

ARTICLE XII. RECORDS AND REPORTS

Section 1. Public Information

In compliance with North Carolina GS 160A-168, the following information with respect to each Town employee is a matter of public record:

- 1) name;
- 2) age;
- 3) date of original employment or appointment to the service;
- 4) the terms of any contract by which the employee is employed whether written or oral, past and current , to the extent that the Town has the written contract or a record of the oral contract in its possession;
- 5) current position title;
- 6) current salary;
- 7) date and amount of each increase or decrease in salary with the Town;
- 8) date and type of each promotion, demotion, transfer, suspension, separation, or other change in position classification with the Town;
- 9) date and general description of the reasons for each promotion with the Town;
- 10) date and type of each dismissal, suspension, or demotion for disciplinary reasons taken by the Town. If the disciplinary action was a dismissal, 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; and
- 11) the office to which the employee is currently assigned.

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. An individual examining a personnel record may copy the information. The cost of photocopying may be assessed to the individual who requests the copies.

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.

A record will be maintained of all disclosures of personnel records, except for authorized personnel processing personnel actions or supervisors in the line of authority of the employee. Upon request the records of disclosure will be made available to the employee to whom it pertains.

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:

- 1) The employee or his/her duly authorized agent may examine all portions of his/her 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.
- 2) 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 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. 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.
- 6) 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, information specified in the release to prospective employers, educational institutions, or other persons specified in the release.
- 7) The Town Manager, with the concurrence of the Town Board, 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.

Section 3. Personnel Actions

The Human Resources Officer, with the approval of 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, normally in the Human Resources Office. Any document not located there is not an official part of that employee's personnel record. These files shall contain documents such as employment applications and related materials, records of personnel actions, documentation of employee warnings, disciplinary actions, performance evaluations, retirement, letters of recommendation, and other personnel-related documents.

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 his/her file may place a statement in the file relating to the material considered to be inaccurate or misleading. In accordance with established grievance procedures, the employee may seek to have a record of upheld grievances relating to personnel records placed in the file and/or may seek removal of material in the file contingent upon approval of the North Carolina Department of Cultural Resources.

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 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 NC General Statute 121.5, without the consent of the North Carolina 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 NC General Statute 132.3.