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ARTICLE I. POLICY

Section 1

The employment relationship between the Town and the employee is terminable at the will of either at any time, with or without cause and with or without notice. No employee, officer, agent or representative of the Town has any authority to enter into any agreement or representation, verbally or in writing, which alters, amends, or contradicts this provision or other provisions in these policies. Any exception to this policy of "at will" employment must be expressly authorized in writing, approved by the Council, and executed by the officers designated by the Board of Commissioners.

Section 2

None of the benefits or policies set forth herein are intended because of their publication to confer any rights or privileges upon employees or to entitle them to be or remain employed by the Town. The contents of this document and procedure herein are presented as a matter of information. They are not conditions of employment.

Section 3

These personnel policies are not a binding contract, but merely a set of guidelines for the implementation of personnel policies. The Town explicitly reserves the right to modify any of the provisions of these policies at any time and without any notice to employees. Notwithstanding any of the provisions within these policies, employment may be terminated at any time, either by the employee or by the Town, with or without cause and with or without advance notice.

ARTICLE II. GENERAL PROVISIONS

Section 1. Purpose

The purpose of these policies is to establish a personnel system, which will recruit, select, develop and maintain an effective and responsible work force. These policies are established under the authority of Chapter 160A, Article 7 of the General Statutes of North Carolina.

Section 2. Coverage

This policy shall cover all regular and probationary employees except as specifically exempted. The Town Attorney, members of the Board of Commissioners, members of advisory boards and councils, and part-time employees will be exempted except in sections where specifically included. Tryon Police Personnel (Police Officers, Dispatchers and Administrative Assistant) must adhere to provisions of the Tryon Police Personnel Manual in addition to the Town of Tryon Personnel Ordinance. The Town Manager, except where provisions are included and/or excluded in employment agreement, shall receive all insurance benefits (medical, dental, vision, life, disability), including deferred compensation or 401(k) and all other benefits available to Town employees in accordance with the Town Personnel Ordinance and the North Carolina Local Government Retirement System, including longevity adjustments to base salary, cost of living, sick leave, holidays and vacation pay.

Section 3. Definitions

- (a) **Probationary Employee.** A person appointed to a budgeted position that has not yet completed the probationary period. (See ARTICLE V, Section 9 of these policies.)
- (b) **Part-time Employee.** An employee, either regular or temporary, who is regularly scheduled less than the number of hours per workweek designated by the Board of Commissioners as full-time.
- (c) **Full-time Employee.** An employee, either regular or temporary, who is regularly scheduled to work the number of hours per workweek designated by the Board of Commissioners as full-time.

- (d) Regular Employee. An employee who has successfully completed the prescribed probationary periods shall be considered regular. However, all Town positions are subject to budget review and approval each year by the Board of Commissioners, and all employees' work and conduct must meet standards of performance and behavior. Therefore, reference to "regular" employees or permanent positions should not be construed as a contract or right to perpetual funding or employment.
- (e) Temporary Employee. A person appointed to serve in a position for a defined time period, usually less than six months.
- (f) Grievance. A claim or complaint based upon an event or condition which affects the circumstance under which an employee works, allegedly caused by misinterpretation, unfair application, or lack of established policy pertaining to employment conditions.
- (g) Adverse Action. A demotion, dismissal, reduction in pay, layoff, suspension, or undesirable transfer.

Section 4. Merit Principle

The purpose of this policy and the rules and regulations set forth is to establish a fair and uniform system of modern personnel administration for all employees of the Town.

The Town shall embrace the following merit system principles in administering its personnel program:

- (a) Applicants and employees shall be assured of fair treatment in all aspects of personnel administration without regard for *age*, political affiliation, religious creed, sex, national origin, color, race, or disability. Individuals shall likewise be treated with proper regard for their privacy and constitutional rights as citizens.
- (b) Employees shall be recruited, selected, trained, and advanced on the basis of their ability, knowledge, skill, and performance.
- (c) Employees shall be retained on the basis of the adequacy of their performance or the necessity of the performance of their duties and responsibilities. They shall be guided in ways to correct inadequate performance and separated when inadequate performance cannot be corrected.
- (d) Employees shall be protected against coercion for partisan political purposes.
- (e) Employees shall receive equitable and adequate pay and benefits and eligible employees shall receive pay increases based upon their performance subject to the availability of funds.

Section 5. Responsibility of Board of Commissioners

The Board of Commissioners will establish personnel policies and rules, including the classification and pay plan.

The Board of Commissioners will adopt or provide for rules and regulations, resolutions or ordinances concerning personnel policies and other measures that promote the hiring and retention of capable, diligent, and honest employees under the authority of Chapter 160A-164 of the North Carolina General Statutes, to be administered by the Town Manager.

Section 6. Responsibility of Town Manager

The Town Manager shall be responsible for assisting in the preparation and maintenance of the position classification plan and the pay plan, and shall perform such other duties in connection with a modern personnel program as are required. All matters dealing with personnel shall be routed to the Town Manager, who shall maintain a complete system of personnel files and records. The Town Manager may perform any or all of these duties and responsibilities or assign them to a staff

employee. The Town Manager may create a set of standard operational procedures that implement the spirit and intent of the policies and procedures. The Town Manager shall supervise the work of the Town and have the authority to select, manage, and discharge personnel, establish operational and record-keeping procedures, and delegate responsibilities. The Town Manager is authorized to contract on behalf of the Town with insurance providers and town employees regarding employee benefits.

The Town Manager will prescribe the office hours, workdays, and holidays to be observed by the various offices and departments of the Town.

The Town Manager may designate a department head to serve as acting "Town Manager" in his absence for the operational efficiency of the Town. The Town Manager shall in writing notify the Town Clerk and Mayor listing dates of absence and return date, and designating the department head who shall have the authority to make the day-to-day operational decisions for the Town.

Section 7. Responsibility of Department Heads

The head of each Town department, with the approval of the Town Manager, shall appoint, suspend and remove Town employees assigned to the department. Department head may assume Town Manager duties and responsibilities if authorized by Town Manager due to absence. Department heads shall be responsible for bringing to the attention of Town Manager (1) the need for new positions, and (2) material changes in the nature of duties, responsibilities, working conditions or other factors which may affect the classification of any existing position.

ARTICLE III. CLASSIFICATION PLAN

Section 1. Adoption

The position classification plan, as amended from time to time, is hereby adopted as the position classification plan for the Town.

Section 2. Allocation of Positions

The Town Manager shall allocate each position covered by the classification plan to its appropriate class in the plan.

Section 3. Administration of the Position Classification Plan

The Town Manager shall be responsible for the administration and maintenance of the position classification plan so that it will accurately reflect the duties performed by employees in the classes to which their positions are allocated. When the Town Manager finds that a substantial change has occurred in the nature or level of duties and responsibilities of an existing position, the existing class specification shall be revised or reallocated to the appropriate class within the existing classification plan, or the position classification plan shall be amended establishing a new class to which the position may be allocated.

Section 4. Amendment of Position Classification Plan

Classes of positions shall be added and deleted from the position classification plan by the Town Manager.

ARTICLE IV. THE PAY PLAN

Section 1. Adoption

The schedule of salary ranges and class titles assigned to salary ranges, as amended from time to time, is hereby adopted as the pay plan for the Town.

Section 2. Maintenance of the Pay Plan

The Town Manager shall be responsible for the administration and maintenance of the pay plan. The pay plan is intended to provide equitable compensation for all positions, reflecting differences in duties and responsibilities, the rates of pay for comparable positions in private and public employment in the area, changes in the cost of living, the financial conditions of the Town, and other factors. The Town

Manager shall annually adjust the pay ranges for cost of living with Consumer Price Index (CPI) for the South obtained from the Bureau of Labor Statistics Southeast Office in Atlanta, Georgia. In addition, the Town Manager shall from time to time make comparative studies of all factors affecting the levels of salary ranges and shall recommend to the Board of Commissioners such changes in salary ranges as appear to be warranted.

Section 3. Use of Salary Ranges

Salary ranges are intended to furnish administrative flexibility in recognizing individual performance among employees holding positions in the same class by rewarding employees for meritorious service. The following general provisions will govern the granting of increases within the pay range:

The minimum rate established for the class is the normal hiring rate, except in those cases where unusual circumstances appear to warrant appointment at a higher rate. Appointment above the minimum step may be made with the approval of the Town Manager when deemed necessary and in the best interest of the Town. Above-the-minimum appointments will be based on such factors as the qualifications of the applicant being higher than the desirable education and experience for the class, a shortage of qualified applicants available at the minimum step, the refusal of qualified applicants to accept employment at the minimum step, or other similar factors.

Section 4. Payment at a Listed Rate

All employees covered by the salary plan shall be paid at a rate within the salary range established for their respective job classes except for employees in a "trainee status", or employees whose present salaries are above the established maximum rate following transition to a new pay plan.

Section 5. Salary of Trainee

An applicant hired or an employee promoted to a position in a higher class, who does not meet all the established requirements of the position, may be appointed at a rate in the pay plan below the minimum established for the position. In such cases, a plan for training, including a time schedule, will be prepared.

Trainee salaries may be no more than 5% below the minimum salary established for the position for which the person is being trained. An employee will remain on the trainee step until the department head determines that the trainee is qualified to assume the full responsibilities of the position. The department head shall review the progress of each employee in a trainee status monthly, or more frequently as necessary, to determine when the trainee is qualified to assume the full responsibilities of the position. Provided, however, that a trainee shall not be in such status for longer than one (1) year.

Section 6. Pay Rates in Promotion, Demotion, Transfer, Reclassification, and Completion of Probationary Period

When an employee is promoted, demoted, transferred, or reclassified, the rate of pay for the new position will be established in accordance with the following rules:

- (a) **Promotion:** An employee who is promoted shall receive a 5% pay increase in base salary or an increase to the minimum step of the new pay range, whichever is higher.
- (b) **Demotion:** The salary of an employee who is demoted shall remain the same. If the salary of the demoted employee falls above the maximum of the new salary range, the salary shall be maintained at that level until such time as the salary range increases sufficient to include the demoted employee's salary.
- (c) **Transfer:** An employee transferring from a position in one class to a position in another class assigned the same pay range shall continue to receive the same salary.
- (d) **Reclassification:** An employee whose position is reclassified to a class having

a higher salary range shall receive a 5% pay increase in base salary or an increase to the minimum step of the new pay range, whichever is higher. If the position is reclassified to a lower pay range and the employee is receiving a salary above the maximum step established for the new class, the salary of the employee shall be maintained at that level until such time as the employee's pay range is increased above the employee's current salary.

- (e) **Probationary Period:** An employee who successfully completes the probationary period is entitled to a (5%) increase. However, the probationary increase for Police Officers may be granted at the 6 month point rather than at the end of the required 12 month probation. (See Article V, Section 9)
- (f) **State Certifications:** When employees pass licensing and certification exams for their profession above what is required for their job description, the employee shall be awarded a 2 ½% salary increase. The Town will pay for employees to go to school and to take the exam. If an employee should not pass the exam, the Town will pay for the employee to take the exam a second time. If the employee does not pass the second time, no further financial assistance will be provided by the Town.

Section 7. Pay Rates in Salary Range Revisions

When the Board of Commissioners approves a rate change in salary ranges, or the Town Manager changes the range for a class of positions, the salaries of employees whose positions are allocated to that class shall be affected as follows:

- (a) When a class of positions is assigned to a higher pay range, employees in that class shall receive a 5% pay increase or an increase to the minimum step of the new range, whichever is higher.
- (b) When a class of positions is assigned to a lower pay range, the salaries of employees in that class will remain unchanged. If this assignment to a lower pay range results in an employee being paid at a rate above the maximum step established for the new class, the salary of the employee shall be maintained at that level until such time as the employee's pay range is increased above the employee's current salary.
- (c) When an adjustment is made to a pay range to reflect market changes, employees in classes within that pay range may or may not receive the adjustment, depending on the Town's financial condition.
- (d) For individuals who reach the maximum in their pay grade, a lump sum payment for approved merit pay would be provided to the employee. (Revised 12/21/04 by Town Council)

Section 8. Pay for Part-Time Work

The pay plan established by this policy is for full-time service. An employee appointed for less than full-time service will be paid an amount determined by using the hourly rate of the position classification assigned.

Section 9. Overtime and Compensatory Time

To the extent that local government jurisdictions are so required, the Town will comply with the Fair Labor Standards Act (FLSA). According to FLSA overtime compensation of 1 ½ times is applied to hours worked beyond 40 hours per week. Vacation, Sick Leave and Holiday Hours do not count toward the 40 hours per week in the calculation of overtime compensation. (Revised 06/26/07)

The Town Manager, following FLSA regulations, 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. Non-exempt employees will be paid at a straight time rate for

hours up to the FLSA established limit for their positions (usually 40 hours in a 7 day period); hours beyond the FLSA established limit will be compensated in the appropriate manner outlined in the next paragraph. In determining eligibility for overtime in a work period, only hours actually worked shall be considered.

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 paid at a time-and-one-half rate, in accordance with FLSA regulations.

Overtime work must be of an unusual, unscheduled, or emergency nature and be directed or authorized by the department head or authorized representative of the department head.

Employees in positions determined to be "exempt" from FLSA (as Executive, Administrative, or Professional staff) will not receive pay for hours worked in excess of their normal work periods. These employees may be granted occasional time off by their department heads where the convenience of the department allows.

Department heads may earn compensation time or regular pay for unusual, unscheduled, or special projects, provided it is approved in advance by the Town Manager.

It is the policy of the Town that employees designated as non-exempt must receive prior approval from their supervisor before working any overtime. This includes working through lunch, coming in early or staying late after the employee's normal working hours. (Revised 06/26/07 Compensatory time terminated)

Section 10. Call-Back Pay

Any Town employee eligible to receive overtime compensation under this policy will be guaranteed a minimum payment of two (2) hours wages for being called back to work outside of normal working hours.

Section 11. Substituting for Another Employee

When the necessity arises for a lower grade employee to assume temporarily the responsibility of another who is not available for work for a period exceeding thirty (30) days and whose classification is assigned to a higher pay grade, the temporary incumbent shall, with the approval of the Town Manager, receive compensation from the beginning of the temporary work at the minimum rate assigned the higher classification or 5% higher than the employee's current rate, whichever is greater.

Section 12. Pay Day

All employees are paid weekly except police officers, administrative staff and department heads. Should a regular payday fall on a holiday, paychecks shall be direct deposited on the workday that precedes the holiday.

Section 13. Preparation of Payroll

All time and attendance sheets will be maintained and certified within each department and shall be approved by the department head as to the name of the employee, time on duty, and leave status. In no instance may an employee be paid at a rate other than that set forth on their current approved personnel action forms. Weekly payroll periods are established to run for seven (7) days, beginning on Friday and ending on Thursday. Bi-weekly payroll periods are established to run for fourteen (14) days, beginning on Friday of the first week and ending on Thursday of the second week. Direct deposit is mandatory for all employees.

Section 14. Payroll Deductions

Only payroll deductions specifically mandated or authorized by federal, state, or Town act, or by specific authorization and approval by the Town Manager may be deducted at each period from each employee's pay. All other payroll deductions must be approved and authorized by the Town Manager.

Section 15. Longevity Pay

The Board of Commissioners may approve Longevity Pay to full-time employees who have been employed by the Town for a minimum of twelve (12) months in an amount to be determined by the Board of Commissioners annually in November with compensation paid to the employees on December 1.

Section 16. Deduction on Termination

On termination of employment, the payroll clerk shall deduct and withhold from the final salary check of an employee, any amount owed to the Town in payment of unearned leave or any other indebtedness to the Town pertaining to the job or conditions of employment. The final paycheck shall not be issued until the extent of such indebtedness to the Town has been determined and cleared.

ARTICLE V. RECRUITMENT AND EMPLOYMENT

Section 1. Statement of Equal Employment Opportunity Policy

It is the policy of the Town to foster, maintain, and promote equal employment opportunity. The Town shall select employees on the basis of the applicants' qualifications and without regard to age, sex, race, color, creed, religion or national origin. Applicants with disabilities shall be given equal consideration with other applicants for positions if such applicants can, with or without reasonable accommodation, perform the essential requirements of the position.

Section 2. Implementation of EEO Policy

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

Section 3. Recruitment

All opportunities for employment shall be publicized, including applicable salary ranges and employment qualifications. Information on job openings and hiring practices shall be provided to recruitment sources including organizations and news media serving the appropriate labor market. In addition, notice of vacancies shall be posted at designated conspicuous sites within Town buildings. Individuals shall be recruited from a geographic area as wide as is necessary to insure that well qualified applicants are obtained for Town service.

Section 4. Job Announcements

Employment announcements shall contain assurances of equal employment opportunity and shall comply with federal and state statutes regarding discrimination in employment matters.

Section 5. Applications for Employment

All persons expressing interest in employment with the Town shall be given the opportunity to file an application for employment when a position is vacant or when the Town is advertising to fill such positions. Applications will remain active for a period of six (6) months.

Section 6. Application Reserve File

Upon inquiring, each potential applicant shall be informed of the current job openings. After the active period of six (6) months, applications shall be kept in a reserve file for two (2) years, in accordance with Equal Employment Opportunity Council guidelines and the Records Retention Schedule issued by the NC Division of Archives and History.

Section 7. Qualification Standards

- (a) Employees shall meet the employment standards established by the position classification plan and such other reasonable, job-related minimum standards of character, aptitude,

knowledge, skills, abilities, and physical condition as may be established by the Town Manager with the advice and recommendation(s) of department heads.

- (b) Qualifications shall be reviewed periodically to assure that requirements conform to the actual job performance requirements.
- (c) The Town may employ an applicant as a trainee who does not meet all minimum qualifications for a particular job if the deficiencies can be eliminated through orientation and on-the-job training.

Section 8. Selection

Department heads shall make such investigations and conduct such examinations as deemed appropriate to assess fairly the aptitude, education and experience, knowledge and skills, character, physical fitness, and other qualifications required for positions in the service of the Town. All selection devices administered by the Town or by persons or agencies for the Town shall be valid measurers of job requirements.

Section 9. Probationary Period of Employment

An employee appointed to a permanent position shall serve a probationary period of six (6) months except that police officers shall serve a probationary period of twelve (12) months as required by the state. This time period is to be considered a continuation of the selection process. An employee serving a probationary period following initial appointment may be dismissed with or without cause and without right of appeal at any time during the probationary period. A regular employee serving a probationary period following a promotion shall be demoted as provided in Section 13 of this article if unable to perform assigned duties of the new job satisfactorily.

A probationary employee whose work is unsatisfactory may receive a written warning before being terminated by the department head. If the employee's work is not satisfactory during the probationary period, the employee may be terminated.

In unusual cases, for specific reasons approved by the Town Manager, the probationary period may be extended for a maximum of an additional six (6) months. In such cases, the employee must be notified of the purpose of the extension, the conditions and performance expectations, and the length of time of the extension.

Section 10. Performance Evaluation

A supervisor shall evaluate performance beginning with the employee's first day on the job. Through open communications with his or her supervisor, the employee should obtain a clear understanding of what is expected related to job performance and a periodic assessment of his or her job strengths and weaknesses.

The Town's performance evaluation program provides a system for appraising the employee's work. A formal evaluation shall be completed for an employee prior to the completion of his or her probationary period. Annual performance appraisal reviews are performed for each employee to accomplish a written appraisal for overall performance. The purpose of these evaluations is to let employees know the areas which are satisfactory and the areas which could be improved. In addition, the appraisal process offers an opportunity for the employee to request from his/her supervisor what is expected for an improved evaluation such as goals to be obtained.

Merit pay will be budgeted each year depending on the results of the employee's performance evaluation, funds available, and the approval of the Board of Commissioners.

Section 11. Notification of Action

When an employee is suspended, demoted, or dismissed, the department head shall immediately provide the employee with written notice of the charges against him or her, the action taken, effective date of action, and the recourse(s), if any, available to the employee.

Section 12. Promotion

Department heads shall endeavor to anticipate retirements and turnover and to have employees trained to assume positions of greater responsibility. In filling vacancies an effort shall be made to promote qualified employees from within the Town work force before seeking an outside replacement.

When a vacancy occurs, the supervisor and department head in whose department the vacancy occurs shall review all applications received, including those from current Town employees wishing to be promoted into the position. If a current Town employee is chosen for promotion, the department head shall forward the employee's name to the Town Manager with recommendations for classification and salary and reasons for selecting the employee over other applicants. After receiving such comments, the Town Manager shall make an appointment, if appropriate, and determine the starting salary.

Candidates for promotion shall be chosen on the basis of existing or anticipated job openings, on their qualifications, and on their work records. Employees being promoted must meet the qualification standards to include education, training, and experience for the classification to which the promotion is being made.

Section 13. Demotion

Any employee who fails to maintain high standards of personal conduct or whose work in his present position is unsatisfactory may be demoted provided the employee shows promise of becoming a satisfactory employee in another position. Such a demotion shall be preceded by the warning procedures outlined for cases involving inability to perform duties or failure in performance of duties. An employee who wishes to accept a position with less complex duties and responsibility may be demoted for reasons other than unsatisfactory performance of duties or failures in personal conduct.

In all cases involving demotion the employee shall be provided with written notice citing the recommended effective date, reasons for demotion, and appeal rights available, if any.

Section 14. Transfer

An employee who has successfully completed a probationary period may be transferred to the same or similar class in a different department. As vacancies occur in other departments to which an employee would be eligible for transfer, the employee shall notify his or her supervisor of interest in the transfer and submit notice of a desire for transfer to the various department head(s) for consideration. If a department head wishes to hire that employee, the employee must request a transfer to that specific department and have the transfer approved by the Town Manager.

Section 15. Reduction in Force

In the event that a reduction in force becomes necessary the needs of the Town and the quality of each employee's past performance as well as seniority shall be considered in determining those employees to be retained, in that order. Regular employees who are to be terminated due to reduction in force shall normally be given at least ten (10) working days' notice of the anticipated layoff.

Section 16. American's With Disabilities Act Compliance

The Town will comply with the minimum requirements contained in the federal American's With Disabilities Act. The Town is prohibited from discrimination against a "qualified individual with a disability." It covers job applications, hiring, advancement, discharge, compensation, training, and any other employment term, condition, or privilege. The Town is expected to make reasonable accommodations to known physical or mental limitations of an otherwise qualified individual unless to

do so would result in undue hardship. The nature of compliance is complex and involves both employment related issues as well as physical barriers.

The Town Manager is responsible for compliance with these federal employment requirements and may provide administrative rules and procedures, which will effect compliance. Departments are expected to follow these rules and procedures.

ARTICLE VI. WORK CONDITIONS AND EXPECTATIONS

Section 1. Work Conditions

A. Work Period

The work period is defined as seven (7) consecutive days. Full-time, non-exempt, employees (other than public safety shift employees) normally work five (5) eight (8) hour days per work period and are subject to the overtime provisions set forth in Article IV, Section 9 of these policies. Public safety employee's work schedule(s) will be established and maintained in accordance with FLSA and work periods will be set as 28 consecutive days. Non-exempt police officers, regardless of rank, are subject to overtime after 171 hours of work over 28 consecutive days. Non-exempt firefighters, regardless of rank, are subject to overtime after 212 hours of work over 28 consecutive days.

Exempt employees in administrative, professional or managerial positions shall work the number of hours necessary to assure the satisfactory performance of their duties.

When the activities of a particular department require some other schedule to meet work needs, the Town Manager may authorize a deviation from the normal schedule.

B. Promptness

All employees are expected to be prompt in reporting to work at the beginning of their work shift (in uniform or attire appropriate to their respective jobs, and ready to work), and to be prompt in returning from any meal or other absences from the workplace.

The Town expects regular attendance from its employees. This means that workers must be at their appointed worksites on time each regularly scheduled work period, fully able and ready to work. An employee's job may be jeopardized by frequent tardiness. If an employee's rate of tardiness is excessive, the employee may be subject to disciplinary action, including termination, as set forth in this personnel manual.

C. Inclement Weather

The Town will make every effort to remain open and operating during inclement weather. However, the Town Manager may close Town facilities due to inclement weather except for essential personnel in the Public Works and Police Departments. Under Town Manager direction, employees will be paid during the closing. Essential employees with the approval of the Public Works Director and Town Manager will be paid overtime compensation.

If the Town Manager does not close Town facilities and declares a "bad weather day" employees will be excused and required to take an annual leave day. If the Town Manager does not close Town facilities or does not declare a "bad weather day" employees are expected to work. Failure to work may result in disciplinary action.

Section 2. On Call Duty

The nature of several jobs performed by Town employees require that those employees be on standby duty, that is, be available and ready to work, for emergencies. Such standby duty is an integral part of the routine duties and responsibilities of some jobs. Any Town employee on standby duty shall receive weekly on-call pay at the rate determined by the Town Manager.

In the event that those employees on standby are called back to perform assigned duties outside of normal working hours, they will receive compensation at their regular rate or over time rate, depending

on whether they qualify for overtime compensation in accordance with the overtime provisions of this policy.

Those employees who are on call and cannot be located to perform their duties in the event of being called back, may be subject to disciplinary action.

Section 3. Volunteer Service

The Town encourages and shall permit employees with Town Manager and department head approval to participate as members of a volunteer emergency service to the extent that such volunteer activities do not interfere with the employee's responsibilities in the Town service. However, no employee will be required or will be allowed to volunteer his or her time to the Town to perform the same or similar work performed as a regular employee.

Section 4. Safety

It is the intent of the Town to provide for an ongoing program that assures a safe, healthy work environment for all employees and complies with all safety laws and regulations. To that end, each supervisor shall be responsible for:

- (a) Providing safe work procedures and environments;
- (b) Implementing safety policies and programs;
- (c) Informing and training employees in safe work habits;
- (d) Detecting and correcting unsafe practices and conditions;
- (e) Investigating accidents and preparing accident reports;
- (f) Encouraging employees to report unsafe conditions and to submit practical safety suggestions; and
- (g) Making sure employees use and/or wear appropriate safety equipment.

Likewise, each Town employee shall be responsible for:

- (a) Developing and maintaining safe work habits;
- (b) Promptly reporting all accidents and injuries;
- (c) Pointing out what are believed to be dangerous practices and working conditions;
- (d) Assisting with investigations of accidents;
- (e) Taking proper care of safety equipment;
- (f) Wearing proper clothing and avoiding loose sleeves, cuffs, rings, bracelets and long hair around moving machinery;
- (g) Knowing the location and use of fire extinguishers, the location of fire exits and the best method for reporting a fire; and
- (h) Wearing and/or using proper safety equipment.

In addition to the above provisions, the Town will maintain a safety manual which details safety related procedures and responsibilities. Employees shall be expected to comply with those provisions.

Section 5. Gifts and Favors

- (a) No elected official or employee of the Town shall accept any gift, whether in the form of service, loan, thing of value or promise from any person who to the employee's knowledge is interested directly or indirectly in any manner whatsoever in business dealings with the Town.
- (b) No elected official or employee shall accept any gift, favor or thing of value that may tend to influence that employee in the discharge of duties.
- (c) No elected official or employee shall grant in the discharge of duties any improper favor, service, or thing of value.

Section 6. Political Activity Restricted

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 of America. 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 an election or nomination for office;
- (c) Be required as a duty of employment or as a condition for employment, promotion, or tenure of office to contribute funds for political or partisan purposes;
- (d) Coerce, solicit or compel contributions for political or partisan purposes by another employee of the Town;
- (e) Use any supplies or equipment of the Town for political or partisan purposes, or
- (f) Be a candidate for the Board of Commissioners. (Revised 03/21/17)

Any violation of this section shall subject such employee to disciplinary action up to and including dismissal.

Section 7. Solicitations

Except for possible United Way, Savings Bond, Employees selling items for the benefit of organizations and service clubs and the Blood Donor Program, no employee shall solicit pledges or contributions or promote sales for any cause during working hours that disrupt the workplace.

Section 8. Outside Employment

The work of the Town will take precedence over other occupational interests of employees. All outside employment for salaries, wages, or other compensation and all self-employment must be reported to and approved by the employee's department head. Outside employment causing or perceived as a conflict of interest shall be disapproved. The Town Manager shall be responsible for final interpretation. Conflicting outside employment will be grounds for disciplinary action up to and including dismissal.

Section 9. Limitation of Employment of Relatives

- (a) The members of an immediate family shall not be employed in the same administrative department at the same time. Neither shall two (2) members of an immediate family be employed at the same time if such employment would result in an employee directly or indirectly supervising a member of the immediate family. Should such a situation occur involving two current employees, one will have to find another position not in conflict with this policy.
- (b) This policy shall not be retroactive, and no action will be taken concerning those members of the same family employed in conflict with (a) above prior to the adoption of this policy.
- (c) Immediate family is defined for the purpose of this section as spouse, mother, father, guardian, children, sister, brother, grandparents, grandchildren plus the various combinations of half, step, in-law and adopted relationships that can be derived from those names, or anyone living as a part of the same household.

Section 10. Conformance to Immigration Law and Selective Service Requirements

All employees are required to furnish proof of citizenship or other required documents indicating a legal right to work in the United States. Males between the ages of 18 and 25 must show proof of registering for selective service prior to employment with the Town. Copies of the completed form I-9 and proof of selective service registration shall be a permanent part of their personnel file.

Section 11. Confidential Information

No appointed official or employee shall, without the approval of the Town Manager, disclose confidential information concerning the property, government, or affairs of the Town. Nor shall they, under any circumstance, use such information to advance the financial or other private interest of themselves or others.

Section 12. Controlled Substances

No employee shall use, purchase, sell, or have possession of intoxicating beverages or non-prescribed controlled drugs of any kind while on duty. Nor shall an employee report for duty while under the influence of an intoxicant or non-prescribed controlled drug. Any employee using medication or a controlled drug by prescription which may affect job performance or safety, shall notify their supervisor.

The Town's policy on controlled substances is set out more fully in the Town of Tryon Policies for a Drug-Free Workplace in Chapter 37 of the code of Tryon and in the Town's Drug Testing Policy and Procedures.

(Police Department Personnel refer to Police Rules and Procedures Manual)

Section 13. Use of Town Owned Equipment

The Board of Commissioners specifically forbids the personal use of any Town owned equipment or supplies by any employee, elected or appointed official or individual unless authorized by the Town Manager. Should authorization be granted, use will be limited to the use specified in the authorization.

Use of Town owned vehicles is governed by the following:

- (a) Vehicles owned by the Town may be provided to one or more employees in connection with Town business and shall be used only on Town business. When the vehicle is not used in the Town's business, it is kept on the Town's business premises. Pursuant to Federal and State law, neither the employee, nor any individual whose use would be taxable to the employee, may use the Town vehicle for personal use.

- (b) For bona fide non-compensatory business reasons, the Town may require certain employees to commute to and from work in Town vehicles that are not exempted by IRS regulations. In accord with federal and state law, an employee may not use the Town owned vehicle for personal use other than commuting. Under these conditions the Town will account for commuting use as specified and required in IRS regulations.

Section 14. Travel and Expense Reimbursement

Employees, elected and appointed officials will, from time to time, be involved in out-of-town travel to attend schools, business meetings, conferences, etc. Use of a personal car will be reimbursed at a mileage rate consistent with prevailing IRS limits for non-taxable reimbursements. Lodging will be at actual cost. Meals will be based upon a per diem rate set annually by the Town Manager. Where conference meals are provided in the registration fees, the per diem rate shall be adjusted.

The Town Manager may deny reimbursement of any questionable, unsupported, or excessive expense claims submitted by employees.

Any violation of the provisions in this section shall be deemed improper conduct and may subject the employee to discharge or other disciplinary action.

Section 15. Discrimination/Sexual Harassment

No discrimination shall be exercised, threatened, or promised against or in favor of any applicant or employee because of his/her race, religion, color, creed national origin, political beliefs, sex or disability.

Harassment in any form shall not be tolerated and may lead to dismissal of the offender(s). The Town expressly prohibits any form of sexual harassment and seeks to guarantee all employees the right to work in an environment free from such harassment.

Section 16. Personal Indebtedness

Each employee of the Town is expected to keep his/her financial affairs arranged in such a way that the Town will not be embarrassed by excessive personal indebtedness.

Section 17. Surrender of Property

An employee who is suspended or discharged shall be required to return all items of equipment and supplies, including uniforms, owned by the Town. Return of such equipment must precede the issuance of such an employee's final pay check.

ARTICLE VII. LEAVES OF ABSENCE

Section 1. Holidays

The following days, and other days as the Board of Commissioners may designate, are holidays with pay for employees and appointed officers of the Town working the basic workweek.

New Year's Day
Martin L. King Day
Easter Friday (Good Friday)
Memorial Day
Independence Day
Labor Day
Veterans Day
Thanksgiving Day and Day After
Christmas-Three (3) Workdays

In order to be eligible for holiday pay, an employee must have been in pay status for a full regularly scheduled workday before and after the holiday, unless excused by the Town Manager.

Section 2. Effect of work on Holidays and Other Types of Leave

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

Section 3. Holiday - When Work Is Required

Employees required to perform work on regularly scheduled holidays may be granted "holiday compensatory time off" or paid at their hourly rate for the hours actually worked in addition to any holiday pay to which they may be entitled. "Holiday compensatory time" shall be granted whenever feasible and taken within three (3) months from the time it is earned.

Section 4. Vacation Leave

(a) **Initial Appointment**

Probationary Employees serving a probationary period following initial appointment may earn vacation leave but shall not be permitted to take vacation leave during the probationary period unless the denial of such leaves will create an unusual hardship. Vacation leave may be taken during this period only with the prior approval of the appointing authority.

(b) **Manner of Accumulation**

Any employee working the basic workweek of 40 hours shall earn vacation leave at the following rates:

Years of Completed Aggregate Service Hours Earned In One Year

| | |
|--|-----------|
| a) 1 Year of completed service | 40 hours |
| b) 2-8 years of completed service | 80 hours |
| c) 9-15 years of completed service | 120 hours |
| d) 16 or more years of completed service | 160 hours |
| e) department heads | 160 hours |

Vacation leave earned by employees having a workweek with greater or fewer hours than the basic workweek shall be determined in accordance with the formula set forth in Section 6 of this article.

(c) **Maximum Accumulation**

Vacation leave may be accumulated without any applicable maximum until the pay period containing December 31 of each calendar year. However, if the employee separates from service, payment for accumulated vacation leave shall not exceed 320 hours. During the pay period containing December 31, any employee with more than 320 hours shall have the excess accumulation converted to sick leave so that only an accumulation of no more than 320 hours of vacation leave is carried forward to January 1 of the next calendar year.

(d) **Manner of Taking Leave**

Vacation leave may be taken as earned by a regular employee subject to the approval of the supervisor.

(e) **Previous Leave Credit**

Vacation leave credit accumulated by each employee as of the adoption of these personnel administration policies shall be retained as of the effective date of these policies.

(f) **Terminal Pay of Vacation Leave**

An employee who is separated shall be paid for vacation leave accumulated to the date of separation not to exceed a maximum of 320 hours. Employees

who do not give proper notice (2 weeks for most employees) will not be paid for their accumulated vacation upon termination.

(g) **Payment for Accumulated Vacation Upon Death**

The designated beneficiary of an employee who dies while employed by the Town shall be entitled to payment for all of the accumulated vacation leave credited to the employee's account, not to exceed a maximum of 320 hours, at the time of death.

Section 5. Sick Leave

Sick leave with pay is not a right, which an employee may demand but a privilege granted by the Board of Commissioners for the benefit of an employee when sick. Sick leave shall be granted to an employee absent from work for any of the following reasons: sickness, bodily injury, required physical or dental examination or treatment, or exposure to a contagious disease, when continuing work might jeopardize the health of others. Sick leave may be used when an employee must care for a spouse or child.

Notification of the desire to take sick leave should be submitted to the employee's supervisor prior to the leave, when possible, or not later than two (2) hours after the beginning of a scheduled workday.

(a) **Manner of Accrual**

Each full-time regular and probationary employee working the basic workweek of 40 hours shall accrue sick leave at a rate of 96 hours annually.

Sick leave accrued by employees having a workweek with greater or fewer hours than the basic workweek shall be determined in accordance with the formula set forth.

(b) **Maximum Accrual**

Sick leave shall accumulate with no maximum accumulation, and may be used as credit for service under the NC Local Governmental Employee's Retirement System.

(c) **Physician's Certificate**

The employee's supervisor or department head may require a physician's certificate concerning the nature of the illness and the employee's physical capability to resume duties for each occasion on which an employee uses sick leave.

(d) **Previous Leave Credit**

Sick leave credits accumulated by each Town employee shall be retained as of the effective date of this policy; however, no retroactive rate shall be calculated to grant current employees a new higher rate of accrual.

(e) **Prior Service Credit**

To receive prior service credit for sick leave earned at another North Carolina Local Government, a letter must be sent from your previous employer showing final sick leave balance.

Section 6. Leave Without Pay - Policy

(a) **Leave of Absence**

A regular or probationary employee may be granted a leave of absence without pay. The employee shall apply in writing to the Town Manager for leave, stating the reason and the length of time for the leave of absence request.

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 should 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.

(b) **Unexcused Leave**

When personal illness extends beyond accrued sick leave, a charge will be made against vacation leave and then leave without pay. Accumulation of three (3) days of leave without pay, without prior approval by the department head, shall be considered a voluntary resignation.

(c) **Leave Without Pay - Effect on Benefits**

An employee shall retain all unused vacation and sick leave while on leave without pay. An employee ceases to earn or accrue leave credits on the date leave without pay begins. The employee may continue to be eligible for benefits under the Town's group insurance plans, subject to any regulations adopted by the Board of Commissioners and the regulations of the respective insurance carriers. For leave without pay beyond 30 days the employee is required to pay the various premiums to continue benefits, except as provided under FMLA.

Section 7. 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 accumulated vacation and sick leave in lieu of Workers' Compensation Leave. Once all leave has been exhausted, the employee will automatically continue in a Workers' Compensation leave status. Upon reinstatement, an employee's salary will be computed on the basis of the last salary earned plus any increment or other salary increase to which the employee would have been entitled during the disability covered by Workers' Compensation.

Temporary employees will be placed in a leave without pay status and will receive all benefits for which they may be adjudged eligible under the Workers' Compensation Act.

Section 8. Bereavement Leave

An employee may have up to three (3) days leave at full pay granted when attending the funeral of an immediate family member which includes spouse, mother, father, guardian, children, sister, brother, grandparents, grandchildren plus the various combinations of half, step, in-laws and adopted relationships that can derived from those named. Additional time to settle affairs of the family may be taken with the approval of the department head and should be charged to sick leave. Leave to attend funerals of other than the immediate family may be granted by the department head and charged to vacation leave.

Section 9. Temporary Disability Leave

Accumulated sick leave is available to employees for the period of temporary disability in the same manner as for any other illness.

Leave without pay may be used by the employee prior to, during or after the disability ends as long as a doctor's certification continues to support the disability.

The employee may elect to use accumulated vacation leave (1) before going on sick leave, (2) after accumulated sick leave has been exhausted, and/or (3) after the temporary disability has ended. If an employee is temporarily disabled and has exhausted all accumulated sick leave, that employee may be eligible to receive leave without pay for personal disability under the provisions of Section 7 of this article. If an employee wishes to retain all accumulated sick leave and vacation leave, leave without pay may be taken for the entire period.

Reinstatement to the same position or one of like classification, seniority and pay shall be made upon the employee's return to work.

Section 10. Military Leave

Regular employees who are members of the National Guard or Armed Forces Reserve will be allowed ten (10) work days for military training leave annually. If the compensation received while on military leave is less than the salary that would have been earned during the same period as a Town employee, the employee shall receive partial compensation equal to the difference in base salary earned on active duty and the salary that would have been earned during the same period as a Town employee. The effect will be to maintain the employee's salary at the normal level during this period.

If such military duty is required beyond this two (2) calendar week's period, the employee shall be eligible to take accumulated vacation leave or be placed in a leave without pay status. While taking military leave with partial pay or without pay, the employee's leave credits and other benefits shall continue to accrue as if the employee physically remained with the Town during this period. Regular employees who are guardspersons and reservists have all job right specified in the Veterans Readjustment Assistance Act.

Section 11. 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 vacation or sick leave. Any court fees paid to the employee are allowed to be retained by the employee. A copy of court fees paid shall be submitted with the employee's time sheet for attendance.

While on civil leave, benefits and leave shall accrue as though on regular duty.

Section 12. Educational Assistance

A leave of absence with pay during regular working hours will be granted to an employee to take courses required by the Town as a condition of employment. The Town shall reimburse the employee for tuition, fees, and books for the courses, provided the employee submits a receipt for such expenses. An employee on educational leave with full pay shall continue to earn leave credits and any other benefits to which Town employees are entitled.

It is the policy of the Town to support employees' efforts toward continuing education which is job-related or career-related and which is attended during an employee's non-working hours. All full-time town employees who have been employed by the town for at least one (1) year are eligible to apply for educational assistance. All requests must be submitted to the Town Manager for approval. All requests are subject to the availability of funds. Education must be at an accredited college, university or technical institute. The maximum amount of tuition reimbursement shall be limited to the tuition in effect at a North Carolina public university or college and only for successfully completed courses and net of outside financial assistance. Eligible expenses include tuition, books, lab/class fees and registration fees. The Town expects employees to remain employed by the Town for a period of at least two (2) years after the successful completion of a course as a condition of reimbursement by the Town of eligible expenses. If an employee voluntarily resigns from service to the Town within two (2) years from the date of course completion the employee shall reimburse the Town for the financial contribution made by the Town for educational assistance. If the employee fails to reimburse the Town prior to the employee's last date of employment, the Town shall deduct said expenses from the employee's final pay check.

Section 13. Family and Medical Leave Act

The Family and Medical Leave Act was passed by Congress to balance the demands of the workplace with the needs of families, to promote stability and economic security of families and to promote national interests in preserving family integrity; to minimize the potential for employment discrimination on the basis of sex by ensuring generally that leave is available for medical reasons (including maternity related disability) and for compelling family reasons; and to promote the goal of equal employment opportunity for women and men. In order to be eligible an employee must:

- (a) work for a covered employer;
- (b) have worked for the employer for a total of 12 months;

- (c) have worked at least 1,250 hours over the previous 12 months; and
- (d) work at a location where at least 50 employees are employed by the employer within 75 miles.

Regular employees: An eligible employee is entitled to a total of twelve (12) work weeks, paid (such as sick or vacation leave) and/or unpaid leave during any twelve (12) month period for one or more of the reasons listed below:

- (a) For the employee to care for the employee's child, spouse, or parent where that child, spouse, or parent has a serious health condition; or,
- (b) Because the employee has a serious health condition that makes the employee unable to perform the functions of the employee's position.
- (c) For the birth or placement of a child for adoption or foster care

Temporary employees: This policy does not cover temporary employees since the maximum length of temporary employment is one year. However, if, by exception, a temporary employee is extended beyond one year, the employee would be covered if they worked at least 1,250 hours during the previous twelve (12) month period. Any leave granted to a temporary employee would be leave with out pay.

(1) **Definitions**

- (A) Parent: a biological or adoptive parent or an individual who stood in loco parents (a person who is in the position of a parent) to an employee when the employee was a child. This definition does not include mother-in-law or father-in-law of the employee.
- (B) Child: is a son or daughter who is under 18 years of age or is 18 years of age or older and incapable of self care because of a mental or physical disability who is:
 - (1) a biological child
 - (2) an adopted child
 - (3) a foster child -- a child for whom the employee performs the duties of a parent as if it were the employee's child
 - (4) a step child -- a child of the employee's spouse from a former marriage
 - (5) a legal ward -- a minor child placed by the court under the care of a guardian
 - (6) a child of an employee standing in loco parentis
- (C) Spouse: a husband or wife
- (D) Serious Health Condition: an illness, injury, impairment, physical or mental condition that involves either in-patient care in a hospital, hospice or residential medical care facility, or that involves continuing treatment by a health care provider.

(2) **Employee responsibility**

The employee shall apply in writing to the supervisor, unless an emergency situation arises, for leave requested under this policy. The supervisor shall forward the request to the Town Manager for approval. The guidelines for employee responsibility is as follows:

- (3) **Planned Medical Treatment** - When there is a necessity for leave to care for the employee's child, spouse, or parent or because the employee has a serious health condition, the employee must make a reasonable effort to schedule the treatment so as not to unduly disrupt operations, subject to the approval of the employee's health care provider or the health care provider of the employee's child, spouse or parent. The employee must also give thirty (30) days written notice of the intention to take leave, subject to the actual date of the treatment. If the reasons for the employee's planned medical treatment do not allow thirty

(30) days written notice of the intention to take FMLA leave, the employee should provide such notice as soon as possible.

After the period of leave, pursuant to this policy, if the employee does not intend to return to work, the Town should be notified immediately. Failure to report at the expiration of the leave, unless an extension has been requested and approved, shall be considered a resignation.

(4) **Intermittent Leave**

With approval of the Town Manager, the employee may take leave intermittently or on a reduced schedule to care for the employee's child, spouse or parent who has a serious health condition. If such leave is foreseeable, based on planned medical treatment, the Town Manager may require the employee to transfer temporarily to an available alternative position for which the employee is qualified and that has equivalent pay and benefits and better accommodates recurring periods of leave.

(5) **Spouses employed by the Town**

If a husband and wife are employed by the Town, the aggregate number of work weeks of Family Medical Leave is limited to twelve (12) work weeks during any twelve (12) month period where such leave is requested to care for a parent or child who has a serious health condition.

(6) **Leave without Pay beyond FMLA Regulations**

Leave without pay beyond the twelve (12) week period will be evaluated on a case by case basis by the Town Manager.

(7) **Employment and Benefits Protection**

Reinstatement - The employee shall be reinstated to the same position held when the leave began, or one of like pay grade, pay, benefits and other conditions of employment. The Town may require the employee to report at reasonable intervals to their supervisor on the employee's status and intention to return to work. The Town also may require the employee to receive certification that the employee is able to return to work, if the leave was for the employee's own serious health condition.

(A) **Benefits Protection** - The employee shall be reinstated without loss of benefits accrued when the leave began. All benefits accrue during any period of paid leave. However, no benefits will be accrued during any period of leave without pay.

(B) **Health Benefits** - The Town must continue the employee's health coverage as if the employee were continuing to work. The Town may recover the premiums if the employee fails to return to work at the end of the FMLA leave unless the employee fails to return for the following reasons:

(1) continuation, recurrence, or onset of a serious health condition: or,

(2) other reasons beyond the employee's control.

The Town is not responsible for maintaining health premiums on the employee once the FMLA has been exhausted and the employee does not return to work.

Providing False Information - Any employee that knowingly provides false information for the purpose of obtaining such leave or uses FMLA leave for purposes other than listed in this policy may be subject to having said leave withdrawn, losing all benefits accrued during said leave period and disciplinary action.

Section 14. Parental Leave

Full-time regular employees who are parents, guardians, or persons “standing in loco parentis” of a school-aged child shall be granted four hours per year of unpaid leave to attend or otherwise be involved at their child’s school. However, parental leave is subject to the following conditions:

- The leave shall be at a mutually agreed upon time between the supervisor and the employee;
- A written request must be submitted to the supervisor for the leave at least 48 hours before the time desired for the leave;
- Written verification from the child’s school that the employee attended or was otherwise involved at the school during the time of the leave.

For the purposes of this section, “school” means any public school, private church school, church of religious charter, non-public school, preschool and child daycare facilities.

Section 15. Smallpox Policy

Town employees who are firefighters, police officers, paramedics or other first responders and experience infection with smallpox, infection with vaccine, or any adverse medical reaction when the infection or adverse medical reaction is due the employee receiving in-employment vaccination against smallpox incident to the Administration of Smallpox Countermeasures by Health Professionals, 42 U.S.C.§233(p), or when the infection or adverse medical reaction is due to the employee being exposed to another employee vaccinated as described herein, shall be eligible for sick leave and salary continuation according to the terms set forth for Worker’ Compensation Leave in Section 6 of Article X.

ARTICLE VIII. SEPARATION, DISCIPLINARY ACTIONS, AND REINSTATEMENT

Section 1. Types of Separation

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:

- (a) **Resignation:** A minimum of two (2) weeks notice is expected of all resigning personnel. Such notice should be given to the department head (or in the case of department heads, to the Town Manager.) Employees who do not give proper notice (2 weeks for most employees) will not be paid for their accumulated vacation leave balance upon termination.

Three days without reporting to work or contacting the appropriate official shall be considered a voluntary resignation.

- (b) **Reduction in Force:** In the event that a reduction in force becomes necessary, consideration shall be given to organizational needs, the quality of each employee's past performance, and seniority, in that order, in determining those employees to be retained. Employees who are laid off because of a reduction in force shall be given at least one (1) pay period notice of anticipated layoff. No regular employee shall be separated while there are temporary employees serving in the same class in the department, unless the regular employee is not willing to transfer to the position held by the temporary employee.
- (c) **Disability:** An employee may be separated for disability when the employee cannot perform the required duties because of a physical or mental impairment and reasonable accommodations, as required by the American with Disabilities Act (ADA), cannot be made. Action may be initiated by the employee or the Town, but in all cases it shall be supported by medical evidence as certified by a competent physician. The Town may require an examination at its expense and performed by a physician of its choice. Before an employee is separated for disability, a reasonable effort shall be made to locate alternative positions within the Town's service for which the employee may be suited.

- (d) **Death:** All compensation due in accordance with Article VII, Section 4 of these policies will be paid to the designated beneficiary of a deceased employee. The date of death shall be recorded as the separation date for computing compensation due.
- (e) **Dismissal:** If the appointing authority determines that a dismissal action is appropriate, such dismissal shall be effective at the end of the calendar day. A written summary giving the circumstances and facts leading to the dismissal shall be prepared. A copy of the summary shall be mailed to the employee by certified mail and one copy shall be filed in the employee's personnel file.

Section 2. Disciplinary Actions

An employee may be suspended, demoted, or dismissed by the department head because of failure in performance of duties or failure in personal conduct. The department head shall provide the employee with a written notice including the recommended effective date, reasons for the action, and appeal rights available to the employee.

(a) Failure in Performance of Duties

Failure in the performance of duties includes any aspects of the employee's job that are not performed as required to meet the standards set by the Town Manager.

The following causes relating to failure in the performance of duties are representative, but not all inclusive, of those considered to be adequate grounds for suspension, demotion or dismissal:

- (1) 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;
- (5) Absence without approved leave;
- (6) Habitual improper use of leave privileges;
- (7) Habitual pattern of failure to report for duty at the assigned time and place.

Prior to making a decision to terminate employment, the employee will have the opportunity to discuss the dismissal and the reasons for the dismissal recommendation with the supervisor or Town Manager.

(b) Failure in Personal Conduct

An employee may be suspended, demoted or dismissed for causes relating to personal conduct detrimental to Town service without warning in order to avoid undue disruption of work, to protect the safety of persons or property, or for other serious reasons.

The following causes relating to failure in personal conduct are representative, but not all inclusive, of those considered to be adequate grounds for suspension, demotion, or dismissal:

- (1) Fraud in securing appointment;
- (2) Conduct unbecoming a public officer or employee;
- (3) Conviction of a felony or of a misdemeanor which would adversely affect performance of duties, or the entry of a plea of "no contest" to either;
- (4) Misappropriation of Town funds or property;
- (5) Falsification of Town records for personal profit or to grant special privileges;
- (6) Reporting to work under the influence of alcohol or narcotic drugs or use, sale, purchase or possession of such things while on duty or while on public property, except that prescribed medication may be taken within the limits set by a physician so long as medically necessary;
- (7) Willful damage or destruction of property;

- (8) Willful acts that would endanger the lives and property of others;
- (9) Acceptance of gifts in exchange for "favors" or "influence";
- (10) Incompatible outside employment or conflict of interest;
- (11) Violation of political activity restrictions.

(c) **Unauthorized Leave Without Pay**

If an employee does not report to work, without notifying his/her supervisor, the employee will receive no pay for the day resulting in an unauthorized leave without pay. If an employee calls in reporting he or she will not be at work due to sickness or other reason and has no sick time balance, the employee will receive no pay for the day resulting in unauthorized leave without pay. Unauthorized leave without pay is one (1) or more hours away from work that is not authorized by the employee's supervisor. Occurrences of less than (1) hour will be administered by the department head as tardiness.

1st ULWOP Occurrence

Employee will be counseled, copy to personnel file.

2nd ULWOP Occurrence

Written reprimand, copy to personnel file.

3rd ULWOP

Written agreement between Town and Employee in which employee agrees to improve attendance, copy to personnel file. Warning of next disciplinary step.

4th ULWOP Occurrence

Suspension of five (5) days without pay, copy to personnel file.

5th ULWOP

Dismissal from employment.

This step by step disciplinary policy will begin at the first counseling and continue until employee has worked for one year without an unauthorized leave without pay. A doctor's excuse may be requested by the supervisor for absences of three (3) days or more in a row, but will have no impact on this policy.

(d) **Disciplinary Suspension**

An employee who is suspended for disciplinary reasons shall be relieved temporarily of all duties and responsibilities and shall receive no compensation for the period of suspension.

(e) **Immediate Disciplinary Suspension**

An employee may be suspended without notice by the department head for causes related to personal conduct in order to avoid undue disruption of work, to protect the safety of persons or property, or for other serious reasons. When a department head suspends an employee he shall tell the employee to leave Town property at once and remain away until further notice.

(f) **Non-Disciplinary Suspension**

During the investigation, hearing or trial of an employee on any criminal charge or during the course of any civil action involving an employee, the department head may suspend the employee without pay for the duration of the proceedings as a non-disciplinary action. However, the investigation, hearing, trial, or civil action must involve matters that may form the basis for disciplinary suspension, demotion or dismissal in order for the non-disciplinary suspension to be allowed.

Full recovery of pay and benefits for the period of non-disciplinary suspension may be authorized by the Town Manager, if the suspension is terminated with full reinstatement of employee.

Section 3. Employee Appeal

A regular employee wishing to appeal a demotion, suspension or dismissal may present the matter in accordance with the provisions of the grievance procedure prescribed in Article IX of these policies.

Section 4. Reinstatement

An employee who resigns while in good standing or who is dismissed because of reduction in force may be reinstated within one (1) year of the date of separation, with the approval of the Town Manager. An employee who enters extended active duty with the Armed Forces of the United States, the Public Health Service or with a Reserve Component of the Armed Forces will be granted reinstatement rights as allowed by the Veterans Readjustment Assistance Act.

An employee who is reinstated shall be credited with previous service and previously accrued sick leave and will receive all benefits provided in accordance with this policy and state law. The salary paid a reinstated employee shall be as close as reasonably possible, given the circumstance of each employee's case, to the salary step previously attained by the employee in the salary range for the previous class of work, plus any across-the-board pay increases.

ARTICLE IX. GRIEVANCE PROCEDURE

Section 1. Policy and Purpose

It is the policy of the Town to provide a means whereby employees may freely discuss problems with supervisors and to provide a procedure for the presentation and mutual adjustment of points of disagreement that arise between employees and their supervisors. The purposes of this policy are:

- (a) to provide employees a procedure by which their complaints can be considered rapidly, fairly, and without reprisal;
- (b) to encourage employees to express themselves about the conditions of employment which affect them as employees;
- (c) to promote better understanding of policies, practices and procedures that affect employees;
- (d) to develop in supervisors a greater sense of responsibility in their dealings with employees.

Section 2. Definition

A grievance is any dispute concerning the interpretation or application of this personnel policy, or any other policy, practice or procedure affecting working condition for the Town. A grievance might involve alleged safety or health hazards, unfair or discriminatory supervisory practices, misapplication of department work rules, unsatisfactory physical facilities or equipment or other complaints related to conditions of work or disciplinary action. Complaint processes involving issues covered by other parts of this policy are excluded from this procedure. Certain management areas of decisions are not grievable. These areas of management discretion that are therefore non-grievable subjects are as follows: Any condition of employment accepted at the time of employment and/or subsequent change(s) thereto; determining the employee benefit package; determining the proper classification and pay; determining types of training; scheduling and distribution of personnel; determining methods, means, and personnel to carry out operations; relieving employees from work because of lack of work, funds or other valid reasons; hiring, promotion, transfer, non-disciplinary demotion and assignment decisions and maintaining the efficiency of governmental operations. While the foregoing are considered non-grievable, employees are encouraged to express any concerns that they have concerning actions taken in these areas. Complaint processes involving issues covered by other parts of this policy are excluded from this procedure. Nothing herein shall be interpreted to change the status of any employee from that of an employee at will.

Section 3. Procedure

When an employee has a claim or complaint concerning employment with the Town, the successive steps described below are to be taken toward resolution of the matter.

The number of days indicated at each step of the grievance procedure should be considered as the maximum number of working days allowed for presentation of and response to the grievance at that level. However, when mutually agreed upon, time limits given below may be extended by those concerned.

Employees (Applicants) who use this procedure shall be free from discrimination, coercion, restraint or reprisal.

Step One. The employee with a grievance shall present the matter orally or in writing to the department head within ten (10) working days of its occurrence or within ten (10) working days of the time the employee learns of its occurrence. If the exact date cannot be established for the occurrence of a grievance circumstance, the ten (10) working day limit will be waived, but the employee should file the grievance within a reasonable time period. The grievance shall specify the relief that he/she expects to gain through the use of this procedure. The department head should be and is encouraged to consult with any employee or officer deemed necessary to reach a correct, impartial, and equitable determination and shall give the employee an answer as soon as possible, but within five (5) working days.

Step Two. If the decision is not resolved in Step 1, or if the employee fails to receive an answer within the designated period provided in Step 1, the employee may file the grievance in writing with the Town Manager within ten (10) working days. The grievance shall specify the relief expected from the use of this procedure.

The Town Manager, or his designee, shall hold a hearing thereon, consult with whatever sources are deemed appropriate, and allow the employee to examine all the evidence and to present his/her case.

The Town Manager shall review the case data and render a decision in writing within fifteen (15) working days after receipt, with one copy sent to the employee by certified mail and one copy placed in the employee's personnel file. There shall be no appeal from this decision

Section 4. Discrimination Appeal Procedure

Any applicant for Town employment, Town employee, or former Town employee who has reason to believe that employment, promotion, training, or transfer was denied him or her, or that demotion, layoff, or termination of employment was forced upon him or her because of age, sex, race, color, national origin, religion, creed, political affiliation, or disability, except where specific requirements constitute a bona fide occupational qualification necessary to proper and efficient administration, shall have the right to appeal directly to the Town Manager using the grievance procedure outlined in Section 3 of this article if so desired. An employee or applicant must appeal an alleged act of discrimination within thirty (30) days of the alleged discriminatory action.

Section 5. Back Pay Awards

Back pay and benefits may be awarded with approval from Town Manager to reinstated employees in suspension, demotion, improper dismissal, and discrimination cases.

ARTICLE X. EMPLOYEE BENEFITS

Section 1. Insurance Benefits

The Town offers group hospitalization, life insurance and a separate death benefit to full time employees. The Town may make other group insurance plans available for its employees upon authorization of the Board of Commissioners. Annually, employees may participate in an on-site physical examination at no cost.

All full time employees shall enroll for Group Health Insurance coverage at the time of their employment. The Town pays 100% of the employee premium cost. New employees are eligible on the first day of work. Prescribed coverage for dependents is on an optional basis with the cost of premiums being paid by employees through payroll deduction.

The Town offers paid life insurance to all employees equal to one and one half times their annual salary. The policy is cancelled upon termination of employment. Employees may purchase dependent life insurance through payroll deduction.

The Town offers fully paid dental, vision and short-term disability insurance to all employees. Employees may purchase dependent dental and vision insurance through payroll deduction.

Section 2. Unemployment Insurance

In accordance with Public Law 94-566 and Chapter 1124 of the Session Laws of 1977 of the North Carolina General Assembly, local governments are covered by unemployment insurance effective January 1, 1978. Town employees who are laid off or released from the Town service may apply for unemployment compensation through the local office of the Employment Security Council who will determine the employee's eligibility for this benefit.

Section 3. Old Age and Survivor's Insurance

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 4. Retirement Benefits

(a) North Carolina Local Government Employees' Retirement System

The Town provides retirement benefits for its employee through the North Carolina Local Governmental Employees' Retirement System. (NCLGERS). Full time employees are eligible to enroll on the first date of employment. Contributions by payroll deduction of 6% of a regular employee's gross salary for the retirement plan are made each pay period by the employee. The Town contributes an amount actuarially determined as necessary for the fund to cover prescribed retirement benefits.

(b) Social Security

Social Security is a federal government insurance program to provide an employee with retirement income. Disability and death benefits are also provided by Social Security. These provisions are governed by federal rules and regulations and employees are encouraged to maintain contact with the Social Security Administration on their eligibility and benefit entitlements. The cost of employee social security pension and the cost for Medicare premiums are paid through payroll taxes. The Town is also required to pay the tax.

(c) Savings-401(k) and 457 Plan

The Town will match up to 2% of employee contributions toward the 401(k) Savings Plan. A deferred compensation 457 plan is also available to employees. Employees who desire to participate in these plans should contact the Town Clerk. For additional information, please refer to the 401(k) and 457 information booklets.

Section 5. Law Enforcement 401(k) & Separation Allowance

The Town provides contribution to a 401(k) plan for active law enforcement personnel and provides a monthly separation allowance to retired law enforcement officers as required in Chapter 143, Article 12E and Article 12D of the General Statutes of North Carolina.

Section 6. Workers' Compensation

All employees are covered with workers' compensation insurance as required by the General Statutes of North Carolina.

Section 7. Credit Union

Immediately upon employment with the Town, all employees are eligible to join the North Carolina Local Government Employees' Federal Credit Union.

Section 8. Uniforms

The Town provides uniforms for certain personnel in public works, general services, recreation and public safety services. Employees are required to wear uniforms so they will be easily identified as Town employees while working on or near private property. In addition to the identification factor, clothing furnished by the Town represents a very significant financial benefit to the employee.

The Town provides a safety boot benefit to all public works personnel for one pair of safety boots per year. The Town Manager annually sets the maximum benefit for safety boots. The employee shall absorb any cost over the maximum benefit. For extreme work conditions that may require an additional boot purchase, the public works director shall submit request to the Town Manager for approval.

The employee who enjoys this benefit is responsible for the uniforms. Therefore, the costs of avoidable damage or loss of uniforms will be paid by the employee. An employee will wear his uniforms properly, will not allow them to be worn by other individuals and will wear them only during working hours or to and from work. Upon separation from employment, the employee will return uniforms to the Town or reimburse the Town for items not returned.

Section 9. Cafeteria Plan

The Town is authorized to offer an Internal Revenue Service Code Section 125 Cafeteria Plan for the benefit of employees and their dependents. The election opportunities and scope of coverage are contained in the Town of Tryon's plan document covering these benefits as written and amended from time to time. The Town Manager is responsible for administering the provisions of this plan including any administrative rules and regulations implementing and managing the plan.

Section 10. Special Compensation

As special compensation for service on the Board of Commissioners or the Tryon Volunteer Fire Department, any member will be entitled to receive a credit on Tryon utility bills in the amount approved by the Board of Commissioners. Any amount over this will be paid by the member.

Section 11. Employee Assistance Program

The Town is authorized to provide an opportunity for employees and family members to resolve a wide range of personal problems that may affect job performance. The Town may contract with counselors who can provide assistance and confidentiality is guaranteed. Employees and family members are encouraged to voluntarily use this program. However, the Town Manager is authorized to use this program if warranted to make an effort to rehab employees whose job performance is unsatisfactory. The procedures to use this program either for self-referrals or supervisory referrals is the responsibility of the Town Manager.

ARTICLE XI. PERSONNEL RECORDS AND REPORTS

Section 1. Personnel Records Maintenance

Such personnel records as are necessary for the proper administration of the personnel system will be maintained by the Town Manager or his designee. The Town shall maintain, in personnel records, only information that is relevant to accomplishing personnel administration purposes.

Section 2. Public Personnel Records Defined

The following information on each Town employee are part of an employee's public personnel record:

- (a) Name;
- (b) Age;
- (c) Date of original employment or appointment to Town service;
- (d) Current position title;
- (e) Current salary;
- (f) Date and amount of most recent change in salary;
- (g) Date of most recent promotion, demotion, transfer, suspension, separation, or other change in position classification;
- (h) Office to which employee is currently assigned;

Section 3. Access to Personnel Records

As required by G.S. 160A-168, any person may have access to the information listed in Section 1 of this Article for the purpose of inspection, examination, and copying during the regular business hours, subject only to such rules and regulations for the safekeeping of public records as the Board of Commissioners may adopt. Access to such information shall be governed by the following provisions:

- (a) All disclosures of records shall be accounted for by keeping a written record (except for authorized persons processing personnel actions) of the following information: name of employee; information disclosed; date information was requested; name and address of the person to whom the disclosure is made; and purpose for which information is requested. This information must be retained for a period of two years.
- (b) Upon request, the record of disclosure shall be made available to the employee to whom it pertains.
- (c) Any individual examining a personnel record may copy the information. Any available photocopying facility may be provided and the cost may be assessed to the individual.
- (d) Any person denied access to any record shall have a right to compel compliance with these provisions by application to a court for a writ of mandamus or other appropriate relief.

Section 4. Confidential Information

All information contained in the Town employee's personnel file, other than the information listed in Section 1 of this Article will be maintained as confidential in accordance with the requirements of G.S. 160A-168 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, and (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 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 the employee's personnel 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 by the official having custody of the personnel records 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. However, such official having custody of such records may release the name, address, and telephone number from a personnel file for the purpose of assisting in a criminal investigation.
- (f) An employee may sign a written release, to be placed with his personnel file, that permits the person with custody of the file 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.
- (g) The Town Manager, with concurrence of the Board of Commissioners may inform any person of the employment or non-employment, promotion, demotion, suspension, or other disciplinary reasons for that personnel action. Before releasing the information, the Town Manager shall determine in writing that the release is essential to maintaining the public trust and confidence in the administration of services or to maintain the level and quality of Town services. This written determination shall be retained in the office of the Town Clerk, and is a record available for public inspection and shall become part of the employee's personnel file.
- (h) Each individual requesting access to confidential information will be required to submit satisfactory proof of identity.
- (i) A record shall be made of each disclosure and placed in the employee's file (except of disclosures to the employee and the supervisor.)

Section 5. Records of Former Employees

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

Section 6. Records of Applicants

Applicants and other information gathered with respect to an applicant will be kept confidential in accordance with G.S. 160A-168. The Town will not release this information without written permission from the applicant.

Section 7. Remedies of Employees Objecting to Material in File

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

Section 8. Penalty for Permitting Access To Confidential File By Unauthorized Person

G.S. 160A-168 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's personnel file, except as permitted by the statute, is guilty of a misdemeanor and upon conviction shall be fined in an amount not to exceed five hundred dollars.

Section 9. Penalty for Examining and/or Copying Confidential Material Without Authorization

G.S. 160A-168 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 in the discretion of the court but not in excess of five hundred dollars.

Section 10. Destruction of Records Regulated

No person may destroy, sell, loan, or otherwise dispose of any public record except in accordance with G.S. 121-5. Whoever unlawfully removes a public record from the offices 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 no less than ten dollars, not more than five hundred dollars as provided in G.S. 132-3.

ARTICLE XII. IMPLEMENTATION OF POLICY

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 hereunder or 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 or such rules, regulations or orders to persons or circumstances other than those held invalid will not be affected thereby.

Section 3. Violations of Policy Provisions

An employee violating any of the provisions of these policies shall be subject to suspension and/or dismissal, in addition to any civil or criminal penalty, which may be imposed for the violation of the same.

Section 4. Effective Date

These policies shall become effective upon adoption.

Section 5. Handbook Receipt and Acknowledgment

All Town employees must abide by this policy as a condition of continued employment. The signed certification of receipt of this manual by each Town employee will serve as an acknowledgement of receipt of this policy.