a leave of absence without pay;
- B. request and use accrued vacation leave or compensatory time; or
- C. Be subject to termination by the Town due to lack of availability for work following a threemonth absence.

Section 4. Dual Employment

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

Section 5. Employment of Relatives

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

"Immediate family" is defined as spouse, child, the parent or step-parent, brother, sister, grandparent, grandchild, son-in-law or daughter-in-law, aunt, or uncle of the employee or spouse of the employee, or guardian.

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

- 1. Result in a relative supervising relative;
- 2. result in a relative auditing the work of a relative;
- 3. Create a conflict of interest with either relative and the Town; or
- 4. Create the potential or perception of favoritism.

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

Section 6. Harassment Prohibited

The Town prohibits harassment by supervisors and co-workers in any form that is based on an individual's race, religion, color, sex, national origin, sexual orientation, age, veteran status, marital status, political affiliation, non-disqualifying disability, genetic information, or on the basis of actual or perceived gender as expressed through dress, appearance or behavior. Harassment is defined as conduct that culminates in tangible employment action or is sufficiently severe or pervasive to create a hostile work environment, including bullying.

A particular form of harassment, sexual harassment, is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

- 1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
- 2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
- 3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

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Sexual harassment includes repeated offensive sexual flirtations, continual or repeated commentaries about an individual's body, offensive sexual language, and the display in the workplace of sexually suggestive pictures or objects.

Any employee who believes that he or she may have a complaint of harassment may follow the Grievance Procedure described in this Chapter or may file the complaint directly with the Town Manager, department head, or other Town official. The Human Resource Director will ensure that an investigation is conducted into any allegation of sexual harassment and advice the employee and appropriate management officials of the outcome of the investigation.

Employees who are found to be engaged in harassment are subject to disciplinary action up to and including dismissal. Employees making complaints of sexual harassment are protected against retaliation by alleged harassers or other employees. Employees witnessing harassment shall also report such conduct to an appropriate Town administrative official.

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

Section 7. Expectation of Ethical Conduct- Gifts and Favors

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

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

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

Section 8. Performance Evaluation

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

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The supervisor shall evaluate performance beginning with the employee's first day on the job. Through open communications with the supervisor, the employee should obtain a clear understanding of what is expected related to job performance and a periodic assessment of their job strengths and areas for improvement.

The supervisor shall conduct performance evaluation conferences with employees prior to the completion of the probationary period and at least once each year thereafter. The performance evaluation conferences shall consist of two-way discussions between the employee and supervisor(s). The discussions should cover areas of accomplishment and performance strengths, areas for improvement, training needs, and goals for the upcoming year. The overall purpose of performance evaluation will be to improve the employee's performance. A summary of these performance evaluation conferences shall be documented in writing.

Section 9. Safety

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

Section 10. Substance Abuse Policy

The Town may establish policies and procedures related to employee substance abuse in order to ensure the safety and well-being of citizens and employees and to comply with any state, federal, or other laws and regulations.

The Town:

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

Section 11. Smoking and Tobacco Use

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

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

Section 12. Use of Town Property and Equipment

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

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

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

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

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

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

Section 13. Social Media Policy

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

However, employees should be mindful that they are representatives of the Town of Erwin at all times, and their actions, whether on or off duty, can affect the Town and its ability to serve the

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citizens effectively. Specifically, when utilizing the internet, social media sites, or personal email on the employee's own time and using personal computer resources, employees should be mindful and respectful to others in regard to what they post. Personal posts should not create a harassing, demeaning, or hostile work environment for any employee, interfere with another employee's work, or erode the public's confidence in the Town organization. Embarrassing or inappropriate posts or comments about other Town employees, officials, customers, or citizens are prohibited under this policy, as are pictures of the employee or co-workers in Town uniform without permission of the Town Manager. Employees are also cautioned not to purport to represent the Town on personal networking sites.

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

Section 13. Immigration Law Requirements

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

Section 14. Credentials and Certifications

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

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

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

Section 15. Weapons Policy

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

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

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Section 16. Whistle Blower Protection

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

Section 17. Genetic Information Non-Discrimination Act

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

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

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

Section 18. Direct Deposit

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

ARTICLE VI. EMPLOYEE BENEFITS

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All full-time and part-time employees of the Town are eligible for employee benefits as provided for in this Article which is subject to change at the Town's discretion. Temporary employees are eligible only for workers' compensation and FICA.

Section 2. Group Health and Hospitalization Insurance

The Town provides group health and hospitalization insurance programs for full-time employees and their families and part-time employees.

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

Information concerning cost and benefits shall be available to all employees.

Section 3. Group Life Insurance

The Town may elect to provide group life insurance for each full-time employee subject to the stipulations of the insurance contract. Employees may elect to purchase additional coverage and/or to ensure other family members under this plan at their expense subject to the stipulations of the insurance contract.

Section 4. Other Optional Group Insurance Plans

The Town may make other group insurance plans available to employees upon authorization of the Town Manager or Town Board of Commissioners.

Section 5. Retirement

Each employee hired into a regular full-time or part-time position and who is expected to work for the Town more than 1,000 hours annually shall join the North Carolina Local Governmental Employees' Retirement System upon hiring into that position as a condition of employment.

Section 6. Supplemental Retirement Benefits

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

Section 7. Separation Allowance for Law Enforcement Officers

§ 143-166.42. Special separation allowances for local officers.

(a) On and after January 1, 1987, every sworn law enforcement officer as defined by G.S. 128-21(11d) or G.S. 143-166.50(a)(3) employed by a local government employer who qualifies under

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this section shall receive, beginning in the month in which the officer retires on a basic service retirement under the provisions of G.S. 128-27(a), an annual separation allowance equal to eighty-five hundredths percent (0.85%) of the annual equivalent of the base rate of compensation most recently applicable to the officer for each year of creditable service. The allowance shall be paid in equal installments on the payroll frequency used by the employer. To qualify for the allowance, the officer shall:

- 1. Have (i) completed 30 or more years of creditable service or (ii) have attained 55 years of age and completed five or more years of creditable service; and
- 2. Not have attained 62 years of age; and
- 3. Have completed at least five years of continuous service as a law enforcement officer as herein defined immediately preceding a service retirement. Any break in the continuous service required by this subsection because of disability retirement or disability salary continuation benefits shall not adversely affect an officer's qualification to receive the allowance, provided the officer returns to service within 45 days after the disability benefits cease and is otherwise qualified to receive the allowance.
- (b) As used in this section, "creditable service" means the service for which credit is allowed under the retirement system of which the officer is a member, provided that at least fifty percent (50%) of the service is as a law enforcement officer as herein defined.
- (c) Payment to a retired officer under the provisions of this section shall cease at the first of:
 - 1. The death of the officer;
 - 2. The last day of the month in which the officer attains 62 years of age; or
 - 3. The first day of reemployment by a local government employer in any capacity.
- (c1) Notwithstanding the provisions of subdivision (3) of subsection (c) of this section, payments to a retired officer shall not cease when a local government employer employs a retired officer for any of the following:
 - 1. In a public safety position in a capacity not requiring participation in the Local Governmental Employees' Retirement System; or
 - 2. In service to a county board of elections on an election day in a capacity that complies with G.S. 128-21(19) and does not result in cessation or suspension of the retiree's benefit from the Local Government Employees' Retirement System.
- (d) This section does not affect the benefits to which an individual may be entitled from State, local, federal, or private retirement systems. The benefits payable under this section shall not be subject to any increases in salary or retirement allowances that may be authorized by local government employers or for retired employees of local governments.
- (e) The governing body of each local employer shall determine the eligibility of employees for the benefits provided herein.
- (f) The governing body of each local employer shall make the payments set forth in subsection (a) of this section to those persons certified under subsection (e) of this section from funds available. (1985 (Reg. Sess., 1986), c. 1019, s. 2; 2009-396, s. 1; 2018-25, s. 1.)

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§ 143-166.43. Separation buyouts for law enforcement officers.

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

Section 8. Retiree health insurance Before July 1, 2013

An employee of the Town of Erwin who applies for and receives full Local Government Employee Retirement System benefits will receive the following benefits:

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

Section 9. Retiree health insurance After July 1, 2013

Until they become eligible for Medicare, an employee of the Town of Erwin who applies for and receives full Local Government Employee Retirement System benefits will be able to continue health insurance coverage on the Town's group insurance plan (if allowed by the carrier) by paying the full employment rate.

Section 10. Social Security

The Town, to the extent of its lawful authority and power, has extended Social Security benefits for its eligible employees and eligible groups and classes of such employees.

Section 11. Workers' Compensation

All employees of the Town (full-time, part-time, and temporary) are covered by the North Carolina Workers' Compensation Act and are required to report all injuries arising out of and in the course of employment to their immediate supervisors at the time of the injury so that appropriate action may be taken at once.

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Responsibility for claiming compensation under the Workers' Compensation Act is on the injured employee, and such claims must be filed by the employee with the North Carolina Industrial Commission within two years from the date of injury. The department head will assist the employee in filing the claim.

This provision also applies to reactions to smallpox vaccinations administered to Town employees under Section 304 of the Homeland Security Act. Such reactions shall be treated the same as any other workers' compensation claim as regards leave and salary continuation.

Section 12. Unemployment Compensation

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

Section 13. Tuition Assistance Program

Full-time employees who have completed initial probation may apply for tuition reimbursement for courses taken on their own time, which will improve their skills for their current job or prepare them for promotional opportunities within the Town service. Tuition, registration, fees, laboratory fees, and student fees are eligible expenses. Employees may be reimbursed eligible expenses up to a total of five hundred dollars (\$500) per fiscal year. Satisfactory completion of the courses will be required for reimbursement. Requests for tuition assistance shall be submitted to the Department Head prior to course registration and are subject to the review and approval of the Town Manager, subject to the availability of funds.

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ARTICLE VII. HOLIDAYS AND LEAVES OF ABSENCE

Section 1. Policy

The policy of the Town is to provide annual leave, sick leave, and holiday leave to all full-time and part-time employees and to provide proportionately equivalent amounts to employees having average workweeks of different lengths. Employees shall accrue leave proportionately with each payroll.

Section 2. Holidays

The Town of Erwin shall observe the annually established North Carolina State Government Holiday Schedule.

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

New Years Day	Martin Luther King Jr. Day	Thanksgiving (2 Days)
Memorial Day	Good Friday	Christmas (2 or 3 Days)
Independence Day	Labor Day	Veterans Day

Section 3. Holidays: Effect on Other Types of Leave

Regular holidays which occur during a vacation, sick, or other leave period of any employee shall not be considered as vacation, sick, or other leave.

Section 4. Holidays: Compensations When Work is required or regularly scheduled Off for Shift Personnel

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

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

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

Section 5. Vacation Leave

Vacation leave is intended to be used for rest and relaxation and may be used for medical appointments.

Vacation leave may also be used by employees who wish to observe religious holidays other than those granted by the Town. Employees who wish to use leave for religious observances must request leave from their respective department heads. The department head will attempt to Town of Erwin Personnel Policy

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arrange the work schedule so that an employee may be granted vacation leave for religious observance. Annual leave for religious observance may only be denied when granting the leave would create an undue hardship for the Town.

Section 6. Vacation Leave: Use by Probationary Employees

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

Employees shall be allowed to take accumulated vacation leave after six months of service.

Section 7. Vacation Leave: Accrual Rate

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

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

Section 8. Vacation Leave: Maximum Accumulation

Vacation leave may be accumulated without any applicable maximum until December 31 of each year. However, if the employee departs from service, payment for accumulated vacation leave shall not exceed 30

days. Effective the last payroll in the calendar year, any employee with more than 30 days of accumulated leave shall have the excess accumulation transferred to sick leave so that only 30 days are carried forward to January 1 of the next calendar year. Employees are not eligible to receive pay for vacation time not taken.

Employees with excess vacation leave (over 30 days) are converted to sick leave.

Employees are cautioned not to retain excess accumulated vacation leave until late in the year. Because of the necessity to keep all functions in operation, large numbers of employees cannot be granted vacation leave at any one time. If an employee has excess leave accumulation during the latter part of the year and is unable to take such leave because of staffing demands, the employee shall receive no special consideration either in having vacation leave scheduled or in receiving any exception to the maximum accumulation.

Section 9. Vacation Leave: Manner of Taking

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

Section 10. Vacation Leave: Payment upon Separation

An employee who has successfully completed six months of the probationary period will normally be paid for accumulated vacation leave upon separation (leave from work) not to exceed 30 days, provided notice is given to the supervisor at least two weeks in advance of the effective date of resignation (4 weeks for department heads). Any employee failing to give the notice required by this section shall forfeit payment for accumulated leave. The notice requirement may be waived by the Town Manager when deemed to be in the best interest of the Town. Employees who are involuntarily separated shall receive payment for accumulated annual leave subject to the 30-day maximum.

Section 11. Vacation Leave: Payment upon Death

The estate of an employee who dies while employed by the Town shall be entitled to payment of all the accumulated vacation leave credited to the employee's account not to exceed the maximums established in Section 8 of this Article.

Section 12. Sick Leave

Sick leave may be granted to a probationary or regular employee absent from work for any of the following reasons: sickness, bodily injury, required physical or dental examinations or treatment, or exposure to a contagious disease when continuing work might jeopardize the health of others.

"Immediate family" is defined as the spouse, child, parent or step-parent, brother, sister, grandparent, grandchild, son-in-law or daughter-in-law, aunt, or uncle of the employee or spouse of the employee, or guardian.

Sick leave may be used when an employee must care for a member of his or her immediate family who is ill but may not be used to care for healthy children when the regular caregiver is sick.

Sick leave may also be used for death in the employee's immediate family but may not exceed three days for any single occurrence. Additional leave time required for such occurrence may be charged to vacation, or other approved leave when approved by the department head and/or Town Manager.

Sick leave may also be used to supplement Workers' Compensation Disability Leave both during the waiting period before Workers' compensation benefits begin and afterward to supplement the remaining one-third of salary, except that employee may not exceed the regular salary amount using this provision.

Notification of the desire to take sick leave should be submitted to the employee's supervisor prior to the leave or according to departmental procedures.

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Section 13. Sick Leave: Accrual Rate and Accumulation

Sick leave shall accrue at a rate of one day per month of service or twelve days per year. Sick leave for full-time and part-time employees working other than the basic work schedule shall be pro-rated as described in this Article. Sick leave will be cumulative for an indefinite period of time and may be converted upon retirement for service credit consistent with the provisions of the North Carolina Local Government Employees' Retirement System.

All sick leave accumulated by an employee shall end and terminate without compensation when the employee resigns or is separated from the Town, except as stated for employees retiring or terminated due to a reduction in force.

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

Section 14. Transfer of Sick Leave from Previous Employer

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

Section 15. Sick Leave: Medical Certification

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

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

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

Section 16. Leave Pro-rated

Holiday, annual, and sick leave earned by full-time and part-time employees with fewer or more hours than the basic workweek shall be determined by the following formula:

1. The number of hours worked by such employees shall be divided by the number of hours in the basic workweek (usually 40 hours).

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- 2. The proportion obtained in step 1 shall be multiplied by the number of hours of leave earned annually by employees working the basic workweek.
- 3. The number of hours in step 2 divided by 12 shall be the number of hours of leave earned monthly by the employees concerned.

Section 17. Leave Without Pay

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

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

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

Section 18. Workers' Compensation Leave

An employee absent from duty because of sickness or disability covered by the North Carolina Workers' Compensation Act may elect to use accrued sick leave or vacation during the first waiting period. The employee may also elect to supplement workers' compensation payments after they begin with sick leave, vacation, or compensatory time provided that the combination of leave supplement and workers' compensation payments does not exceed normal compensation. An employee on workers' compensation leave may be permitted to continue to be eligible for benefits under the Town's group insurance plans.

When worker's compensation leave extends long enough for the waiting period to be reimbursed, the employee shall return the reimbursement check to the Town and have leave hours reinstated for all time covered by paid leave. In such cases, the Town will pay the employee for any unpaid time that is owed the employee.

A health care provider must certify the need for the employee to be out of work longer than 24 hours. The Town reserves the right to have an employee get a second opinion on a medical condition by a doctor chosen by the Town.

The leave cannot exceed 480 employment hours.

The Town will cover any medical expenses incurred by the employee due to an adverse reaction to the smallpox vaccination. The method of payment or the source of funds expended will be at the exclusive discretion of the Town.

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Adverse reaction to smallpox vaccine: if an employee is absent from work due to receiving the smallpox vaccination under the Homeland Security Act (42 U.S.C. Section 233 (p) and has:

- A. an adverse reaction to the vaccination; or
- B. an adverse reaction caused by exposure to an employee who has received such vaccination in the employment of the Town of Erwin.

Then it shall be considered an occupational disease under the Workers' Compensation program. Therefore, the absence from work will not count against the employee's sick leave, Family Medical Leave, or vacation leave, and the employee's salary shall continue during such absence.

Section 19. Short-term Disability and Family Leave

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

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

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

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

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

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

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

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

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

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

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

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

Chapter definitions:

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

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

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

Medical and Family Leave Certification

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

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that the patient requires assistance and the employee's presence would be beneficial or desirable.

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

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

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

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

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

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

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

Section 21. Military Leave

Regular employees who are members of an Armed Forces Reserve organization or National Guard shall be granted ten workdays per year for military leave without pay. On rare occasions, due to annual training being scheduled on a federal fiscal year basis, an employee may be required to attend two periods of training in one calendar year. For this purpose only, an employee shall be granted an additional ten days of military leave during the same calendar year. If such duty is required beyond these ten workdays, the employee shall be eligible to take accumulated vacation leave or be placed on leave without pay status, and the provisions of that leave shall apply. While taking military leave, the employee's leave credits and other benefits shall continue to accrue as if the employee physically remained with the Town during this period. Employees who are eligible for military leave have all job rights specified by the Vietnam Veterans Readjustment Act.

Section 22. Reinstatement Following Military Service

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An employee called to extended active duty with the United States military forces, who does not volunteer for service beyond the period for which called, shall be reinstated with full benefits provided the employee:

- 1. Applies for reinstatement within ninety days after the release from military service; and
- 2. Is able to perform the duties of the former position or similar position; or
- 3. Is unable to perform the duties of the former position or a similar position due to disability sustained as a result of the military service, but is able to perform the duties of another position in the service of the Town. In this case, the employee shall be employed in such other position as will provide the nearest approximation of the seniority, status, and pay which the employee otherwise would have been provided, if available.

Section 23. Civil Leave

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

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

Section 25: Shared Leave Policy

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

Section 26: Inclement Weather Policy

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

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

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

Section 27: Personal Leave

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

Personal leave is subject to the following conditions:

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

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

Section 28: Funeral Leave

Town employees that are considered full-time employees will receive three days of funeral leave to attend a funeral of an immediate family member.

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ARTICLE VIII. SEPARATION AND REINSTATEMENT

Section 1. Types of Separations

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

Section 2. Resignation

An employee may resign by submitting the reasons for resignation and the effective date in writing to the immediate supervisor as far in advance as possible. In all instances, the minimum notice requirement is two weeks. Failure to provide minimum notice shall result in forfeit of payment for accumulated annual leave unless the notice is waived upon recommendation of the Department Head and approval by the Town Manager.

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

Section 3. Reduction in Force

If a reduction in force becomes necessary, consideration shall be given to the quality of each employee's performance, organizational needs, and seniority in determining those employees to be retained. Employees who are separated because of a reduction in force shall be given at least two weeks' notice of the anticipated action. No permanent employee shall be separated because of a reduction in force while there are temporary or probationary employees serving in the same class in the department unless the permanent employee is not willing to transfer to the position held by the temporary or probationary employee.

Section 4. Disability

An employee who cannot perform the essential duties of a position because of a physical or mental impairment may be separated for disability. The employee or the Town may initiate action. In cases initiated by the employee, such action must be accompanied by medical evidence acceptable to the Town Manager. The Town may require an examination, at the Town's expense, performed by a physician of the Town's choice.

Section 5. Voluntary Retirement

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

Section 6. Death

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

Section 7. Dismissal

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

Section 8. Reinstatement

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

Section 9. Rehiring

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

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ARTICLE IX. UNSATISFACTORY JOB PERFORMANCE AND DETRIMENTAL PERSONAL CONDUCT

Section 1. Disciplinary Action for Unsatisfactory Job Performance

A regular employee may be placed on disciplinary suspension, demoted, or dismissed for unsatisfactory job performance if, after following the procedure outlined below, the employee's job performance is still deemed to be unsatisfactory. All cases of disciplinary suspension, demotion, or dismissal must be approved by the Town Manager prior to giving final notice to the employee.

Section 2. Unsatisfactory Job Performance Defined

Unsatisfactory job performance includes any aspects of the employee's job which are not performed as required to meet the standards set by the Department Head or Town Manager. Examples of unsatisfactory job performance include, but are not limited to, the following:

- 1. Demonstrated inefficiency, negligence, or incompetence in the performance of duties; \
- 2. Careless, negligent, or improper use of Town property or equipment;
- 3. Physical or mental incapacity to perform duties;
- 4. Discourteous treatment of the public or other employees;
- Absence without approved leave;
- 6. Improper use of leave privileges;
- 7. Failure to report for duty at the assigned time and place;
- 8. Failure to complete work within time frames established in the work plan or work standards;
- 9. Failure to meet work standards over a period of time; or
- 10. Failure to follow the chain of command to address work-related issues.
- 11. Failure to maintain certifications required by the job.

Section 3. Communication and Warning Procedures Preceding Disciplinary Action for Unsatisfactory Job Performance

When an employee's job performance is unsatisfactory, or when incidents or inappropriate actions warrant, the supervisor shall meet with the employee as soon as possible in one or more counseling sessions to discuss specific performance problems. A brief summary of these counseling sessions shall be noted in the employee's file by the supervisor.

An employee whose job performance is unsatisfactory over a period of time should normally receive at least two warnings from the supervisor before disciplinary action resulting in dismissal Town of Erwin Personnel Policy

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is taken by the Town Manager. In each case, the supervisor should record the dates of discussions with the employee, the performance deficiencies discussed, the corrective actions recommended, and the time limits set. If the employee's performance continues to be unsatisfactory, then the supervisor should use the following steps:

- A final written warning from the supervisor serving notice upon the employee that corrected performance must take place immediately in order to avoid suspension, demotion, or dismissal.
- 2. If performance does not improve, a written recommendation should be sent to the Town Manager for disciplinary action such as suspension, demotion, or dismissal. Disciplinary suspensions are to communicate the seriousness of the performance deficiency, not for the purpose of punishment, and should not generally exceed three days (24 hours) for non-exempt employees. Suspensions for exempt_employees shall generally not exceed one full work week (in accordance with FLSA requirements to retain exempt status.) However, a suspension of up to one month without pay may be implemented by the Town Manager in the case of employees with previous good work records who have an instance of significant unsatisfactory job performance or failure in conduct.

Demotions are appropriate when an employee has demonstrated an inability to perform successfully in the current job but shows promise and commitment to performing successfully in a lower-level job. If no other options are available, dismissal is appropriate.

If, after suspension or demotion, the employee's performance does not reach an acceptable level, the employee may be dismissed.

Section 4. Disciplinary Action for Detrimental Personal Conduct

With the approval of the Town Manager, an employee may be placed on disciplinary suspension, demoted, or dismissed without prior warning for causes relating to personal conduct detrimental to Town service in order to:

- 1. Avoid undue disruption of work;
- 2. To protect the safety of persons or property; or
- For other serious reasons.

Section 5. Detrimental Personal Conduct Defined

Detrimental personal conduct includes the behavior of such a serious detrimental nature that the functioning of the Town may be or has been impaired; the safety of persons or property may be or have been threatened, or the laws of any government may be or have been violated. *Examples of detrimental personal conduct include, but are not limited to, the following:*

- 1. Fraud or theft;
- 2. Conviction of a felony or the entry of a plea of nolo contendere thereto;
- 3. Falsification of records for personal profit, to grant special privileges, or to obtain employment; Town of Erwin Personnel Policy

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- 4. Willful misuse of gross negligence in the handling of Town funds;
- 5. Willful or wanton damage or destruction to property;
- 6. Willful or wanton acts that endanger the lives and property of others;
- 7. Possession of unauthorized firearms or other lethal weapons on the job;
- 8. Brutality in the performance of duties;
- Reporting to work under the influence of alcohol or drugs or partaking of such while on duty.
 Prescribed medication may be taken within limits set by a physician as long as medically
 necessary;
- 10. Engaging in incompatible employment or serving a conflicting interest;
- 11. Request or acceptance of gifts in exchange for favors or influence;
- 12. Engaging in political activity is prohibited by this chapter;
- 13. Harassment of an employee(s) and/or the public on the basis of sex or any other protected class status; or
- 14. Stated refusal to perform assigned duties or flagrant violation of work rules and regulations.

Section 6. Types of Disciplinary Actions and Pre-disciplinary Conference.

Employees may be disciplined for unsatisfactory job performance or detrimental personal conduct at the recommendation of the department head or designee. The decision on the recommended appropriate discipline is made by the Manager.

Suspension: Disciplinary suspensions are for the purpose of communicating the seriousness of the performance deficiency, not for the purpose of punishment, and shall be without pay.

<u>Non-exempt employees:</u> Maybe for short periods and should not generally exceed three days (24 hours) for non-exempt employees.

<u>Exempt employees:</u> In accordance with FLSA requirements to maintain exempt status, suspensions for exempt employees shall normally be for one full work week, especially if the suspension is for unsatisfactory job performance issues. Under FLSA, suspensions of less than a week are authorized for major safety violations or infractions of workplace conduct rules (detrimental personal conduct).

Demotions: Demotions are appropriate when an employee has demonstrated an inability to perform successfully in the current job but shows promise and commitment to performing successfully in a lower-level job.

Dismissal: Terminations are appropriate when the employee has shown he/she is unwilling or unable to perform work in a manner that meets the work and conduct standards of the Town.

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Pre-disciplinary Conference: Before suspensions, demotion, or dismissal action is taken, whether for failure in personal conduct or failure in performance of duties, the supervisor may conduct a pre-disciplinary conference. At this conference, the employee may present any response to the proposed disciplinary action.

The supervisor will consider the employee's response, if any, to the proposed disciplinary action and will, within three working days following the pre-disciplinary conference, discuss the proposed disciplinary action with the Manager. If the Manager approves, the supervisor will notify the employee in writing of the final decision to take disciplinary action. The notice of the final disciplinary action shall contain a statement of the reasons for the action and the employee's appeal rights.

If the employee was suspended without pay and the suspension is not upheld in the appeal process, the Town Manager may authorize back pay for the time of suspension.

Section 7. Non-Disciplinary Suspension

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

- 1. Temporarily relieve the employee of all duties and responsibilities and place the employee on paid or unpaid leave for the duration of the suspension, or
- 2. Assign the employee new duties and responsibilities and allow the employee to receive such compensation as is in keeping with the new duties and responsibilities.

If the employee is reinstated following the suspension, such employee shall not lose any benefits to which otherwise the employee would have been entitled had the suspension not occurred. If the employee is terminated following suspension, the employee shall not be eligible for any payment from the date of suspension; provided, however, all other benefits with the exception of accrued annual leave and sick leave shall be maintained during the period of suspension.

ARTICLE X. GRIEVANCE PROCEDURE AND ADVERSE ACTION APPEAL

Section 1. Policy

It is the policy of the Town to provide a just procedure for the presentation, consideration, and disposition of employee grievances. The purpose of this article is to outline the procedure and to assure all employees that a response to their complaints and grievances will be prompt and fair.

Employees utilizing the grievance procedures shall not be subjected to retaliation or any form of harassment from supervisors or employees for exercising their rights under this policy. Supervisors or other employees who violate this policy shall be subject to disciplinary action up to and including dismissal from Town service.

Section 2. Grievance Defined

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

Section 3. Purposes of the Grievance Procedure

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

- 1. Providing employees with a procedure by which their complaints can be considered promptly, fairly, and without reprisal;
- 2. Encouraging employees to express themselves about the conditions of work that affect them as employees;
- 3. Promoting better understanding of policies, practices, and procedures which affect employees;
- 4. Increasing employees' confidence that personnel actions taken are in accordance with established, fair, and uniform policies and procedures; and
- 5. Increasing the sense of responsibility exercised by supervisors in dealing with their employees.
- 6. Encouraging conflicts to be resolved between employees and supervisors who must maintain an effective future working relationship, and therefore, encouraging conflicts to be resolved at the lowest level possible in the chain of command; and
- 7. Creating a work environment free of continuing conflicts, disagreements, and negative feelings about the Town or its leaders, thus freeing up employee motivation, productivity, and creativity.

Section 4. Procedure

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When an employee has a grievance, the following successive steps are to be taken unless otherwise provided. The number of calendar days indicated for each step should be considered the maximum unless otherwise provided, and every effort should be made to expedite the process. However, the time limits set forth may be extended by mutual consent. The last step initiated by an employee shall be considered to be the step at which the grievance is resolved. A decision to rescind a disciplinary suspension, demotion, or dismissal must be approved by the Town Manager before the decision becomes effective.

Representation: An employee may be accompanied and assisted by a representative of his or her choosing in attempting to resolve the grievance.

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

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

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

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

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

Step 3. If the grievance is not resolved to the satisfaction of the employee at the end of Step 2, the employee may appeal, in writing, to the Town Manager within ten calendar days after receipt of the response from Step 3. The Town Manager shall respond to the appeal, stating the

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determination of the decision within ten calendar days after receipt of the appeal. The Town Manager's decision shall be the final decision. The Town Manager would notify the Town Board of Commissioners of any impending legal action.

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

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

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

Section 5. Role of the Human Resources Officer

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

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

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

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

Section 6. Grievance and Adverse Action Appeal Procedure for Discrimination

When an employee, former employee, or applicant believes that any employment action discriminates illegally (i.e., is based on an individual's race, religion, color, sex, national origin, Town of Erwin Personnel Policy

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sexual orientation, age, veteran status, marital status, political affiliation, non-disqualifying disability, genetic information, or on the basis of actual or perceived gender as expressed through dress, appearance or behavior), they have the right to appeal such action using the grievance procedure outlined in this Article (Section 4 above). While such persons are encouraged to use the grievance procedure, they shall also have the right to appeal directly to the Town Manager. Employment actions subject to appeal because of discrimination include a promotion, training, classification, pay, disciplinary action, transfer, layoff, failure to hire, or termination of employment. An employee or applicant should appeal an alleged act of discrimination within thirty calendar days of the alleged discriminatory action.

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ARTICLE XI. RECORDS AND REPORTS

Section 1. Public Information

In compliance with GS 160A-168, personnel records are protected from release except for the following, which is public record:

- Name of the employee
- Age of employee
- Date of original employment
- Terms of any contract
- Current position and title
- Current salary
- The office to which the employee is currently assigned
- Date and amount of each increase or decrease in salary with the Town
- Date and type of each promotion, demotion, transfer, suspension, separation, or other change in position classification with the Town
- The date and general description of the reasons for each promotion with the Town
- The date and type of each dismissal, suspension, or demotion for disciplinary reasons taken by the Town
- for dismissals due to disciplinary reasons, a copy of the written notice of the final decision of the Town setting forth the specific acts or omissions that are the basis of the dismissal

Any person may have access to this information for the purpose of inspection, examination, and copying during regular business hours, subject only to such rules and regulations for the safekeeping of public records as the Town may adopt.

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

Section 2. Access to Confidential Records

All information contained in a Town employee's personnel file, other than the information mentioned above, is confidential and shall be open to inspection only in the following instances:

- The employee or their duly authorized agent may examine all portions of the employee's
 personnel file except letters of reference solicited prior to employment and information
 concerning a medical disability, mental or physical, that a prudent physician would not
 divulge to the patient.
- A licensed physician designated in writing by the employee may examine the employee's medical record.
- 3. A Town employee having supervisory authority over the employee may examine all material in the employee's personnel file.
- 4. By order of a court of competent jurisdiction, any person may examine all material in the employee's personnel file.
- 5. An official of an agency of the State or Federal Government, or any political subdivision of Town of Erwin Personnel Policy

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the State, may inspect any portion of a personnel file when such inspection is deemed by the Town Manager to be necessary and essential to the pursuit of a proper function of the inspecting agency, but no information shall be divulged for the purpose of assisting in a criminal prosecution of the employee, or for the purpose of assisting in an investigation of the employee's tax liability.

- 6. However, the official having custody of the personnel records may release the name, address, and telephone number from a personnel file for the purpose of assisting in a criminal investigation.
- 7. An employee may sign a written release to be placed in his/her personnel file that permits the record custodian to provide, either in person, by telephone, or by mail, the information specified in the release to prospective employers, educational institutions, or other persons specified in the release.
- 8. The Town Manager, with the concurrence of the Town Board of Commissioners, may inform any person of the employment, non-employment, promotion, demotion, suspension or other disciplinary action, reinstatement, transfer, or termination of a Town employee, and the reasons for that action. Before releasing that information, the Town Manager shall determine in writing that the release is essential to maintaining the level and quality of Town services. The written determination shall be retained in the Town Manager's office, is a record for public inspection, and shall become a part of the employee's personnel file.

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

Section 3. Personnel Actions

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

Section 4. Records of Former Employees

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

Section 5. Remedies of Employees Objecting to Material in File

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

Section 6. Penalties for Permitting Access to Confidential Records

Section 160A-168 of the General Statutes provides that any public official or employee who knowingly and willfully permits any person to have access to any confidential information

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contained in an employee personnel file, except as expressly authorized by the designated custodian, is guilty of a misdemeanor and upon conviction shall be fined in an amount consistent with the General Statutes.

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

Section 160A-168 of the General Statutes of North Carolina provides that any person, not specifically authorized to have access to a personnel file designated as confidential, who shall knowingly and willfully examine in its official filing place, remove or copy any portion of a confidential personnel file shall be guilty of a misdemeanor and upon conviction shall be fined consistent with the General Statutes.

Section 8. Destruction of Records Regulated

No public official may destroy, sell, loan, or otherwise dispose of any public record, except in accordance with

GS 121.5, without the consent of the State Department of Cultural Resources. Whoever unlawfully removes a public record from the office where it is usually kept, or whoever alters, defaces, mutilates, or destroys it will be guilty of a misdemeanor and upon conviction will be fined in an amount provided in Chapter 132.3 of the General Statutes.

ARTICLE XII. IMPLEMENTATION OF POLICIES

Section 1. Conflicting Policies Repealed

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

Section 2. Separability

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

Section 3. Amendments

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

Adopted this day	V _	, 20

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New Business Item 3B

Erwin Board of Commissioners

REQUEST FOR CONSIDERATION

To: The Honorable Mayor and Board of Commissioners

From: Snow Bowden, Town Manager

Date: March 28, 2022 Subject: ARP Policies

In order for us to start using the funds from the American Rescue Plan, we need to have the following policies adopted and then followed. These policies are all rather standard language that was made up with templates from the UNC School of Government. We might have to revisit our conflict-of-interest policy and/or procurement policy. At the moment, I think the policies we have adopted will be fine.

Attachments:

- Eligible Use of ARPA
- Allowable Costs and Expenditures ARPA
- ARP CSLFRF Record Creation and Retention
- ARP CSLFRF Non-Discrimination
- ARP Income Policy
- ARP Property Management Policy

Town of Erwin Eligible Use of ARPA/CSLFRF Funding Policy

WHEREAS the Town of Erwin, North Carolina has received an allocation of funds from the Coronavirus State and Local Fiscal Recovery Funds of H.R. 1319 American Rescue Plan Act of 2021 (ARP/CSLFRF); and

WHEREAS US Treasury is responsible for implementing ARP/CSLFRF and has enacted a Final Rule outlining eligible projects; and

WHEREAS the funds may be used for projects within these categories, to the extent authorized by state law, to:

- 1. Support COVID-19 public health expenditures, by funding COVID-19 mitigation and prevention efforts, medical expenses, behavioral healthcare, preventing and responding to violence, and certain public health and safety staff;
- 2. Address negative economic impacts caused by the public health emergency, including economic harms to households, small businesses, non-profits, impacted industries, and the public sector;
- 3. Replace lost public sector revenue, using this funding to provide government services to the extent of the reduction in revenue experienced due to the pandemic;
- 4. Provide premium pay for essential workers, offering additional support to those who have borne and will bear the greatest health risks because of their service in critical infrastructure sectors; and,
- 5. Invest in water, sewer, and broadband infrastructure, making necessary investments to improve access to clean drinking water, support vital wastewater and stormwater infrastructure, and to expand access to broadband internet; and

WHEREAS the ARP/CSLFRF are subject to the provisions of the federal Uniform Grant Guidance, 2 CFR Part 200 (UG), as provided in the Assistance Listing; and

WHEREAS US Treasury has issued a Compliance and Reporting Guidance v.2.1 (November 15, 2021) dictating implementation of the ARP/CSLFRF award terms and compliance requirements; and

WHEREAS the Compliance and Reporting Guidance states on page 6 that

Per 2 CFR Part 200.303, your organization must develop and implement effective internal controls to ensure that funding decisions under the SLFRF award constitute eligible uses of funds, and document determinations.

BE IT RESOLVED that the Town of Erwin, North Carolina hereby adopts and enacts the following Eligibility Determination Policy for ARP/CSLFRF funds.

Eligibility Determination Policy for American Rescue Plan Act of 2021

This policy defines the permissible and prohibited uses of the Coronavirus State and Local Fiscal Recovery Funds of H.R. 1319 American Rescue Plan Act of 2021 (ARP/CSLFRF) funds. It also

outlines the procedures for determining how [Local Government Name] will spend its ARP/CSLFRF funds.

I. PERMISSIBLE USES OF ARP/CSLFRF FUNDING

US Treasury issued its **Final Rule** regarding use of ARPA funds on January 6, 2022. (The Final Rule is effective as of April 1, 2022. Until that date, a local government may proceed under the regulation promulgated by US Department of the Treasury in its **Interim Final Rule** or the Final Rule.) The Final Rule (and the Interim Final Rule) identify permissible uses of ARP/CSLFRF funds and certain limitations and process requirements. Local governments must allocate ARP/CSLFRF funds no later than December 31, 2024 and disburse all funding no later than December 31, 2026. Failure of an entity to expend all funds by December 31, 2026 will result in forfeiture of ARPA funds.

ARP/CSLFRF funds may be used for projects within the following categories of expenditures:

- 1. Support COVID-19 public health expenditures, by funding COVID-19 mitigation and prevention efforts, medical expenses, behavioral healthcare, preventing and responding to violence, and certain public health and safety staff;
- 2. Address negative economic impacts caused by the public health emergency, including economic harms to workers, households, small businesses, non-profits, impacted industries, and the public sector;
- 3. Replace lost public sector revenue, using this funding to provide government services to the extent of the reduction in revenue experienced due to the pandemic;
- 4. Provide premium pay for essential workers, offering additional support to those who have borne and will bear the greatest health risks because of their service in critical infrastructure sectors; and
- 5. Invest in water, sewer, and broadband infrastructure, making necessary investments to improve access to clean drinking water, support vital wastewater and stormwater infrastructure, and to expand access to broadband internet; and

II. PROHIBITED USES OF ARPA FUNDING

The ARP/CSLFRF and US Treasury's Final Rule prohibit certain uses of ARP/CSLFRF funds. Specifically, ARP/CSLFRF funds may not be used for projects within the following categories of expenditures:

- 1. To make a deposit into a pension fund that constitutes an extraordinary payment of an accrued, unfunded liability (Note that routine contributions as part of a payroll obligation for an eligible project are allowed.);
- 2. To borrow money or make debt service payments;
- 3. To replenish rainy day funds or fund other financial reserves;

- 4. To satisfy an obligation arising from a settlement agreement, judgment, consent decree, or judicially confirmed debt restricting in a judicial, administrative, or regulatory proceeding (There is an exception to this prohibition if the settlement or judgment requires the [Local Government Name] to provide services to respond to the COVID-19 public health emergency or its negative economic impacts or to provide government services, then the costs of those otherwise ARP/CSLFRF-eligible projects are allowed.);
- 5. For a project that includes a term or condition that undermines efforts to stop the spread of COVID-19 or discourages compliance with recommendations and guidelines in CDC guidance for stopping the spread of COVID-19;
- 6. In violation of the conflict-of-interest requirements imposed by the award terms and 2 CFR 200.318(c).
- 7. For any expenditure that would violate other applicable federal, state, and local laws and regulations.

The Town of Erwin, North Carolina and any of its contractors or subrecipients, may not expend any ARP/CSLFRF funds for these purposes.

III. PROCEDURES FOR PROJECT APPROVAL

The following are procedures for ARP/CSLFRF project approvals. All [Local Government Name] employees and officials must comply with these requirements.

- 1. Requests for ARP/CSLFRF funding, must be made in writing and include all the following:
 - a. Brief description of the project
 - b. Identification of ARP/CSLFRF Expenditure Category (EC) (A list of ECs in in the Appendix to the US Treasury Compliance and Reporting Guidance.)
 - c. Required justifications for applicable projects, according to the requirements in the Final Rule. Employees or any applicant seeking ARPA funding should review the Final Rule and Final Rule Overview prior to submitting a proposal.
 - d. Proposed budget, broken down by cost item, in accordance with the Town of Erwin, North Carolina's Allowable Cost Policy.
 - e. A project implementation plan and estimated implementation timeline (All ARP/CSLFRF funds must be fully obligated by December 31, 2024, and fully expended by December 31, 2026.)
- 2. Requests for funding must be submitted to the Town Manager for approval. All requests will be reviewed by the Town Manager for ARP/CSLFRF compliance and by the Finance Director for allowable costs and other financial review.
- 3. No ARP/CSLFRF may be obligated or expended before final written approval by the Town Manager. All expenditures must be approved by the Erwin Board of Town Commissioners.
- 4. If a proposal does not meet the required criteria, it will be returned to the requesting party for revision and resubmittal.

- 5. Following approval, employees responsible for implementing the project must conform actual obligations and expenditures to the pre-approved project budget. Changes in project budgets must be approved by the Town Manager and may require a budget amendment before proceeding. Any delay in the projected project completion date shall be communicated to the Town Manager immediately.
- 6. The Town Manager must collect and document required information for each EC, for purposes of completing the required Project and Expenditure reports.
- 7. The Town Manager must maintain written project requests and approvals, all supporting documentation, and financial information at least until December 31, 2031.

Town of Erwin Allowable Costs and Expenditures of ARPA/CSLFRF Funding Policy

WHEREAS the Town of Erwin, North Carolina, has received an allocation of funds from the Coronavirus State and Local Fiscal Recovery Funds of H.R. 1319 American Rescue Plan Act of 2021 (ARP/CSLFRF); and

WHEREAS the funds may be used for projects within these categories, to the extent authorized by state law, to:

- 1. Support COVID-19 public health expenditures, by funding COVID-19 mitigation and prevention efforts, medical expenses, behavioral healthcare, preventing and responding to violence, and certain public health and safety staff;
- 2. Address negative economic impacts caused by the public health emergency, including economic harms to households, small businesses, non-profits, impacted industries, and the public sector;
- 3. Replace lost public sector revenue, using this funding to provide government services to the extent of the reduction in revenue experienced due to the pandemic;
- 4. Provide premium pay for essential workers, offering additional support to those who have borne and will bear the greatest health risks because of their service in critical infrastructure sectors; and,
- 5. Invest in water, sewer, and broadband infrastructure, making necessary investments to improve access to clean drinking water, support vital wastewater and stormwater infrastructure, and to expand access to broadband internet.

WHEREAS the ARP/CSLFRF are subject to the provisions of the federal Uniform Grant Guidance, 2 CFR Sect. 200 (UG), as provided in the Assistance Listin11; and

WHEREAS the Compliance and Reporting Guidance for the State and Local Fiscal Recovery Funds provides, in relevant part:

Allowable Costs/Cost Principles. As outlined in the Uniform Guidance at 2 CFR Part 200, Subpart E regarding Cost Principles, allowable costs are based on the premise that a recipient is responsible for the effective administration of Federal awards, application of sound management practices, and administration of Federal funds in a manner consistent with the program objectives and terms and conditions of the award. Recipients must implement robust internal controls and effective monitoring to ensure compliance with the Cost Principles, which are important for building trust and accountability.

ARP/CSLFRF Funds may be, but are not required to be, used along with other funding sources for a given project Note that ARP/CSLFRF Funds may not be used for a non-Federal cost share or match where prohibited by other Federal programs, e.g., funds may not be used for the State share for Medicaid.

Treasury's Interim Final Rule and guidance and the Uniform Guidance outline the types of costs that are allowable, including certain audit costs. For example, per 2 CFR 200.425, areasonably proportionate share of the costs of audits required by the Single Audit Act Amendments of 1996 are allowable; however, costs for audits that were not performed inaccordance with 2 CFR Part 200, Subpart F are not allowable. Please see 2 CFR Part 200, Subpart E regarding the Cost Principles for more information.

- 1. Administrative costs: Recipients may use funds for administering the SLFRF program, including costs of consultants to support effective management and oversight, including consultation for ensuring compliance with legal, regulatory, and other requirements. Further, costs must be reasonable and allocable as outlined in 2 CFR 200.404 and 2 CFR 200.405. Pursuant to the [ARP/CSLFRF] Award Terms and Conditions, recipients are permitted to charge both direct and indirect costs to their SLFRF award as administrative costs. Direct costs are those that are identified specifically as costs of implementing the [ARP/CSLFRF] program objectives, such as contract support, materials, and supplies for a project. Indirect costs are general overhead costs of an organization where a portion of such costs are allocable to the [ARP/CSLFRF] award such as the cost of facilities or administrative functions like a director's office. Each category of cost should be treated consistently in like circumstances as direct or indirect, and recipients may not charge the same administrative costs to both direct and indirect cost categories, or to other programs. If a recipient has a current Negotiated Indirect Costs Rate Agreement (NICRA) established with a Federal cognizant agency responsible for reviewing, negotiating, and approving cost allocation plans or indirect cost proposals, then the recipient may use its current NICRA. Alternatively, if the recipient does not have a NICRA, the recipient may elect to use the de minimis rate of 10 percent of the modified total direct costs pursuant to 2 CFR 200.414(f).
- 2. <u>Salaries and Expenses:</u> In general, certain employees' wages, salaries, and covered benefits are an eligible use of [ARP/CSLFRF] award funds; and

WHEREAS Subpart E of the UG dictates allowable costs and cost principles for expenditure of ARP/CSLFRF funds; and

WHEREAS Subpart E of the UG (specifically, 200.400) states that:

The application of these cost principles is based on the fundamental premises that:

- (a) The non-Federal entity is responsible for the efficient and effective administration of the Federal award through the application of sound management practices.
- (b) The non-Federal entity assumes responsibility for administering Federal funds in a manner consistent with underlying agreements, program objectives, and the terms and conditions of the Federal award.

- (c) The non-Federal entity, in recognition of its own unique combination of staff, facilities, and experience, has the primary responsibility for employing whatever form of sound organization and management techniques may be necessary in order to assure proper and efficient administration of the Federal award.
- (d) The application of these cost principles should require no significant changes in the internal accounting policies and practices of the non-Federal entity. However, the accounting practices of the non-Federal entity must be consistent with these cost principles and support the accumulation of costsas required by the principles and must provide for adequate documentation to support costs charged to the Federal award.
- (e) In reviewing, negotiating and approving cost allocation plans or indirect cost proposals, the cognizant agency for indirect costs should generally assure that the non-Federal entity is applying these cost accounting principles on a consistent basis during their review and negotiation of indirect cost proposals. Where wide variations exist in the treatment of a given cost item by the non-Federal entity, the reasonableness and equity of such treatments should be fully considered.
- (f) For non-Federal entities that educate and engage students in research, the dual role of students as both trainees and employees (including pre- and post-doctoral staff) contributing to the completion of Federal awards for research must be recognized in the application of these principles.
- (g) The non-Federal entity may not earn or keep any profit resulting from Federal financial assistance, unless explicitly authorized by the terms and conditions of the Federal award;

BE IT RESOLVED that the governing board of the Town of Erwin, North Carolina hereby adopts and enacts the following UG Allowable Costs and Cost Principles Policy for the expenditure of ARP/CSLFRF funds.

Town of Erwin, North Carolina Allowable Costs and Costs Principles Policy

I. Policy Overview

Title 2 U.S. Code of Federal Regulations Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, commonly called Uniform Guidance (UG), specifically Subpart E, defines those items of cost that are allowable, and which are unallowable. The tests of allowability under these principles are:

- (a) the costs must be reasonable;
- (b) they must be allocable to eligible projects under the Coronavirus State and LocalFiscal Recovery Funds of H.R. 1319 American Rescue Plan Act of 2021 (ARP/CSLFRF);
- (c) they must be given consistent treatment through application of those generally accepted accounting principles appropriate to the circumstances; and
- (d) they must conform to any limitations or exclusions set forth in these principles or in the ARP/CSLFRF grant award as to types or amounts of cost items. Unallowable items fall into two categories: expenses which are by their nature unallowable (e.g., alcohol), and unallowable activities (e.g., fund raising).

The Town of Erwin, North Carolina shall adhere to all applicable cost principles governing theuse of federal grants. This policy addresses the proper classification of both direct and indirect charges to ARP/CSLFRF funded projects and enacts procedures to ensure that proposed and actual expenditures are consistent with the ARP/CSLFRF grant award terms and all applicable federal regulations in the UG.

Responsibility for following these guidelines lies with the Town Manager, Town Clerk and Finance Director who are charged with the administration and financial oversight of the ARP/CSLFRF. Further, all local government employees and officials who are involved in obligating, administering, expending, or monitoring ARP/CSLFRF grant funded projects should be well versed with the categories of costs that are generally allowable and unallowable. Questions on the allowability of costs should be directed to the Finance Director. As questions on allowability of certain costs may require interpretation and judgment, local government personnel are encouraged to ask for assistance in making those determinations.

II. General Cost Allowability Criteria

All costs expended using ARP/CSLFRF funds must meet the following general criteria:

1. Be necessary and reasonable for the proper and efficient performance and administration of the grant program.

A cost must be *necessary* to achieve a project object. When determining whether a cost is necessary, consideration may be given to:

- a) Whether the cost is needed for the proper and efficient performance of the grant project.
- b) Whether the cost is identified in the approved project budget or application.
- c) Whether the cost aligns with identified needs based on results and findings from a needs assessment.
- d) Whether the cost addresses project goals and objectives and is based on program data.

A cost is *reasonable* if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision to incur the cost was made. For example, reasonable means that sound business practices were followed, and purchases were comparable to market prices. When determining reasonableness of a cost, consideration must be given to:

- a) Whether the cost is a type generally recognized as ordinary and necessary for the operation of the Town of Erwin, North Carolina, or the proper and efficient performance of the federal award.
- b) The restraints or requirements imposed by factors, such as: sound business practices; arm's-length bargaining; federal, state, and other laws and regulations; and terms and conditions of the ARP/CSLFRF award.
- c) Market prices for comparable goods or services for the geographic area.
- d) Whether individuals concerned acted with prudence in the circumstances considering their responsibilities to the Town of Erwin, North Carolina itsemployees, the public at large,

- and the federal government.
- e) Whether the Town of Erwin, North Carolina significantly deviates from its established practices and policies regarding the incurrence of costs, which may unjustifiably increase the ARP/CSLFRF award's cost.
- 2. Be allocable to the ARP/CSLFRF federal award. A cost is allocable to the ARP/CSLFRF award if the goods or services involved are chargeable or assignable to the ARP/CSLFRF award in accordance with the relative benefit received. This means that the ARP/CSLFRF grant program derived a benefit in proportion to the funds charged to the program. For example, if 50 percent of a local government program officer's salary ispaid with grant funds, then the local government must document that the program officerspent at least 50 percent of his/her time on the grant program.

If a cost benefits two or more projects or activities in proportions that can be determined without undue effort or cost, the cost must be allocated to the projects based on the proportional benefit. If a cost benefits two or more projects or activities in proportions that cannot be determined because of the interrelationship of the work involved, then the costs may be allocated or transferred to benefitted projects on any reasonable documented basis. Where the purchase of equipment or other capital asset is specifically authorized by the ARP/CSLFRF, the costs are assignable to the Federal award regardless of the use that may be made of the equipment or other capital asset involved when no longer needed for the purpose for which it was originally required.

- 3. Be authorized and not prohibited under state or local laws or regulations.
- 4. Conform to any limitations or exclusions set forth in the principles, federal laws, ARP/CSLFRF award terms, and other governing regulations as to types or amounts of cost items.
- 5. Be consistent with policies, regulations, and procedures that apply uniformly to both the ARP/CSLFRF federal award and other activities of the Town of Erwin, North Carolina.
- 6. Be accorded consistent treatment. A cost MAY NOT be assigned to a federal award as a direct cost and also be charged to a federal award as an indirect cost. And a cost must be treated consistently for both federal award and non-federal award expenditures.
- 7. Be determined in accordance with generally accepted accounting principles (GAAP), unless provided otherwise in the UGG.
- 8. Be net of all applicable credits. The term "applicable credits" refers to those receipts orreduction of expenditures that operate to offset or reduce expense items allocable to the federal award. Typical examples of such transactions are purchase discounts; rebates or allowances; recoveries or indemnities on losses; and adjustments of overpayments or erroneous charges. To the extent that such credits accruing to and received by the local government related to the federal award, they shall be credited to the ARP/CSLFRF award, either as a cost reduction or a cash refund, as

appropriate and consistent with the award terms. [NOTE THAT A LOCAL GOVERNMENT SHOULD ADD A REFERENCE TO ITS PROGRAM INCOME POLICY HERE, WHEN THAT POLICY IS IMPLEMENTED.]

9. Be adequately documented

III. SELECTED ITEMS OF COST

The UGG examines the allowability of fifty-five (55) specific cost items (commonly referred to as Selected Items of Cost) at 2 CFR § 200.420-.475.

The Town Manager and/or the Finance Director is responsible for determining cost allowability must be familiar with the Selected Items of Cost. The Town of Erwin, North Carolina must follow the applicable regulations when charging these specific expenditures to the ARP/CSLFRFgrant. The Town Manager and/or Finance Director will check costs against the selected items of cost requirements to ensure the cost is allowable and that all process and documentation requirements are followed. In addition, State laws, Town of Erwin, North Carolina regulations, and program-specific rules may deem a cost as unallowable, and the Town Manager and/or Finance Director must follow those non-federal rules as well.

Exhibit A identifies and summarizes the Selected Items of Cost.

IV. DIRECT AND INDIRECT COSTS

Allowable and allocable costs must be appropriately classified as direct or indirect charges. It is is sessential that each item of cost be treated consistently in like circumstances either as a direct or an indirect cost.

Direct costs are expenses that are specifically associated with a particular ARP/CSLFRF-eligible project and that can be directly assigned to such activities relatively easily with a high degree of accuracy. Common examples of direct costs include salary and fringe benefits of personnel directly involved in undertaking an eligible project, equipment and supplies for the project, subcontracted service provider, or other materials consumed or expended in the performance of agrant-eligible project.

Indirect costs are (1) costs incurred for a common or joint purpose benefitting more than one ARP/CSLFRF-eligible project, and (2) not readily assignable to the project specifically benefited, without effort disproportionate to the results achieved. They are expenses that benefitmore than one project or even more than one federal grant. Common examples of indirect costsinclude utilities, local telephone charges, shared office supplies, administrative or secretarial salaries.

For indirect costs, the Town of Erwin, North Carolina may charge a 10 percent de minimis rate of modified total direct costs (MTDC). According to UGG Section 200.68 MTDC means all direct salaries and wages, applicable fringe benefits, materials and supplies, services, travel, and up to the first \$25,000 of each subaward (regardless of the period of performance the subawards under the award). MTDC EXCLUDES equipment, capital expenditures,

charges for patient care, rental costs, tuition remission, scholarships and fellowships, participant support costs and the portion of each subaward in excess of \$25,000.

V. SPECIAL PROVISIONS FOR STATE AND LOCAL GOVERNMENTS

There are some special provisions of the UG that apply only to states, local governments, and Indian Tribes.

§ 200.444 General costs of government.

- 1) For states, local governments, and Indian Tribes, the general costs of government are unallowable (except as provided in \$200.475). Unallowable costs include:
 - a) Salaries and expenses of the Office of the Governor of a state or the chief executive of a local government or the chief executive of an Indian tribe;
 - b) Salaries and other expenses of a state legislature, tribal council, or similar local governmental body, such as a county supervisor, city council, school board, etc., whether incurred for purposes of legislation or executive direction;
 - c) Costs of the judicial branch of a government;
 - d) Costs of prosecutorial activities unless treated as a direct cost to a specific program if authorized by statute or regulation (however, this does not preclude the allowability of other legal activities of the Attorney General as described in 200.435); and
 - e) Costs of other general types of government services nonnally provided to the general public, such as fire and police, unless provided for as a direct cost under a program statute or regulation.
- 2) For Indian tribes and Councils of Governments (COGs) (see definition for *Local government* in § 200.1 of this part), up to 50% of salaries and expenses directly attributable to managing and operating Federal pro!!rams by the chief executive and his or her staff can be included in the indirect cost calculation without documentation.

§ 200.416 COST ALLOCATION PLANS AND INDIRECT COST PROPOSALS.

- 1) For states, local governments and Indian tribes, certain services, such as motor pools, computer centers, purchasing, accounting, etc., are provided to operating agencies on a centralized basis. Since Federal awards are performed within the individual operating agencies, there needs to be a process whereby these central service costs can be identified and assigned to benefitted activities on a reasonable and consistent basis. The central service cost allocation plan provides that process.
- 2) Individual operating agencies (governmental department or agency), normally charge Federal awards for indirect costs through an indirect cost rate. A separate indirect cost rate(s) proposal for each operating agency is usually necessary to claim indirect costs under Federal awards. Indirect costs include:
 - a) The indirect costs originating in each department or agency of the governmental unit carrying out Federal awards and
 - b) The costs of central governmental services distributed through the central service cost allocation plan and not otherwise treated as direct costs.
- 3) The requirements for development and submission of cost allocation plans (for central service costs and public assistance programs) and indirect cost rate proposals are contained

in appendices V, VI and VII to this part.

§ 200.417 INTERAGENCY SERVICE.

The cost of services provided by one agency to another within the governmental unit may include allowable direct costs of the service plus a pro-rated share of indirect costs. A standard indirect cost allowance equal to ten percent of the direct salary and wage cost ofproviding the service (excluding overtime, shift premiums, and fringe benefits) may be used in lieu of determining the actual indirect costs of the service. These services do not include centralized services included in central service cost allocation plans as described in Appendix V to Part 200.

VI. Cost Allowability Review Process

Preapproval Cost Allowability Review

Before an ARP/CSLFRF-funded project is authorized, the Town Manager must review the proposed cost items within an estimated project budget to determine whether they are allowable and allocable and whether cost items will be charged as direct or indirect expenses. This review will occur concurrently with the review of project eligibility and before obligating or expending any ARP/CSLFRF funds.

- 1) Local government personnel must submit proposed ARP/CSLFRF projects to the Town Manager for review. In addition to other required information, all proposed project submissions must delineate estimated costs by cost item.
- 2) Along with a general review of project eligibility and conformance with other governing board management directives, the Town Manager and/or Finance Director must review estimated costs for specific allowable cost requirements, budget parameters, indirect rates, fringe benefit rates, and those activities/costs that require pre-approval by the US Treasury.
- 3) If a proposed project includes a request for an unallowable cost, the Town Manager will return the proposal to the requesting party for review and, if practicable, resubmission with corrected cost items.
- 4) Once a proposed project budget is pre-approved by the Town Manager the local government personnel responsible for implementing the project must conform actualobligations and expenditures to the pre-approved project budget

Post-Expenditure Cost Allowability Review

Once an expenditure is incurred related to an eligible project, and an invoice or other demand forpayment is submitted to the local government, the Finance Director must perform a second review to ensure that actual expenditures comprise allowable costs.

- 1) All invoices or other demands for payment must include a breakdown by cost item. The cost items should mirror those presented in the proposed budget for the project. If an invoice or other demand for payment does not include a breakdown by cost item, the Finance Director will return the invoice to the project manager and/or vendor, contractor, or subrecipient for correction.
- 2) The Finance Director must review the individual cost items listed on the invoice or other demand for payment to determine their allowability and allocability.
- 3) If all cost items are deemed allowable and properly allocable, the Finance Director must proceed through the local government's normal disbursement process.

- 4) If any cost item is deemed unallowable, the Town Manager will notify the project management and/or vendor, contractor, or subrecipient that a portion of the invoice or other demand for payment will not be paid with ARP/CSLFRF funds. The Town Manager may in their discretion, and consistent with this policy, allow an invoice or otherdemand for payment to be resubmitted with a revised cost allocation. If the local government remains legally obligated by contract or otherwise to pay the disallowed cost item, it must identify other local government funds to cover the disbursement. The Town of Erwin, North Carolina's governing board must approve any allocation of other funds for this purpose.
- 5) The Town Manager must retain appropriate documentation of budgeted cost items per project and actual obligations and expenditures of cost items per project.

Cost Transfers

Any costs charged to the ARP/CSLFRF federal award that do not meet the allowable cost criteriamust be removed from the award account and charged to an account that does not require adherence to federal UGG or other applicable guidelines.

Failure to adequately follow this policy and related procedures could result in questioned costs, audit findings, potential repayment of disallowed costs and discontinuance of funding.

Exhibit A

Exhibit A		,
Selected Items of Cost	Uniform Guidance General Reference	Allowability
Advertising and public relations costs	2 CFR § 200.421	Allowable with restrictions
Advisory councils	2 CFR § 200.422	Allowable with restrictions
Alcoholic beverages	2 CFR § 200.423	Unallowable
Alumni/ae activities	2 CFR § 200.424	Not specifically addressed
Audit services	2 CFR § 200.425	Allowable with restrictions
Bad debts	2 CFR § 200.426	Unallowable
Bonding costs	2 CFR § 200.427	Allowable with restrictions
Collection of improper payments	2 CFR § 200.428	Allowable
Commencement and convocation costs	2 CFR § 200.429	Not specifically addressed
Compensation - personal services	2 CFR § 200.430	Allowable with restrictions; Special conditions apply (e.g., § 200.430(i)(S))
Compensation - fringe benefits	2 CFR § 200.431	Allowable with restrictions
Conferences	2 CFR § 200.432	Allowable with restrictions
Contingency provisions	2 CFR § 200.433	Unallowable with exceptions
Contributions and donations	2 CFR § 200.434	Unallowable (made by non-federal entity); not reimbursable but value may be used as cost sharing or matching (made to non-federal entity)
Defense and prosecution of criminal and civil proceedings, claims, appeals and patent		Allowable with restrictions

infringements		
Depreciation	2 CFR § 200.436	Allowable with qualifications
Employee health and welfare costs	2 CFR § 200.437	Allowable with restrictions
Entertainment costs	2 CFR § 200.438	Unallowable with exceptions
Equipment and other capita expenditures	12 CFR § 200.439	Allowability based on specific requirement
Exchange rates	2 CFR § 200.440	Allowable with restrictions
Fines, penalties, damages and other settlements	2 CFR § 200.441	Unallowable with exceptions
Fund raising and investmen management costs	t2 CFR § 200.442	Unallowable with exceptions
Gains and losses on disposition of depreciable assets	2 CFR § 200 .443	Allowable with restrictions
General costs of government	2 CFR § 200.444	Unallowable with exceptions
Goods and services for personal use	2 CFR § 200.445	Unallowable (goods/ services); allowable (housing) with restrictions
idle facilities and idle capacity	2 CFR § 200 .446	idle facilities - unallowable with exceptions; Idle capacity- allowable with restrictions
Insurance and indemnification	2 CFR § 200.447	Allowable with restrictions
Intellectual property	2 CFR § 200.448	Allowable with restrictions
Interest	2 CFR § 200.449	Allowable with restrictions
Lobbying	2 CFR § 200.450	Unallowable
Losses on other awards or contracts	2 CFR § 200.451	Unallowable (however, they are required to be included in the indirect cost rate base for

		allocation of indirect costs)
Maintenance and repair costs	2 CFR § 200.452	Allowable with restrictions
Materials and supplies costs, including costs of computing devices	2 CFR § 200.453	Allowable with restrictions
Memberships, subscriptions, and professional activity costs	2 CFR § 200.454	Allowable with restrictions; unallowable for lobbying organizations
Organization costs	2 CFR § 200.455	Unallowable except federal prior approval
Participant support costs	2 CFR § 200.456	Allowable with prior approval of the federal awarding agency
Plant and security costs	2 CFR § 200.457	Allowable ; capital expenditures are subject to § 200.439
Pre-award costs	2 CFR § 200.458	Allowable if consistent with other allowabilities and with prior approval of the federal awarding agency
Professional services costs	2 CFR § 200.459	Allowable with restrictions
Pr oposal costs	2 CFR § 200.460	Allowable with restrictions
Publication and printing costs	2 CFR § 200.461	Allowable with restrictions
Rearrangement and reconversion costs	2 CFR § 200.462	Allowable (ordinary and normal)
Recruiting costs	2 CFR § 200.463	Allowable with restrictions
Relocation costs of employees	2 CFR § 200.464	Allowable with restrictions
Rental costs of real property and equipment	2 CFR § 200.465	Allowable with restrictions
Scholarships and student aid costs	2 CFR § 200.466	Not specifically addressed
Selling and marketing costs	2 CFR § 200.467	Unallowable with exceptions

Specialized service facilities	2 CFR § 200.468	Allowable with restrictions
Student activity costs	2 CFR § 200.469	Unallowable unless specifically provided for in the federal award
Taxes (including Value Added Tax)	2 CFR § 200.470	Allowable with restrictions
Termination costs	2 CFR § 200.471	Allowable with restrictions
Training and education costs	2 CFR § 200.472	Allowable for employee development
Transportation costs	2 CFR § 200.473	Allowable with restrictions
Travel costs	2 CFR § 200.474	Allowable with restrictions
Trustees	2 CFR § 200.475	Not specifically addressed

Town of Erwin ARP/CSLFRF Record Creation and Retention Policy

Retention of Records: The Coronavirus Local Fiscal Recovery Funds ("CSLFRF") Award Terms and Conditions and the Compliance and Reporting Guidance set forth the U.S. Department of Treasury's ("Treasury") record retention requirements for the ARP/CSLFRF award.

It is the policy of the Town of Erwin, North Carolina to follow Treasury's record retention requirements as it expends CSLFRF pursuant to the APR/CSLFRF award. Accordingly, the Town of Erwin, North Carolina agrees to:

- a) Retain all financial and programmatic records related to the use and expenditure of CSLFRF pursuant to the ARP/CSLFRF award for a period of five (5) years after all CLFRF funds have been expended or returned to Treasury, whichever is the later.
- b) Retain records for real property and equipment acquired with CSLFRF for five years after final disposition.
- c) Ensure that the financial and programmatic records retained sufficiently evidence compliance with section 603(c) of the Social Security Act "ARPA," Treasury's regulations implementing that section, and guidance issued by Treasury regarding the foregoing.
- d) Allow the Treasury Office of Inspector General and the Government Accountability Office, or their authorized representatives, the right to timely and unrestricted access to any records for the purpose of audits or other investigations.
- e) If any litigation, claim, or audit is started before the expiration of the 5-year period, the records will be retained until all litigation, claims, or audit findings involving the records have been resolved.

Covered Records: For purposes of this policy, records are information, regardless of physical form or characteristics, that are created, received, or retained that evidence the Town of Erwin, North Carolina's expenditure of CSLFRF funds on eligible projects, programs, or activities pursuant to the ARP/CSLFRF award.

Records that shall be retained pursuant to this policy include, but are not limited to, the following:

a) Financial statements and accounting records evidencing expenditures of CSLFRF for eligible projects, programs, or activities;

- b) Documentation of rational to support a particular expenditure of CSLFRF (e.g., expenditure constitutes a general government service);
- c) Documentation of administrative costs charged to the ARP/CSLFRF award;
- d) Procurement documents evidencing the significant history of a procurement, including, at a minimum, the rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for contract cost or price;
- e) Subaward agreements and documentation of subrecipient monitoring;
- f) Documentation evidencing compliance with the Uniform Guidance property management standards set forth in 2 C.F.R. §§ 200.310-316 and 200.329;
- g) Personnel and payroll records for full-time and part-time employees compensated with CSLFRF, including time and effort reports; and
- h) Indirect cost rate proposals

Storage: The Town of Erwin, North Carolina's records must be stored in a safe, secure, and accessible manner. Wherever practicable, such records should be collected, transmitted, and stored in open digital formats.

Departmental Responsibilities: Any department or unit of the Town of Erwin, North Carolina, and its employees, who are responsible for creating or maintaining the covered documents in this policy shall comply with the terms of this policy. Failure to do so may subject the Town of Erwin, North Carolina to civil and/or criminal liability. Any employee who fails to comply with the record retention requirements set forth herein may be subject to disciplinary sanctions, including suspension or termination.

The Town Manager is responsible for identifying the documents that the Town of Erwin, North Carolina must or should retain and arrange for the proper storage and retrieval of records. The Town Manager shall also ensure that all personnel subject to the terms of this policy are aware of the record retention requirements set forth herein.

Reporting Policy Violations: The Town of Erwin, North Carolina is committed to enforcing this policy as it applies to all forms of records. Any employee that suspects the terms of this policy have been violated shall report the incident immediately to that employee's supervisor. If an employee is not comfortable bringing the matter up with the supervisor, the employee may bring the matter to the attention of the Mayor of the Town of Erwin, North Carolina. The Town of Erwin, North Carolina prohibits any form of discipline, reprisal, intimidation, or retaliation for reporting incidents of inappropriate conduct of any kind, pursuing any record destruction claim, or cooperating in related investigations.

Questions About the Policy: Any questions about this policy should be referred to the Town Manager by phone at 910-591-4200 or by e-mail at townmanager@erwin-nc.org who is in charge of administering, enforcing, and updating this policy.

Town of Erwin ARPA/CSLFRF Non-Discrimination Policy

WHEREAS, the Town of Erwin, North Carolina has received an allocation of funds from the "Coronavirus State Fiscal Recovery Fund" or "Coronavirus Local Fiscal Recovery Fund" (together "CSLFRF funds"), established pursuant to Sections 602 and 603 of the Social Security Act, as added by Section 9901 of the American Rescue Plan Act of 2021, Pub. L. No. 117-2 (the "ARP/CSLFRF award").

WHEREAS, CSLFRF funds are subject to the U.S. Department of Treasury ("Treasury") regulations, including the Final Rule, the Award Terms and Conditions, and the Title VII implementing regulations at 31 C.F.R. Part 22.

WHEREAS, pursuant to the ARP/CSLFRF Award Terms and Conditions, and as a condition of receiving CSLFRF funds, the Town of Erwin agrees to follow all federal statutes and regulations prohibiting discrimination in its administration of CSLFRF under the terms and conditions of the ARP/CSLFRF award, including, but not limited to, the following:

- i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and Treasury's implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis of race, color, or national origin within programs or activities receiving federal financial assistance;
- ii. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability;
- iii. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving Federal financial assistance;
- iv. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance; and
- v. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.

BE IT RESOLVED That the governing board of the Town of Erwin, North Carolina hereby adopts and enacts the following nondiscrimination policy, which shall apply to the operations of any program, activity, or facility that is supported in whole, or in part, by expenditures CSLFRF pursuant to the ARP/CSLFRF award.

Nondiscrimination Policy Statement

It is the policy of the Town of Erwin, North Carolina to ensure that no person shall, on the ground of race, color, national origin (including limited English Proficiency), familial status, sex, gender, sexual orientation, age, or disability, be excluded from participation in, be denied the befits of, or be otherwise subject to discrimination under any program or activity administered by the Town of Erwin, North Carolina including programs or activities that are funded in whole or part, with Coronavirus State and Local Fiscal Recovery Funds ("CSLFRF"), which the Town of Erwin, North Carolina received from the U.S. Department of Treasury ("Treasury") pursuant to Sections 602 and 603 of the Social Security Act, as added by Section 9901 of the American Rescue Plan Act of 2021, Pub. L. No. 117-2 (herein the "ARP/CSLFRF award").

I. Governing Statutory & Regulatory Authorities

As required by the CSLFRF Award Terms and Conditions, the Town of Erwin, North Carolina shall ensure that each "activity," "facility," or "program" that is funded in whole, or in part, with CSLFRF and administered under the ARP/CSLFRF award, will be facilitated, operated, or conducted in compliance with the following federal statutes and federal regulations prohibiting discrimination. These include, but are not limited to, the following:

- i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and Treasury's implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis of race, color, or national origin under programs or activities receiving federal financial assistance:
- ii. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability;
- iii. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance;
- iv. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age within programs or activities receiving federal financial assistance; and
- v. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs,

¹ 22 C.F.R. § 22.3 defines "program" and "activity" as all operations of an entity, including local governments, that receive Federal financial assistance, and the departments, agencies, or special purpose districts of the local governments to which Federal financial assistance is distributed. "Federal financial assistance" includes, among other things, grants and loans of federal funds. "Facility" includes all or any part of structures, equipment, or other real or personal property or interests therein, and the provision of facilities includes the construction, expansion, renovation, remodeling, alteration, or acquisition of facilities.

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activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.

II. Discriminatory Practices Prohibited in the Administration of the ARP/CSLFRF Award

To ensure compliance with Title VII of the Civil Rights Act of 1964, and Title 31 Code of Federal Regulations, Part 22, the Civil Rights Restoration Act of 1987, and other pertinent nondiscrimination authorities, the Town of Erwin, North Carolina shall prohibit, at a minimum, the following practices in its administration of CSLFRF pursuant to the ARP/CSLFRF award:

- 1. Denying to a person any service, financial aid, or other program benefit without good cause:
- 2. Providing to a person any service, financial aid, or another benefit which is different in quantity or quality, or is provided in a different manner, from that provided to others under the program.
- 3. Subjecting a person to segregation or separate treatment in any matter related to the receipt of any service, financial aid, or other benefit under the program;
- 4. Restricting a person in the enjoyment of any advantages, privileges, or other benefits enjoyed by others receiving any service, financial aid, or other benefit under the program;
- 5. Treating a person differently from others in determining whether that person satisfies any admission, enrollment, quota, eligibility, membership, or other requirement or condition which persons must meet to be provided any service, financial aid, or other benefit provided under the program;
- 6. Implementing different standards, criteria, or other requirements for admission, enrollment, or participation in planning, advisory, contractual, or other integral activities to the program;
- 7. Adopting methods of administration which, directly or through contractual relationships, would defeat or substantially impair the accomplishment of effective nondiscrimination;
- 8. Selecting a site or location of facilities with the purpose or effect of excluding persons from, denying them the benefits of, subjecting them to discrimination, or with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of Title VI or related acts and regulations;
- 9. Discriminating against any person, either directly or through a contractual agreement, in any employment resulting from the program, a primary objective of which is to provide employment;
- 10. Committing acts of intimidation or retaliation, including threatening, coercing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by any pertinent nondiscrimination law, or because an individual made a complaint, testified, assisted, or participated in an investigation, proceeding, or hearing.

III. Enforcement & Complaint Reporting

The Town of Erwin, North Carolina shall cooperate in any enforcement or compliance review activities by the Department of the Treasury. Enforcement may include investigation, arbitration, mediation, litigation, and monitoring of any settlement agreements that may result from these actions. The Town of Erwin, North Carolina shall comply with information requests, on-site compliance reviews, and reporting requirements.

The Town of Erwin, North Carolina shall maintain a complaint log and inform the Treasury of any complaints of discrimination on the grounds of race, color, or national origin (including limited English proficiency covered by Title VI of the Civil Rights Act of 1964 and implementing regulations and provide, upon request, a list of all such reviews or proceedings based on the complaint, whether pending or completed, including the outcome. The Town of Erwin, North Carolina shall inform the Treasury if it has received no complaints under Title VI.

- a) Any person who believes they have been aggrieved by a discriminatory practice under Title VI has a right to file a formal complaint with the Treasury. Any such complaint must be in writing and filed with the Treasury's Title VI Coordinator within one hundred eighty (180) days following the date of the alleged discriminatory occurrence.
- b) Any person who believes that because of that person's race, color, national origin, limited English proficiency, familial status, sex, age, religion, or disability that he/she/they have been discriminated against or unfairly treated by the Town of Erwin, North Carolina in violation of this policy should contact the Town Manager within 180 days from the date of the alleged discriminatory occurrence.

Town of Erwin ARPA/CSLFRF Income Policy

WHEREAS, the Town of Erwin, North Carolina has received an allocation of funds from the Coronavirus "State Fiscal Recovery Fund" or "Coronavirus Local Fiscal Recovery Fund" (together "CSLFRF") established pursuant to Sections 602 and 603 of the Social Security Act, as added by Section 9901 of the American Rescue Plan Act of 2021, Pub. L. No. 117-2 ("ARPA").

WHEREAS, the Town of Erwin, North Carolina shall comply with the terms of ARPA, and the U.S. Department of Treasury's ("Treasury") federal regulations governing the spending of CSLFRF funds, including the Final Rule, and Treasury's regulations governing expenditures of CSLFRF funds, including the Award Terms and Conditions, Compliance and Reporting Guidance for the State and Local Fiscal Recovery Funds (together the "Federal regulations"), and any additional guidance Treasury has issued or may issue governing the spending of CSLFRF funds.

WHEREAS, the Town of Erwin, North Carolina shall comply with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part § 200 (the "Uniform Guidance"); and

WHEREAS, the Town of Erwin, North Carolina shall account for program income per the requirements set forth in the Uniform Guidance, including, but not limited to, 2 C.F.R. § 200.307, and as stipulated in Compliance and Reporting Guidance for the State and Local Recovery Funds, which provides: "Recipients of CSLFRF funds should calculate, document, and record the organization's program income. Additional controls that your organization should implement include written policies that explicitly identify appropriate allocation methods, accounting standards and principles, compliance monitoring checks for program income calculations, and records."

BE IT RESOLVED that the governing board of the Town of Erwin, North Carolina hereby adopts and enacts the following policies and procedures for the use of program income earned from the expenditure of CSLFRF funds pursuant to the ARP/CSLFRF award.

PROGRAM INCOME POLICY

I. PURPOSE AND SCOPE

The Town of Erwin, North Carolina enacts the following procedures for its use of program income earned from the expenditure of CSLFRF funds to ensure compliance with the Uniform Guidance, including, but not limited to, 2 C.F.R. § 200.307, the ARP/CSLFRF award, and all applicable Federal regulations governing the use of program income. The Town of Erwin, North

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¹ Compliance and Reporting Guidance, p. 9.

Carolina agrees to administer program income according to the requirements set forth in this policy and as required by the Federal regulations and State law.

The responsibility for following this policy lies with the Town Manager and/or Finance Director, who are charged with the administration and financial oversight of the ARP/CSLFRF award. Questions on the use and/or reporting of program income should be directed to the Town Manager and/or Finance Director.

II. DEFINITIONS²

- a. *ARP/CLSFRF award* means the Federal program governing the use of Coronavirus State and Local Fiscal Recovery Funds as provided in the Assistance Listing and as administered by the U.S. Department of Treasury pursuant to the American Rescue Plan Act of 2021 ("ARPA"), Pub. L. No. 117-2 (Mar. 11, 2021).
- b. *CSLFRF funds* means the portion of Federal financial assistance from the Coronavirus State Fiscal Recovery Funds and Coronavirus Local Fiscal Recovery Funds (collectively "CSLFRF") awarded to the Town of Erwin, North Carolina pursuant ARPA.
- c. *Federal award* means the Federal financial assistance that a recipient receives directly from a Federal awarding agency or indirectly from a pass-through entity, as described in § 200.101. The Federal award is the instrument setting forth the terms and conditions of the grant agreement, cooperative agreement, or other agreement for assistance.
- d. *Federal awarding agency* means the Federal agency that provides a Federal award directly to a non-Federal entity.
- e. *Federal financial assistance* means the assistance that non-Federal entities receive or administer in the form of grants, cooperative agreements, non-cash contributions, direct appropriations, food commodities, or other financial assistance, including loans.
- f. *Federal program* means all Federal awards which are assigned a single Assistance Listings Number.
- g. *Non-Federal entity* means a State, local government, Indian tribe, Institution of Higher Education (IHE), or nonprofit organization that carries out a Federal award as a recipient or subrecipient.
- h. *Period of performance* means the total estimated time interval between the start of an initial Federal award and the planned end date, which may include one or more funded portions, or budget periods. The period of performance for the ARP/CSLFRF award ends December 31, 2026.
- i. *Program income* means gross income earned by the non-Federal entity that is directly generated by a supported activity or earned as a result of the Federal award during the period of performance except as provided in § § 200.307(f).

III. PROGRAM INCOME OVERVIEW

² Excluding the first two, the definitions in this section are found in 2 C.F.R. 200.1.

For purposes of this policy, program income is the gross income earned by the Town of Erwin, North Carolina that is directly generated by a supported activity or earned as a result of the ARP/CSLFRF award during the period of performance, which closes December 31, 2026. 2 CFR 200.1.

Program income includes, but is not limited to, the following sources of income:

- The collection of fees for services performed.
- Payments for the use or rental of real or personal property.
- The sale of commodities or items fabricated under the Federal award.
- The payment of principal and interest on loans made under the Federal award.

Program income does not include fees or revenue from the following:

- The use of rebates, credits, discounts, and interest earned on any of them.
- Governmental revenues, such as taxes, special assessments, levies, or fines.
- Proceeds from the sale of real property, equipment, or supplies.³

IV. USE OF PROGRAM INCOME

Program income earned pursuant to expenditures of CSLFRF is the property of US Treasury and shall be accounted for in one of three ways pursuant to 2 C.F.R. § 200.307(e).

Deduction Method: Program income must be deducted from total allowable costs to determine net allowable costs. Program income shall be used to reduce Treasury's obligation under the ARP/CSLFRF award rather than to increase the funds committed a project. Program income shall be used for current costs. The Town of Erwin, North Carolina shall track and account for program income during the period of performance and shall reimburse Treasury, as required. 2 C.F.R. § 200.307(e)(1).

Addition Method: With prior approval, program income may be added to the total amount of the ARP/CSLFRF award, thereby increasing the total amount of the award. Program income must be expended on an eligible project or program. 2 C.F.R. § 200.307(e)(2). Pursuant to the terms of the ARP/CSLFRF award, the repayment of principal and interest on loans made with CSLFRF funds that will mature or be forgiven on or before December 31, 2026, may be accounted for using the addition method (see Section VI).

Matching or Cost Sharing Method: With prior approval, program income may be used to meet the cost sharing or matching requirement of the Federal award. The amount of the Federal award shall not change.⁴ 2 C.F.R. § 200.307(e)(3).

³ 2 C.F.R. 200.1 and 2 C.F.R. 200.307 each define and limit the sources of program income.

⁴ The Final Rule provides that a non-Federal entity may expend up to the amount of its reduction in revenue due to the pandemic to meet the non-federal cost-share or matching requirements of other federal programs. However, the

Unless the ARP/CSLFRF award otherwise stipulates, or the Town of Erwin, North Carolina has received prior approval, the Town of Erwin, North Carolina **shall apply the deduction method** to account for the use of program income.

V. ALLOCATION OF PROGRAM INCOME⁵

The Town of Erwin, North Carolina shall only expend program income on costs that are reasonable, allocable, and allowable under the terms of the ARP/CSLFRF award. To adhere to these requirements, the Town of Erwin, North Carolina shall comply with the cost principles included in 2 C.F.R. \$ 200, as outlined in the Town of Erwin, North Carolina's allowable cost policy. The Town of Erwin, North Carolina shall allocate program income to the ARP/CSLFRF award in proportion to the pro rata share of the total funding (e.g., if CSLFRF funds cover half of a project's cost, with general revenue covering the other half, the Town of Erwin, North Carolina shall allocate 50% of any program income earned to the ARP/CSLFRF award and account for its use pursuant to \$ 200.307).

VI. REPAYMENT OF PRINCIPAL AND INTEREST ON LOANS MADE WITH ARP/CSLFRF FUNDS

Treasury expects that a significant share of loans made with ARP/CSLFRF funds will be repaid. Accordingly, it has issued guidance on how to appropriately account for the repayment of principal and interest. The Town of Erwin, North Carolina agrees to appropriately account for the return of loan funds according to the ARP/CSLFRF award terms, as follows:

• For Loans that mature or are forgiven on or before December 31, 2026: The Town of Erwin, North Carolina may add the repayment of principal and interest program income to the ARP/CSLFRF award. When the loan is made, the Town of Erwin, North Carolina shall report the principal of the loan as an expense. The Town of Erwin, North Carolina shall expend the repayment of principal only on eligible uses and is subject to restrictions on the timing of the use of ARP/CSLFRF funds pursuant to the ARP/CSLFRF award. Interest payments received prior to the end of the period of performance will be considered an addition to the total award and may be used for any purpose that is an eligible use. The Town of Erwin, North Carolina is not subject to restrictions under 2 CFR 200.307(e)(1) (the deduction method) in accounting for the use of program income.⁷

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⁵ Final Rule does not mention whether *program income* may be used to meet cost-sharing or matching requirements. A non-Federal entity should not allocate program income to cost share or matching requirements unless it receives prior approval from Treasury.

⁶ 2 C.F.R. § § 200.404, 408.

⁷ Final Rule, p. 4436

- For Loans with maturities longer than December 31, 2026: The Town of Erwin, North Carolina is not required to separately account for the repayment of principal and interest on loans that will mature after the ARP/CSLFRF award's period of performance. The Town of Erwin, North Carolina may use CSLFRF for only the projected cost of the loan. The Town of Erwin, North Carolina may estimate the subsidy cost of the loan, which equals the expected cash flows associated with the loan discounted at the Town of Erwin, North Carolina's cost of funding. The cost of funding can be determined based on the interest rates of securities with a similar maturity to the cash flow being discounted that were either (i) recently issued by the Town of Erwin, North Carolina or (ii) recently issued by a unit of state, local, or Tribal government similar to the Town of Erwin, North Carolina. If the Town of Erwin, North Carolina has adopted the Current Expected Credit Loss (CECL) standard, it may also treat the cost of the loan as equal to the CECL-based expected credit losses over the life of the loan. The Town of Erwin, North Carolina may measure projected losses either once, at the time the loan is extended, or annually over the covered period. Under either approach, the Town of Erwin, North Carolina is not subject to restrictions under 2 CFR 200.307(e)(1) (the deduction method) and need not separately track repayment of principal or interest. 8
- **Revolving Loan Funds**: The Town of Erwin, North Carolina shall treat the contribution of ARP/CSLFRF funds to a revolving loan fund according to approach described above for loans with maturities longer than December 31, 2026. The Town of Erwin, North Carolina may contribute ARP/CSLFRF funds to a revolving loan only if the loan is determined to be for eligible use and the ARP/CSLFRF funds contributed represent the projected cost of loans made over the life of the revolving loan fund.

VII. ADDITIONAL PROGRAM INCOME REQUIREMENTS

(a) **Identifying, Documenting, Reporting, and Tracking.** To ensure compliance with the requirements of program income as outlined by the Federal regulations, the terms and conditions of the ASP/CSLFRF award, and the requirements set forth herein, each department shall identify potential sources of program income and properly report the program income for the period in which it was earned and dispersed.

Program income shall be accounted for separately. The Town of Erwin, North Carolina shall not comingle program income earned from programs supported by ARP/CSLFRF funds with the general award of ARP/CSLFRF funds the Town of Erwin, North Carolina received from Treasury. Any costs associated with generating program income revenue shall be charged as expenditures to the ARP/CSLFRF award.

⁸ See question 4.11 in Treasury's Interim Final Rule FAQ document.

⁹ See question 4.11 in Treasury's Interim Final Rule FAQ document.

- (b) **Program Income Earned After the Period of Performance**. The Town of Erwin, North Carolina shall have no obligation to report program income earned after the period of performance (December 31, 2026). However, the Town of Erwin, North Carolina shall report program income expended after the period of performance if that program income was earned on or before December 31, 2026.
- (c) **Subawards.** The Town of Erwin, North Carolina agrees to ensure that any subrecipient of ARP/CSLFRF funds abides by the award of the terms and conditions of this policy and is aware that the subrecipient is responsible for accounting for and reporting program income to the Town of Erwin, North Carolina on a Monthly basis.
- (d) **Compliance with State law.** Program income shall not be expended for purposes prohibited under State law.
- (e) **Subject to Audit.** The Town of Erwin, North Carolina recognizes that its use of program income may be audited and reviewed for compliance with Federal laws and regulations, State law, and the terms of the ARP/CSLFRF award.

VIII. IMPLEMENTATION OF POLICY

The Finance Director of the Town of Erwin, North Carolina will adopt procedures to identify potential program income during the project eligibility and allowable cost review, document actual program income, and follow the requirements in this policy related to the treatment of program income.

Town of Erwin ARPA/CSLFRF Property Management Policy

WHEREAS the Town of Erwin, North Carolina has received an allocation of funds from the Coronavirus State and Local Fiscal Recovery Funds of H.R. 1319 American Rescue Plan Act of 2021 (ARP/CSLFRF); and

WHEREAS the funds may be used for projects within these categories, to the extent authorized by state law to:

- 1. Support COVID-19 public health expenditures, by funding COVID-19 mitigation and prevention efforts, medical expenses, behavioral healthcare, preventing and responding to violence, and certain public health and safety staff;
- 2. Address negative economic impacts caused by the public health emergency, including economic harms to households, small businesses, non-profits, impacted industries, and the public sector;
- 3. Replace lost public sector revenue, using this funding to provide government services to the extent of the reduction in revenue experienced due to the pandemic;
- 4. Provide premium pay for essential workers, offering additional support to those who have borne and will bear the greatest health risks because of their service in critical infrastructure sectors; and.
- 5. Invest in water, sewer, and broadband infrastructure, making necessary investments to improve access to clean drinking water, support vital wastewater and stormwater infrastructure, and to expand access to broadband internet; and

WHEREAS the ARP/CSLFRF are subject to the provisions of the federal Uniform Grant Guidance, 2 CFR Sect. 200 (UG), as provided in the Assistance Listing; and

WHEREAS the Compliance and Reporting Guidance for the State and Local Fiscal Recovery Funds (v2.1 November 2021) provides, in relevant part:

Equipment and Real Property Management. Any purchase of equipment or real property with SLFRF funds must be consistent with the Uniform Guidance at 2 CFR Part 200, Subpart D. Equipment and real property acquired under this program must be used for the originally authorized purpose. Consistent with 2 CFR 200.311 and 2 CFR 200.313, any equipment or real property acquired using SLFRF funds shall vest in the non-Federal entity. Any acquisition and maintenance of equipment or real property must also be in compliance with relevant laws and regulations.

WHEREAS Subpart D of the UG dictates title, use, management, and disposal of real property, equipment, and supplies acquired in whole or in part with ARP/CSLFRF funds;

BE IT RESOLVED that the governing board of the Town of Erwin, North Carolina hereby adopts and enacts the following UG Property Management Policy for the expenditure of ARP/CSLFRF funds.

Property Standards for Real Property, Equipment, and Supplies Acquired with American Rescue Plan Act of 2021 Coronavirus State and Local Fiscal Recovery Funds

I. POLICY OVERVIEW

Title 2 U.S. Code of Federal Regulations Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, commonly called Uniform Guidance (UG), specifically Subpart D, details post award requirements related to property management of property acquired or updated, in whole or in part, with funds from the Coronavirus State and Local Fiscal Recovery Funds of H.R. 1319 American Rescue Plan Act of 2021 (ARP/CSLFRF).

2 CFR 200.311 through 2 CFR 200.316 detail property standards related to the expenditure of ARP/CLSFRF funds. The Town of Erwin, North Carolina hereinafter the Town shall adhere to all applicable property standards, as detailed below.

II. DEFINITIONS

The following definitions from 2 CFR 200.1 apply in this policy.

Computing devices: machines used to acquire, store, analyze, process, and publish data and other information electronically, including accessories (or "peripherals") for printing, transmitting and receiving, or storing electronic information. See also the definitions of supplies and information technology systems in this section.

Equipment: tangible personal property (including information technology systems) having a useful life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by the [county/City/Town/Village] for financial statement purposes, or \$5,000. See also the definitions of *capital assets, computing devices, general purpose equipment, information technology systems, special purpose equipment,* and *supplies* in this section.

Information technology systems: computing devices, ancillary equipment, software, firmware, and similar procedures, services (including support services), and related resources. See also the definitions of computing devices and equipment in this section.

Intangible property: property having no physical existence, such as trademarks, copyrights, patents and patent applications and property, such as loans, notes and other debt instruments, lease agreements, stock and other instruments of property ownership (whether the property is tangible or intangible).

Personal property: property other than real property. It may be tangible, having physical existence, or intangible.

Property: real property or personal property.

Real property: land, including land improvements, structures and appurtenances thereto, but excludes moveable machinery and equipment.

Supplies: all tangible personal property other than those described in the definition of equipment in this section. A computing device is a supply if the acquisition cost is less than the lesser of the capitalization level established by the local government for financial statement purposes or \$5,000, regardless of the length of its useful life. See also the definitions of computing devices and equipment in this section.

III. REAL PROPERTY

Title to Real Property: Title to real property acquired or improved with ARP/CSLFRF funds vests with the Town 2 CFR 200.311(a).

Use of Real Property: Real property acquired or improved with ARP/CSLFRF funds must be used for the originally authorized purpose as long as needed for that purpose, during which time the Town must not dispose of or encumber its title or other interests. 2 CFR 200.311(b).

IV. **Insurance of Real Property:** The Town must provide the equivalent insurance coverage for real property acquired or improved with ARP/CSLFRF funds as provided to property owned by the [County/City/Town/Village]. 2 CFR 200.310.

Disposition of Real Property: When the Town no longer needs real property purchased with ARP/CSLFRF for ARP/CSLFRF purposes, the Town must obtain disposition instructions from US Treasury. The instructions must provide for one of the following alternatives:

- 1. The Town retains title after compensating US Treasury. The amount paid to US Treasury will be computed by applying US Treasury's percentage of participation in the cost of the original purchase (and costs of any improvements) to the fair market value of the property. However, in those situations where the Town is disposing of real property acquired or improved with ARP/CSLFRF funds and acquiring replacement real property under the ARP/CSLFRF, the net proceeds from the disposition may be used as an offset to the cost of the replacement property.
- 2. The Town sells the property and compensates US Treasury. The amount due to US Treasury will be calculated by applying US Treasury's percentage of participation in the cost of the original purchase (and cost of any improvements) to the proceeds of the sale after deduction of any actual and reasonable selling and fixing-up expenses. If the ARP/CSLFRF award has not been closed out, the net proceeds from sale may be offset against the original cost of the property. When the Town is directed to sell property, sales procedures must be followed that provide for competition to the extent practicable and result in the highest possible return.
- 3. The Town transfers title to US Treasury or to a third party designated/approved by US Treasury. The Town is entitled to be paid an amount calculated by applying the Town's percentage of participation in the purchase of the real property (and cost of any improvements) to the current fair market value of the property. 2 CFR 200.311(c).

V. EQUIPMENT

Title to Equipment: Title to equipment acquired or improved with ARP/CSLFRF funds vests with the Town. 2 CFR 200.313(a).

Use of Equipment: The Town must use equipment acquired with ARP/CSLFRF funds for the project for which it was acquired as long as needed, whether or not the project continues to be supported by the ARP/CSLFRF award, and the Town must not encumber the property without prior approval of US Treasury. 2 CFR 200.313(a)(1)-(2).

When no longer needed for the original project, the equipment may be used in other activities supported by a Federal awarding agency, in the following order of priority:

- 1. Activities under a Federal award from the Federal awarding agency which funded the original project, then
- 2. Activities under Federal awards from other Federal awarding agencies. This includes consolidated equipment for information technology systems. 2 CFR 200.313(c)(1).

During the time that equipment is used on the project for which it was acquired, the Town must also make equipment available for use on other projects or programs currently or previously supported by the Federal Government, provided that such use will not interfere with the work on the project for which it was originally acquired. First preference for other use must be given to other programs or projects supported by US Treasury and second preference must be given to programs or projects under Federal awards from other Federal awarding agencies. Use for nonfederally-funded programs or projects is also permissible. User fees should be considered if appropriate. 2 CFR 200.313(c)(2).

Noncompetition: The Town must not use equipment acquired with the ARP/CSLFRF funds to provide services for a fee that is less than private companies charge for equivalent services unless specifically authorized by Federal statute for as long as the Federal Government retains an interest in the equipment. 2 CFR 200.313(c)(3).

Replacement Equipment: When acquiring replacement equipment, the Town may use the equipment to be replaced as a trade-in or sell the property and use the proceeds to offset the cost of the replacement property. 2 CFR 200.313(c)(4).

Management of Equipment: The Town will manage equipment (including replacement equipment) acquired in whole or in part with ARP/CSLFRF funds according to the following requirements.

- 1. The Town will maintain sufficient records that include
 - a) a description of the property,
 - b) a serial number or other identification number,
 - c) the source of funding for the property (including the Federal Award Identification Number (FAIN)),
 - d) who holds title,
 - e) the acquisition date,
 - f) cost of the property,
 - g) percentage of Federal participation in the project costs for the Federal award under which the property was acquired,
 - h) the location, use and condition of the property, and

- i) any ultimate disposition data including the date of disposal and sale price of the property.
- 2. The Town will conduct a physical inventory of the property and reconcile results with its property records at least once every two years.
- 3. The Town will develop a control system to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft will be investigated by the Town.
- 4. The Town will develop and implement adequate maintenance procedures to keep the property in good condition.
- 5. If the Town is authorized or required to sell the property, it will establish proper sales procedures to ensure the highest possible return, in accordance with state and federal law.

Insurance of Equipment: The Town must provide the equivalent insurance coverage for equipment acquired or improved with ARP/CSLFRF funds as provided to property owned by the Town. 2 CFR 200.310.

Disposition of Equipment: When the equipment is no longer needed for its original ARP/CSLFRF purpose, the Town may either make the equipment available for use in other activities funded by a Federal agency, with priority given to activities funded by US Treasury, dispose of the equipment according to instructions from US Treasury, or follow the procedures below. 2 CFR 200.313(e).

- 1. Equipment with a per-item fair market value of less than \$5,000 may be retained, sold or transferred by the Town, in accordance with state law, with no additional responsibility to US Treasury;
- 2. If no disposal instructions are received from US Treasury, equipment with a per-item fair market value of greater than \$5,000 may be retained or sold by the Town. The Town must establish proper sales procedures, in accordance with state law, to ensure the highest possible return. The Town must reimburse US Treasury for its federal share. Specifically, US Treasury is entitled to an amount calculated by multiplying the current market value or proceeds from sale by the ARP/CSLFRF funding percentage of participation in the cost of the original purchase. If the equipment is sold, US Treasury may permit the Town to deduct and retain from the Federal share \$500 or ten percent of the proceeds, whichever is less, for its selling and handling expenses.
- 3. Equipment may be transferred to US Treasury or to a third-party designated by US Treasury in return for compensation to the Town for its attributable compensation for its attributable percentage of the current fair market value of the property.

VI. SUPPLIES

Title to Supplies. Title to supplies acquired with ARP/CSLFRF funds vests with the Town upon acquisition. 2 CFR 200.314(a).

Use and Disposition of Supplies: If there is a residual inventory of unused supplies exceeding \$5,000 in total aggregate value upon termination or completion of the ARP/CSLFRF project and the supplies are not needed for any other Federal award, the Town must retain the supplies for use on other activities or sell them, but must, in either case, compensate the Federal Government for its share. The amount of compensation must be computed in the same manner as for equipment. 2 CFR 200.314(a).

Noncompetition. As long as the Federal Government retains an interest in the supplies, the Town must not use supplies acquired under the ARP/CSLFRF to provide services to other organizations for a fee that is less than private companies charge for equivalent services, unless specifically authorized by Federal statute. 2 CFR 200.314(b).

VII. PROPERTY TRUST RELATIONSHIP

Real property, equipment, and intangible property, that are acquired or improved with ARP/CSLFRF funds must be held in trust by the Town as trustee for the beneficiaries of the project or program under which the property was acquired or improved. US Treasury may require the Town to record liens or other appropriate notices of record to indicate that personal or real property has been acquired or improved with a Federal award and that use and disposition conditions apply to the property. 2 CFR 200.316.

VIII. IMPLEMENTATION OF POLICY

The Town Manager shall adopt procedures to track all real property, equipment, and supplies (collectively, property) acquired or improved in whole or in part with ARP/CLSFRF funds. At a minimum, those procedures must address the following:

- Ensure proper insurance of property
- Document proper use of property
- Working with the Finance Director, record and maintain required data records for equipment
- Conduct periodic inventories of equipment, at least every two years
- Create processes for replacement and disposition of property
- Establish other internal controls to safeguard and properly maintain property

New Business Item 3C

Erwin Board of Commissioners

REQUEST FOR CONSIDERATION

To: The Honorable Mayor and Board of Commissioners

From: Snow Bowden, Town Manager

Date: March 28, 2022

Subject: Community Building Sign

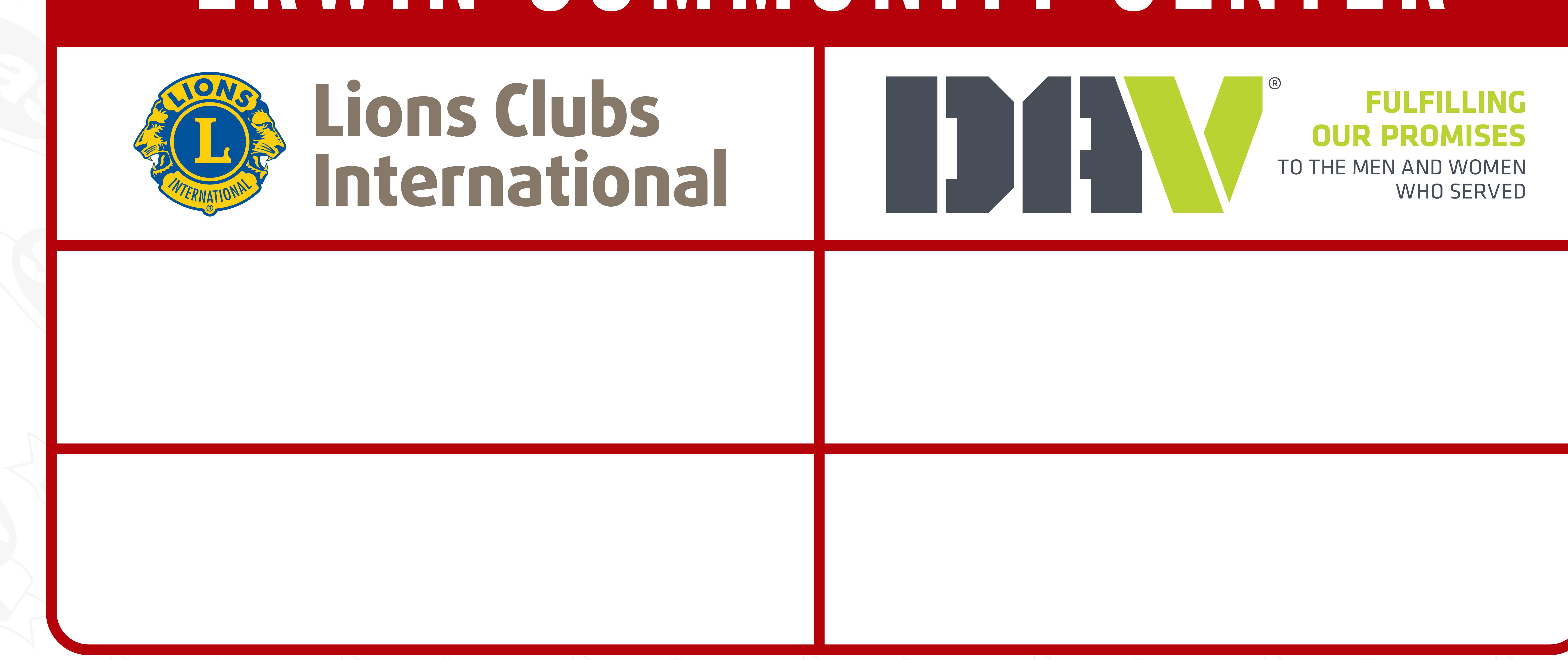
We received the proof for a sign for the Community Building that would show the organizations that use the Community Building. I am still waiting on a price from the company but I expect to have it by Monday. We need to discuss criteria for an organization to be able to have their name on the sign.

Attachments:

• Proof of proposed sign for Community Building

ERWIN COMMUNITY CENTER

360011





ERWIN COMMUNITY BUILDING