

Privacy of Employee Personnel Records

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1.0 POLICY

In accordance with Chapter 160A, Section 168 of the North Carolina General Statutes, all information contained in Town employees' personnel files maintained by the Town of Carolina Beach is confidential, except information deemed by the General Statutes to be a matter of public record.

2.0 PURPOSE

The purpose of this policy is to affirm the Town of Carolina Beach's compliance with Chapter 160-A, Section 168 of the North Carolina General Statutes in maintaining the privacy of employee personnel records except for the information deemed public by the General Statutes. For the purpose of this policy, "employee" includes former employees of the Town and applicants for employment.

3.0 SCOPE

This policy covers all Town of Carolina Beach applicants for employment, employees, former employees and retirees.

4.0 DEFINITIONS

- 4.1 Public Record - Chapter 160-A of the North Carolina General Statutes lists the following as a matter of public record:
 - A. Name
 - B. Age
 - C. Date of original employment or appointment to the Town Service
 - D. 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;
 - E. Current position
 - F. Title
 - G. Salary
 - H. Date and amount of the most recent increase or decrease in salary
 - I. Date of the most recent promotion, demotion, transfer, suspension, separation, or other change in position classification
 - J. Date and general description of the reasons for each promotion
 - K. Date and type of each dismissal, suspension, or demotion taken for disciplinary reasons
 - L. 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
 - M. Office to which the employee is currently assigned.
- 4.2 Employee Personnel File - A file maintained on an employee, or that is a part of the Human Resources Information System (HRIS), and contains information relating to the employment record of any employee, former employee or retiree of the Town of Carolina Beach. This file is usually maintained in Human Resources and includes files maintained on the employee at the Departmental level.

5.0 ORGANIZATIONAL RULES

- 5.1 The information, defined as public record in Section 4.1 above, is maintained by the Town Human Resources Department. Any person may have access to this information for the purpose of inspection, examination, and copying during regular business hours by appointment.
- 5.2 All information contained in the Town employee's personnel file, other than the information defined as public in Section 4.1 above, is confidential and shall be open to inspection only in the following instances:
 - A. The employee or his duly authorized agent may examine all portions of his personnel file except:
 1. Letters of reference solicited prior to employment;
 2. Information concerning a medical disability (mental or physical) that a prudent physician would not divulge to his patient.
 - B. A licensed physician designated in writing by the employee may examine the employee's medical record.
 - C. A Town employee having supervisory authority directly or indirectly over the employee may examine all material in the employee's personnel file.
 - D. By order of a court of competent jurisdiction, any person may examine such portion of any employee's file as may be ordered by the court.
 - E. An official of an agency of the State or Federal government, or any political subdivision of the State, may inspect any portion of a personnel file when such inspection is deemed to be necessary and essential to the pursuance of a proper function of the inspecting agency, but no information shall be divulged for the purpose of assisting in a criminal prosecution of the employee or for the purpose of assisting in an investigation of the employee's tax liability. Any non-public record release must have the prior approval of the Human Resources Director unless there is a signed release by the employee for the specific information being requested.
- 5.3 An employee of the Town who objects to material in his personnel file on the grounds that it is inaccurate or misleading may file a grievance or add a statement of his objections to information in his personnel file.
- 5.4 In order to insure the security and confidentiality of records, the Human Resource Director shall establish administrative, technical and physical controls to protect confidential information from unauthorized access or disclosure. Medical records shall be maintained in confidential files, separate and apart from personnel files.
- 5.5 GS 153A-98 provides that any public official or employee who knowingly or willingly permits any person to have access to any confidential information contained in an employee personnel file, except as expressly authorized by a designated custodian, is guilty of misdemeanor and upon conviction shall be fined in an amount not to exceed five hundred dollars (\$500).
- 5.6 GS 153A-98 provides that any person, not specifically authorized to have access to a personnel file designated as confidential, who shall knowingly examine it in its official filing place or remove or copy any portion of a confidential personnel file, shall be guilty of a misdemeanor and upon conviction shall be fined in the discretion of the court, but not in excess of five hundred dollars (\$500).

6.0 PROCEDURES

- 6.1 Any person desiring information that is deemed public by this policy and the N.C. General Statutes may make an appointment with the Human Resources Department to review the information. The appointment will assure that a staff member will be available to assist the requesting person. Any person may have access to this information for the purpose of inspection, examination, and copying during regular business hours.
- 6.2 An employee or his authorized representative who wants to review his personnel file may make an appointment with the Human Resources Department to do so. The appointment ensures that someone will be able to retrieve the file for the employee as well as provide any necessary assistance.
- 6.3 An official of an agency of the State or Federal government, or any political subdivision of the State, who wants to inspect a personnel file that is necessary and essential to the pursuance of a proper function of the inspecting agency, but not for criminal prosecution or tax liability, will be allowed access to the file without an appointment. However, any non-public record release must have the prior approval of the Human Resources Director unless there is a signed release by the employee for the specific information being requested.
- 6.4 An employee of the Town who objects to material in his personnel file on the grounds that it is inaccurate or misleading may seek to have the material removed from the file by filing a formal grievance with his immediate supervisor in accordance with the Town's grievance process; see **Policy on Employee Complaint Resolution**.
- 6.5 If he chooses, the employee may place a written statement explaining his objections to material in the personnel file. To do this, the employee should contact the Human Resources Department.
- 6.6 The provisions for access to records apply to former employees, as they apply to present employees.
- 6.7 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 alters, defaces, mutilates, or destroys it will be guilty of a misdemeanor and upon conviction will be fined no less than ten dollars (\$10.00), but no more than five hundred dollars (\$500), as provided in GS 132-3.

7.0 APPENDIX, APPENDICES

None