

Chapter 11 - PERSONNEL

ARTICLE 1. - IN GENERAL

Sec. 11-1. - Purpose.

The purpose of this chapter is to provide for a system of personnel administration that ensures that:

- A. Employment with the Town government shall be based upon qualifications for a position and shall be free of personal, political or other considerations;
- B. Fair and equitable conditions of employment and incentives shall be established and maintained to promote efficiency and economy in the operation of the Town government; and
- C. Jobs having similar duties and responsibilities shall be classified and compensated on a uniform basis.

(Code 1969, § 11-1; Ord. of 2-28-1994; Ord. of 10-22-2012; Ord. of 09-14-2020)

Sec. 11-2. - Equal employment opportunity statement.

Equal employment opportunity laws are intended to safeguard individual rights. In keeping with these, the Town of Vienna offers equal employment opportunities to all job applicants and employees. Appointments and employment actions are based solely upon an individual's qualifications and are free of consideration of race, color, religion, sex, gender orientation or identity, age, marital status, national origin, disability, or as determined by federal and state laws, and any statutory amendment.

(Code 1969, § 11-2; Ord. of 2-28-1994; Ord. of 10-22-2012; Ord. of 09-14-2020)

Sec. 11-3. - Definitions.

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

Absence without leave (AWOL) means an absence without pay of up to three days, which may be authorized or not by the employee's supervisor. An unauthorized absence without leave may lead to disciplinary action, up to and including termination. If the time off without pay is a result of disciplinary action, it is deemed a "suspension."

Anniversary of initial employment with the Town is used to determine Annual Leave accrual rates and for benefits application, such as effective date of coverage or length of service for retirement and other benefits. An anniversary date of initial employment may be adjusted because of an employee's leave without pay status in excess of 30 days or because of a reinstatement after separation. Alternatively, see "job anniversary." *Break in service* means any separation from the Town service, whether by resignation, layoff, disability, or retirement, when the employee is subsequently re-employed. An authorized leave without pay does not constitute a break in service, provided that after 30 days, and not more than six months, the employee has contributed his or her portion of benefits to the Virginia Retirement System (VRS) or the Police Pension Plan.

Classification Specification, also known as *job description*, is a general narrative of one of the jobs listed in the Town's Pay Plan, to which one or several employees may be assigned and which might exist in one or more departments or divisions that includes the minimum education, training, experience, qualifications, physical and other requirements of a class of jobs or a job.

Continuous service means employment without interruption. Absences on approved leave (see "break in service" above) or absences to serve in the Armed Forces of the United States are considered as time worked for this purpose.

Demotion or reduction in rank means the reassignment of an employee from one job to a different one, in a lower pay grade, that has a lower maximum rate of pay. (See also “regression” as it relates to career path progression.)

Director will include, for the purposes of this article, the director of finance / treasurer, the director of human resources, the director of information technology, the director of parks and recreation, the director of planning and zoning, the chief of police, and the director of public works.

Disability means a disabling condition, partial or complete, short-term or long-term, temporary or permanent, which prevents, hinders or adversely affects an individual's performance of his or her normal routine of work.

Dismissal means discharge or involuntary separation from Town employment during or following the probation period.

Exempt means a position that qualifies under one of the defined Exemption categories (*i.e.*, executive, administrative, professional, etc.) under the Fair Labor Standards Act (FLSA) in which an employee is performing work that is exempted from this law's minimum wage and overtime requirements. Such positions are paid on a salary basis, regardless of the number of hours worked in a week and are not paid overtime.

Full-time employee means an individual who is assigned to work a minimum of 40 hours per week or the shift work equivalent in a regular or temporary capacity.

Grievance means a complaint or dispute of an employee relating to his or her employment, with the following exceptions: the negotiation of wages, salaries, or fringe benefits; work activity accepted by the employee as a condition of employment; subjects covered by existing ordinances or established personnel policies and procedures; and failure to promote under a fairly applied procedure, pursuant to § 15.2-1506 and 1507, of the Code of Virginia.

Immediate family or relative means the employee's spouse, children, siblings, parents, parents-in-law, grandparents, by blood, marriage or adoption.

Job means a general job classification that has a job title, job description (class specification), and pay range assigned within the Town's Pay Plan. It also means a part-time, temporary, or seasonal position that is not established in the Pay Plan and does not accrue benefits.

Job anniversary is the effective date that an employee assumed the duties of a new job. It may be adjusted as a result of an employee's change from a civilian job to a sworn one, a promotion, demotion, or job reclassification. It is used for determining a new probationary period and for determining assignment or promotional eligibility in a sworn classification.

Job description, also known as a Classification Specification, is a general description of one of the jobs listed in the Town's Pay Plan, to which one or several employees may be assigned and that includes the minimum qualifications and physical requirements of the job.

Layoff means separation of an employee from a position because of the abolishment of the position, lack of work or funds, or reduction in force.

Leave without Pay (LWOP) means a regular employee's time off work without pay in excess of three workdays that may be authorized by the Town Manager or designee.

Non-exempt means a position that is defined by the Fair Labor Standards Act (FLSA) as not exempt from wage and overtime laws, in which an employee is paid on an hourly-wage basis for the number of hours worked in a workweek, and payment of overtime or compensatory time in the public sector, as agreed, are required by law under specific conditions.

Part-time employee means an individual who is assigned regular working hours of less than 40 hours per week. *Part-time regular employee* means one who fills a budgeted position and who regularly works at least 20 hours per week and is, therefore, eligible for prorated sick and annual leave accruals, plus health insurance coverage.

Pay grade means an alpha and/or numerical identification that indicates the pay range of a job, from minimum to maximum, within the Town's Pay Plan.

Position means any office or employment, whether occupied or vacant, full-time, part-time, permanent or temporary, consisting of duties and responsibilities assigned to an individual job within a classification by a competent authority.

Position description means a written narrative detailing the specific typical duties and responsibilities of a position within a classification at a particular division or unit. Example, a Maintenance Worker II in Parks performs job tasks than a Maintenance Worker II in Sanitation. While the job is one classification, it consists of two or more positions with individual position descriptions.

Probationary period means a period of up to 12 months, or as may be extended, for non-sworn personnel from the date of their appointment in a regular full- or part-time job; or, for sworn police personnel, 12 months from the date of the completion of their academy training, during which an employee hired to fill a regular position is employed on a provisional basis preliminary to approval of regular employment status. During this time, the new employee is learning, receiving coaching, performing, and improving performance over time. Employment is at will during and after the probationary period.

Promotion means the reassignment of an employee to another classification that has a higher maximum rate of pay than his or her current one. This is typically a result of a competitive process.

Promotional probationary period means the initial 12-month period served by an employee in a new position into which he or she may have been transferred, promoted, demoted or other. This is for the purpose of evaluating the employee's suitability for the new position or status. An employee who does not complete this probationary period satisfactorily may be restored to his/her former position if available, a similar position, or may be dismissed, depending on circumstances. *Regular (formerly "permanent") employee* means anyone employed with the Town on a regular, benefitted status in a budgeted position.

Regression means the movement of an employee's classification status downward from a previous career path progression because of lack of qualification. In regression, an employee does not have to serve a new probationary period.

Reinstatement means reappointment, after separation, of a former regular part- or full-time employee to his or her former position or one of a similar nature. Reinstatement does not preclude the competition of the former employee for the vacant position. Reinstatement means that the previous period of employment with the Town will be included in establishing years of service for length of service and leave accrual purposes.

Retirement means separation from active Town service based on age, years of service, or disability.

Separation means vacating a position through resignation, layoff, dismissal, disability, retirement, quitting without notice, or death.

Service date means the date the employee started work with the Town in any capacity of employment. It is used to determine length of service for service recognition awards.

Sexual harassment, a violation of Title VII of the federal Civil Rights Act, includes, but is not limited to:

1. Spoken, non-spoken or implied harassment or abuse
2. Subtle pressure for sexual activity
3. Unnecessary physical contact such as hugging, patting, or pinching

4. Requesting sexual favors accompanied by implied or overt threat concerning an individual's employment status or promise of preferential treatment with regard to an individual's employment status
5. The negative impact on an employee because of preferential treatment with regard to another individual's employment status in violation of Title VII of the federal Civil Rights Act
6. A hostile work environment as defined by Title VII of the federal Civil Rights Act

Suspension means an enforced absence without pay for disciplinary purposes or pending investigation of charges made against an employee.

Temporary employee means anyone employed for a specific period, for a specific purpose, including internship, or in an interim replacement capacity. A temporary employee is not eligible to receive any employment benefits, except as required under the Workers' Compensation Act and the Affordable Care Act. A temporary employee can be either full- or part-time. Employment is at will and he or she may be separated at any time when his or her services are no longer required or for any reason. Temporary employees may also be "seasonal" employees, who work only for specific seasons of the year.

Transfer means reassignment of an employee from a job in one division or department to another in the same pay grade, as agreed to by both the leaving and the receiving supervisor and department heads, or as directed by the Town Manager. A transferred employee serves a probationary period of 12 months.

(Code 1969, § 11-3; Ord. of 2-28-1994; Ord. of 6-1994; Ord. of 2-2008; Ord. of 9-2009; Ord. of 10-22-2012; Ord. of 7-7-2014; Ord. of 09-14-2020)

Sec. 11-3.1. - Criminal history record check and fingerprinting; appointment to sensitive positions.

- A. *Finding.* The Town Council of the Town of Vienna, Virginia, hereby finds that it is necessary in the interest of public welfare and safety to determine whether the past criminal conduct of a person conditionally offered employment in a sensitive position in the Town's competitive or exempt service is directly related to such position and would be compatible with the nature of such employment.
- B. *Intent.* It is the intent of the Town Council in enacting this section to comply with the provisions of Code of Virginia, §§ 15.2-1503.1, and 15.2-1505.1 and 19.2-389(A)(A7), as amended, to be able to access criminal history record information, regarding those persons conditionally offered employment in sensitive positions in the Town service in order to determine whether the past criminal conduct of such persons would be compatible with the nature of such employment. Further, the provisions of this section are intended to be in addition to, and not in derogation of all other federal and state statutes and Town ordinances providing for access to criminal history record information concerning applicants for, and persons offered, positions in the Town service, including, but not limited to Code of Virginia, § 19.2-389(A)(25).
- C. *Definitions.*
 1. As used in this section, a "sensitive position" is a position in the Town service that meets one or more of the following criteria and is designated as such by the Town Manager in accordance with the provisions of subsection (e)(1)(A) of this section:
 - a. A position in which an employee would be responsible for providing services to further the health, safety, and welfare of minors, persons with disabilities, the elderly, or other persons unable to care for themselves;
 - b. A position in which an employee, as part of his or her duties, must enter a person's residence or business;
 - c. A position in which an employee has the capability of making changes to Town technology systems;

- d. A position in which an employee is involved in water or wastewater treatment or operation;
 - e. A position in which an employee is required as part of his or her duties to operate a vehicle requiring a commercial driver's license or an aircraft;
 - f. A position in which an employee handles cash or has the ability to effect transfers of Town funds or funds of others, or otherwise is accountable for Town funds;
 - g. A position in which an employee has access to public records, records containing personal information as defined in Code of Virginia, § 2.2-3801(2), and/or records that are made confidential by state or federal statute;
 - h. A position in which an employee needs to enter secured Town facilities; or
 - i. A position in which an employee is otherwise directly responsible for the health, safety, and welfare of the general populace and/or the protection of critical infrastructure.
2. As used in this section, the phrase "conditionally offered employment" shall include a conditional offer of initial employment in a sensitive position, a conditional offer to laterally transfer, promote, or demote an employee to a sensitive position, or the conditional offer of a sensitive position in the Town's competitive service to an employee in its exempt service or of a sensitive position in the Town's exempt service.
- D. *Policy.* All persons conditionally offered employment in a sensitive position in the Town service, shall as a condition of their employment, prior to the effective date of such employment, submit to fingerprinting and provide personal descriptive information to be forwarded to the Central Criminal Records Exchange and the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding them. All offers of employment in sensitive positions are conditioned upon the person offered such described above. Failure of the person conditionally offered employment in a sensitive position to submit to fingerprinting and to provide personal descriptive information shall disqualify the person from employment in the position.
- E. *Responsibilities.*
- 1. The Town Manager:
 - a. After consultation with the director of human resources and department heads, shall establish and maintain the list of sensitive positions that are subject to the provisions of this section. He or she may list a position as a sensitive position by job classification under the Town's Classification Plan, by the department or subdivision of the department to which the position is assigned, by work location, by position number, or any combination thereof. The Town Manager may, from time to time, as may be necessary, add or remove positions from the list of sensitive positions.
 - b. Shall receive the report from the Central Criminal Records Exchange concerning whether the person conditionally offered employment has no criminal history record information or the record of criminal history information. He or she may designate the director of human resources to receive such reports.
 - 2. The director of human resources shall:
 - a. Ensure that the class specifications, position descriptions, and announcements of sensitive positions reflect that the positions are sensitive positions that are subject to the provisions of this section; provided, however, that his or her failure to do so shall not change the status of the position as a sensitive position subject to the provisions of this section.
 - b. Upon receipt of the report from the Central Criminal Record Exchange concerning a person conditionally offered employment that indicates that the person has a criminal history record, and after consulting with the appointing authority, determine whether the conviction or convictions on the record directly relate to the sensitive position, whether the past criminal conduct contained in the record is compatible with the nature of the employment in the sensitive position, and whether such conviction or convictions disqualifies the person from employment in that sensitive position. In determining whether a criminal conviction

directly relates to a sensitive position, the director of human resources shall consider the following criteria:

- (1) The nature and seriousness of the crime;
 - (2) The relationship of the crime to the work to be performed in the position applied for;
 - (3) The extent to which the position applied for might offer an opportunity to engage in further criminal activity of the same type as that in which the person had been involved;
 - (4) The relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of the position being sought;
 - (5) The extent and nature of the person's past criminal activity;
 - (6) The age of the person at the time of the commission of the crime;
 - (7) The amount of time that has elapsed since the person's last involvement in the commission of a crime;
 - (8) The conduct and work activity of the person prior to and following the criminal activity; and
 - (9) Evidence of the person's rehabilitation or rehabilitative effort while incarcerated or following release.
- c. Notify in writing all persons who are denied employment in a sensitive position because of the information appearing in his or her criminal history record, that information obtained from the Central Criminal Records Exchange contributed to such denial, and inform him or her of his or her right to obtain a copy of his or her criminal history record from the Central Criminal Records Exchange.
- d. Shall issue procedural instructions and promulgate all forms necessary to carry out the provisions of this section.
- e. Upon making a conditional offer of employment in a sensitive position, inform the offeree in writing that he or she must, as a condition of employment, submit to fingerprinting and provide personal descriptive information to be forwarded along with the applicant's fingerprints to the Central Criminal Records Exchange and the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding him or her provided, however, that his or her failure to do so shall not change the status of the position as a sensitive position subject to the provisions of this section.
- F. Nothing in this section shall be construed as prohibiting the voluntary disclosure by an applicant for a sensitive position of his or her criminal history record information and information relevant to the criteria set forth in subsection (e)(2)(B) during the application, examination, certification, and selection processes, or prohibiting the solicitation of such voluntary disclosure by applicants.

(Code 1969, § 11-3.1; Ord. of 6-2007; Ord. of 10-22-2012; Ord. of 7-7-2014; Ord. of 09-14-2020)

Sec. 11-4. - Application of chapter.

This chapter applies to all employees of the Town of Vienna who are under the direction and appointment of the Town Manager and, where indicated by content, to members of the Town Council and appointed officials including appointed members of boards and commissions.

(Code 1969, § 11-4; Ord. of 2-28-1994; Ord. of 10-22-2012; Ord. of 09-14-2020)

Sec. 11-5. - Responsibility and authority of the Town Manager.

The Town Manager shall have the responsibility and authority for administering the personnel management system established by this chapter. In implementing this chapter, the Town Manager is authorized to prepare administrative regulations that will generally document or detail specifics relating to a pertinent subject. They may be implemented in conjunction with this chapter and will bear the same authority.

The director of human resources is designated as the Town's personnel officer and, subject to the direction of the Town Manager, is responsible for the administration of this chapter and the administrative regulations. The Town Manager retains final responsibility for personnel administration with the Town government.

(Code 1969, § 11-5; Ord. of 2-28-1994; Ord. of 10-22-2012; Ord. of 7-7-2014; Ord. of 09-14-2020)

ARTICLE 2. - COMPENSATION

Sec. 11-6. - Pay plan.

A. *Administration.*

1. The Town Manager is responsible for:
 - a. Developing a pay scale with an appropriate number of pay ranges, known as "pay grades;"
 - b. Assigning all job classifications to the appropriate pay grades, based upon careful analysis of the requirements of each classification. Such analysis will include skills, responsibilities, physical requirements, working conditions, education and experience; and
 - c. Developing methods by which employees may progress from one pay grade to another.
2. The pay plan shall become effective upon approval by the Town Council.
3. In assigning salary ranges, consideration will be given to prevailing pay for comparable work in other public sector and private sector areas, the current cost of living, the duties and responsibilities of the job, the Town's financial circumstances, and its policies.

B. *Maintenance of the plan.*

1. The department head is responsible for informing the Town Manager of any significant change in duties, responsibilities, working conditions, or other factors that might affect the pay grade of any job classification.
2. A general review of the entire plan by the director of human resources and Town Manager is required each year prior to the submission of the year's final budget requests to council.
3. A comprehensive review of the plan is to be conducted every three to five years.

C. *The pay scale.*

1. The pay scale will be an integrated scale with sufficient pay grades to adequately compensate each job within the classification plan, providing for internal, as well as external equity.
2. Increases will be granted as defined in the Town's administrative regulations and will be implemented upon Town Council approval.
3. General market adjustments granted by the Town Council will be applied across the board to all the pay grades in the pay scale.

D. *Allocation of job classifications to grades.* Each job classification will be assigned to a pay grade, based on analytical results related to levels of skills, responsibilities, education, experience, etc.

- E. *Compensation for work in a higher classification.* If an employee is assigned by the Town Manager to work in the acting capacity of a higher-grade supervisory position and assumes additional responsibilities, he or she shall be granted an increase in salary, as defined in the Town's administrative regulations. Such additional salary shall cease when the employee returns to his/her regular duties.
- F. *Salary increases.* Regular Town employees included in the pay plan who are not at the top of their pay grade may become eligible for a pay increase as approved by Council. Upon reaching the maximum of the pay grade, an employee may be eligible for market adjustments accrued to their pay and lump sum recognition for meeting performance expectations in their evaluation.
- G. *Overtime.* Employees who perform necessary and approved overtime work will be compensated under the guidelines of the Fair Labor Standards Act (FLSA). Overtime pay for non-exempt employees will be paid at one and one-half times the regular rate. Upon agreement, compensatory time may be awarded in lieu of cash pay that accrues at the same one and one-half rate and will be made cash if the employee leaves the Town's employment or is moved to an Exempt position. Exempt employees do not earn cash overtime pay, but may earn hour-for-hour compensatory time for authorized hours in excess of 40 per week or FLSA established threshold for law enforcement. Exempt compensatory time is not eligible for cash disbursement, as defined in the administrative regulations.
- H. *Holiday pay.*
 - 1. Regular employees are paid their normal straight time rate for days designated as Town Holidays in subsection 11-10(M).
 - 2. Regular part-time employees will be paid only in the event that the holiday falls on their regularly scheduled workday and then only for the number of hours for which they are regularly scheduled at their straight time rate.
 - 3. Part-time, temporary and seasonal employees will be paid only in the event that the holiday falls on their regularly scheduled workday and then only for the number of hours for which they are regularly scheduled at their straight time rate.
 - 4. Non-exempt personnel required to work on Town holidays will receive their holiday pay for that day and pay at the rate of time and one-half for hours worked that exceed 40 in the week, or exceed the FLSA-established threshold for law enforcement.
 - 5. When a holiday falls on a regular employee's scheduled day off, one of his or her scheduled working days within the same pay period in which the holiday occurs may be designated by the department head as the official holiday.
 - 6. In order to receive pay for an observed holiday, an employee must be in work or paid leave status on his or her scheduled workday immediately preceding and following the holiday.
 - 7. Law enforcement personnel are paid Holiday Pay even when the Holiday falls on their scheduled day off.
- I. *Starting rate of pay.* New appointments will normally be made at the minimum rate of the appropriate pay grade. However, appointments above the minimum may be made with the advanced written approval of the Town Manager or his or her designee.
- J. *Transfer.* An employee's salary does not change in a transfer.
- K. *Demotion.* In a demotion, the employee's new salary may not be above the maximum in the pay grade of his or her new classification, except as approved by the Town Manager under extraordinary circumstances, as defined in the Administrative regulations
- L. *Promotion.* When an employee officially changes from one position to another in a higher grade, typically through a competitive process, the new salary will be based on the number of pay grades between the current and new classification, as defined in the administrative regulations.

(Code 1969, § 11-6; Ord. of 2-28-1994; Ord. of 6-1994; Ord. of 2-2008; Ord. of 9-2009; Ord. of 10-22-2012; Ord. of 7-7-2014; Ord. of 09-14-2020)

Sec. 11-7. - Separation.

Separation may result from an employee's resignation, layoff, retirement, dismissal, disability or death.

- A. *Resignation.* An employee resigns when he or she voluntarily leaves Town employment with notice. In order to separate from the Town in good standing, an employee must submit a written resignation to his/her supervisor at least ten working days prior to departure. Extenuating circumstances may be considered by the Town Manager.
- B. *Layoff.* An employee may be laid off when a position is abolished, or as a result of a reduction in force, or lack of work or funds. The employee will receive written notice at least 30 working days prior to the effective date, but in an emergency, no less than ten working days.
- C. *Dismissal.* When an employee is separated from Town employment involuntarily for any reason, it is referred to as a dismissal.
- D. *Retirement.* The separation of an employee from Town employment based on age, years of service, or disability.
- E. *Termination of directors without cause.* A director may be terminated without cause with severance pay. At the discretion of the Town Manager, a director may be terminated from employment with the Town without cause with 30 days' notice. In the event of a termination without cause, the director shall be entitled to severance pay in the amount of one month's salary for every year of service to the Town, in an amount not to exceed six months' salary. No severance shall be paid to a director who has been dismissed for cause.

(Code 1969, § 11-7; Ord. of 2-28-1994; Ord. of 2-2008; Ord. of 9-2009; Ord. of 10-22-2012; Ord. of 10-22-2012; Ord. of 7-7-2014; Ord. of 09-14-2020)

Sec. 11-8. - Benefits.

Regular full-time employees are eligible for retirement, life and health insurance, leave and other supplemental benefits, such as tuition and student loan reimbursement, and others, as approved by Council from time to time. Regular part-time employees who work at least 20 hours per week are eligible for the same benefits as full time employees, exclusive of retirement plans, on a prorated basis depending on the number of hours scheduled regularly, plus health insurance.

Pursuant to the federal Affordable Care Act (ACA), the Town will offer health insurance coverage to temporary employees and to their dependents, if that employee works and is compensated for an average of at least 30 hours per week, or 130 hours per month. For the purposes of the ACA, these temporary employees will be determined to be "full-time" temporary employees. Specifics on determining the average hours worked and compensated will be defined in the administrative regulations.

(Code 1969, § 11-8; Ord. of 2-28-1994; Ord. of 10-22-2012; Ord. of 09-14-2020)

Sec. 11-9. - Cash awards and incentive programs.

Employee compensation may be supplemented by cash awards or incentive programs that have been established by the Town Manager. The basis for these awards may include career path progression, service recognition, retirement, performance excellence, performance above the call of duty, superior work in handling a particular event, outstanding safety record, an act of heroism, the contribution

of a time or money-saving idea, or other incentive or value-add reason, as determined by the Town Manager.

(Code 1969, § 11-9; Ord. of 2-28-1994; Ord. of 10-22-2012; Ord. of 09-14-2020)

ARTICLE 3. - LEAVE

Sec. 11-10. - Leave.

A. *Annual leave.*

1. All regular, full-time Town employees accrue annual leave at the following rates based on their anniversary date:

Length of Service	Hours Accumulated per Pay Period
0 through 2 years	4
2 years, one day through 5 years	5
5 years, one day through 8 years	6
8 years, one day through 11 years	7
11 years, one day and up	8

2. The maximum amount of annual leave that an employee may accumulate is 280 hours. Annual leave in excess of 280 hours remaining on the last day of the last pay period of the calendar year will be reduced to this limit. The remainder will be added to the employee's sick leave balance. At any time that there is a business necessity that prevents an employee from using the annual leave required to meet the annual maximum, the Town Manager may authorize a temporary extension.
3. New employees are eligible to use annual leave after 90 calendar days of employment, unless authorized by the Town Manager or designee.
4. Upon separation from employment, regular employees who have completed their initial probationary period are entitled to payment of any unused annual leave up to a maximum of 280 hours and any additional annual leave accrued from the last pay period including December of the previous year to the date of separation.
5. Employees may take annual leave in only one-half-hour increments.
6. Annual leave continues to accrue while an employee is on any type of paid approved leave. Annual Leave does not accrue when an employee is receiving workers' compensation payments, is on an unpaid absence, or is on catastrophic leave status.
7. The Town Manager may approve an employee's request for payment in lieu of use of up to 40 hours of annual leave per fiscal year. No employee may reduce his or her leave balance to less than 40 hours when requesting payment for said leave. Annual leave will not be approved before it is earned. Effective July 1, 2021, the Town Manager may approve an employee's request of up to 60 hours of annual leave for payment in lieu of use in any one year, under the

same conditions, in any one fiscal year when it is fiscally feasible. Such an exception to the 40-hour payment will be announced at the beginning of the fiscal year in which it will be exercised.

8. Upon hiring, the Town Manager may, at his or her discretion, grant the accumulation of leave at a higher rate than the entry-level amount in recognition of prior years of public service employment.
 9. Regular employees whose normal week is 20 hours or more, but less than 40, will accrue leave on a prorated basis, depending on the number of hours the employee is scheduled to work regularly.
- B. *Sick leave.* Regular full-time employees accrue sick leave at the rate of four hours bi-weekly. Sick leave accrues with active service and/or while an employee is on any approved paid leave status, Employees do not earn sick leave when he or she is receiving workers' compensation payments, is on unpaid leave status, or is on catastrophic leave. New employees are eligible to use sick leave as soon as it is accrued.

Regular employees whose normal workweek is 20 hours or more but less than 40 will accrue sick leave on a prorated basis, depending on the number of hours the employee is scheduled to work regularly.

1. Regular employees may take sick leave for the following purposes:
 - a. Personal illness
 - b. Illness of the immediate family where the employee's attendance is required
 - c. Medical and/or dental appointments for the employee or an immediate family member
 - d. Pursuant to the criteria outlined by the Family and Medical Leave Act (FMLA)
 2. Sick leave shall be taken in one-half-hour increments.
 3. No limits are placed on the accumulation of sick leave.
 4. Prospective with the adoption of this section and of A.2. of this Article, upon regular retirement from the Town of Vienna, employees will receive payment of 50 percent of their accumulated sick leave up to 1,040 hours total payout. This payment will be at the rate of pay at the employee's date of separation. The balance remaining after payout will be credited in full towards length of service for retirement benefits under the Town of Vienna's Employees Retirement Plan and the Town of Vienna Police Pension Plan.
 5. The Town may require medical proof and/or investigate any absence for which sick leave is requested. Abuse of sick leave may result in disciplinary action, up to and including termination, as defined in the administrative regulations.
- C. *Advanced sick leave.*
1. With the approval of the Town Manager, sick leave not to exceed 40 hours may be advanced to a regular, full-time employee with over one year of service in cases of serious illness or disability. Advanced sick leave is deducted from future accruals of sick leave and, at the option of the employee, may be charged against future accruals of annual leave.
 2. In the event an employee leaves the Town service prior to liquidation of advanced sick leave, the employee is obligated to reimburse the Town for the outstanding balance. This amount due may be withheld from the final paycheck including leave payouts, pursuant to law, or collected through other appropriate and legal action.
- E. *Catastrophic leave.*
1. Catastrophic leave may be granted to a regular employee with over one year of service in cases of serious personal illness or condition.
 2. When all other leave benefits have been exhausted, the Town Manager may request the Town Council to grant catastrophic leave. This additional leave may not exceed one-half day for each month of a regular employee's service with the Town. All such requests will consider:

- a. The nature and seriousness of the illness or condition
- b. The prospects of eventual return to service
- c. Employee's length of service
- d. Employee's previous leave record
- e. Other justifications

3. Awarded catastrophic leave may be charged to future accruals of sick or annual leave.

F. *Leave without pay.*

Leave without pay (LWOP) in excess of three days may be granted by the Town Manager to a regular full- or regular part-time employee for a period not to exceed six calendar months. Neither annual nor sick leave will be earned during leave without pay. LWOP does not constitute a break in service, but changes the anniversary date if the employee is absent for more than 30 calendar days (except in cases covered under workers' compensation). For leave without pay that is in excess of 30 calendar days, the employee must pay the full amount of his or her health insurance premium and his or her portion of retirement pension contribution and local pension benefits by the first of each month, in order to maintain those benefits.

G. *Absence without leave.*

1. The first three days that an a regular non-exempt employee is absent from work without pay is considered to be an absence without Leave. This absence may be approved by the supervisor, or as determined by the department head.
2. A regular non-exempt employee who has not had prior authorization to use leave or has not notified his or her supervisor of an illness may be placed on involuntary absence without leave status. This status is without pay for the hours absent. Upon returning to work, this absence must be acceptably explained and approved by the employee's supervisor. Disciplinary action may be taken. An employee placed on absent-without-leave status for three consecutive workdays because of an unauthorized absence may be automatically terminated at the end of the three days.
2. An absence-without-leave may be changed later to another appropriate type of leave in instances where the employee can present acceptable documentation to explain the absence. This reversal must be approved by the department head.

H. *Family leave.* As provided for in the Family Medical Leave Act (FMLA) of 1993, regular full- and part-time employees are eligible for participation in the family leave program. Plan guidelines and specifics are contained within the Town's administrative regulations.

I. *Family Death Leave.* An employee may use three days of paid *Family Death Leave* to attend to matters related to the passing of a member of his or her immediate family. Family death leave will not reduce the accruals of annual or sick leave in the employee's accounts. Abuse of this leave may result in disciplinary action, up to and including termination.

J. *Military leave.*

1. A regular employee who has completed his or her probationary period and who leaves the Town service to join the military forces of the United States in an initial tour of duty, or is drafted into the military service, will be placed on military leave without pay (MLWOP), such leave to extend through a date 90 days after he or she is relieved from such service.
2. In accordance with the provisions of the Selective Service Act, such employee shall be entitled to be restored to the position he or she vacated, or to another position of the same class, provided he or she makes application within 90 days after the date of satisfactory separation and is physically and mentally capable of performing the essential functions of the position, with or without reasonable accommodation.

3. A regular employee who is a member of the National Guard or an organized military reserve of the United States will be allowed paid leave, not to exceed 15 calendar days during any one calendar year, to attend training camps. Such employee will be paid at his or her regular hourly rate for no more than 40 hours per calendar week.

K. *Civil leave.*

A regular, full- or part-time employee will be given time off without loss of pay and without charge to any type of personal leave when performing jury duty; when subpoenaed to appear before a court, public body, or commission in connection with Town business; when performing emergency civilian duty in connection with national defense; when performing the duties of officer of elections in the Commonwealth of Virginia; or for the purpose of voting in person in a primary or general election, up to one hour. Specifics may be found in the administrative regulations.

L. *Injury leave.*

An employee who is injured while performing the duties of his or her position, without fault or negligence on his or her part, will be granted injury leave with pay for regularly scheduled working days, not including overtime, up to the first seven calendar days following a work-related injury.

M. *Holiday leave.*

1. The following holidays are observed by the Town and shall be granted to employees as days off with pay unless such employees are required to be on scheduled duty:

New Year's Day (January 1)

Martin Luther King Day (third Monday in January)

George Washington's Birthday (third Monday in February)

Memorial Day (last Monday in May)

Independence Day (July 4)

Liberty Amendments Day (third Monday in July)

Labor Day (first Monday in September)

Veteran's Day (November 11) - Effective November 11, 2015

Thanksgiving Day (fourth Thursday in November)

Fall Holiday (fourth Friday in November)

Christmas Eve (December 24)

Christmas Day (December 25)

Inauguration Day (January 20, every fourth odd year)

2. When a holiday falls on a weekend or successive holidays breach a weekend, the Town Manager will determine the workdays observed, based on the impact to service delivery, and will notify Council of such.

N. *Transfer of leave (Leave Donation).* In the event that a regular full- or part-time employee has depleted all of his or her accrued paid leave as a result of his or her own extended illness or that of a his or her immediate family, sick leave may be transferred from one employee to another voluntarily, referred to as a "leave donation." Participation in this program must be authorized by the Town Manager under the guidelines identified in the administrative regulations.

O. *Administrative leave.*

1. In the event unusual circumstances preclude an employee from fully or satisfactorily fulfilling the duties of his/her position, the individual may be placed on administrative leave. This leave may be with or without pay for a period up to 90 calendar days per occasion, but may be extended up to no more than six months by the Town Manager, due to exigent circumstances.
2. Time spent on administrative leave shall not be charged to any other leave except as determined by the director of human resources. While on administrative leave without pay, the employee will cease to accumulate annual and sick leave.
3. Administrative leave may be authorized only by the Town Manager or his or her designee.
4. If Town offices are unavailable due to extreme weather conditions or other circumstances beyond the control of employees, administrative leave may be authorized by the Town Manager. Only the Town Manager has the authority to determine when any employee will be granted administrative leave.

(Code 1969, § 11-10; Ord. of 2-28-1994; Ord. of 6-1996; Ord. of 7-2000; Ord. of 6-2002; Ord. of 2-2008; Ord. of 9-2009; Ord. of 10-22-2012; Ord. of 7-7-2014; Ord. of 09-14-2020)

ARTICLE 4. - GRIEVANCE PROCEDURES

Sec. 11-11. - Grievance policy.

The Town of Vienna is committed to resolving employee complaints and grievances in a fair and equitable manner.

All regular employees of the Town of Vienna have the right to submit grievances for resolution without threat of discrimination, coercion, recrimination, restraint or reprisal. It is the Town's belief that timely resolution of grievances enhances employer/employee relations and serves the mutual interest of all concerned parties.

(Code 1969, § 11-11; Ord. of 2-28-1994; Ord. of 10-22-2012; Ord. of 09-14-2020)

Sec. 11-12. - Civilian employees' grievance procedure.

The civilian grievance procedure is available for use by any regular, non-probationary civilian employee, except the Town Manager, Town Attorney, Town Clerk or director and any sworn police officer who has elected to proceed with the police officer's grievance procedure. The Town's administrative regulations contain the guidelines and process to be followed under this grievance procedure. When submitting a grievance, a sworn police officer must identify in writing to the director of human resources which grievance procedure he or she so elects to use.

(Code 1969, § 11-12; Ord. of 2-28-1994; Ord. of 2-2008; Ord. of 9-2009; Ord. of 10-22-2012; Ord. of 7-7-2014; Ord. of 09-14-2020)

Sec. 11-13. - Police officers' grievance procedure.

The police officer grievance procedure is available for use by any regular non-probationary police officer except the chief of police. The Town's administrative regulations contain the guidelines and process to be followed under this grievance procedure. When submitting a grievance, a sworn police officer must identify in writing to the director of human resources which grievance procedure he/she elects to use.

(Code 1969, § 11-13; Ord. of 2-28-1994; Ord. of 2-2008; Ord. of 10-22-2012; Ord. of 7-7-2014; Ord. of 09-14-2020)

ARTICLE 5. - OUTSIDE EMPLOYMENT

Sec. 11-14. - Police officers; off-duty employment.

Sworn police officers of the Town are authorized to engage in part-time off-duty employment that may occasionally require the use of their police powers in performance of such employment.

The chief of police shall promulgate reasonable rules to apply to such off-duty employment and shall cause those rules to be included in the departmental general orders.

Sec. 11-15. -Civilian employees; secondary employment

When an individual is employed as a regular full-time employee with the Town, Town employment is considered that employee's primary employer. Employees shall not engage in or accept secondary employment or render services for any interest, when such employment or service is incompatible with the proper discharge of his/her official Town duties.

(Code 1969, § 11-14; Ord. of 12-6-1999; Ord. of 10-22-2012; Ord. of 09-14-2020)