

Adopted September 18, 2018



Dear Employee,

The strength and vitality the Town of Boone enjoys is due to the many important contributions made by each of its employees. The Town of Boone benefits greatly from the dedication and professionalism each of you bring to your work. The Town of Boone is regularly selected as one of the best places to live, work, play and learn in the United States, and you are now a part of the team that makes this possible. For our employees, we strive to administer our policies, as well as our benefit and compensation programs, in a manner that is competitive, fair and understandable. Our continued success depends upon you, our employees, and the work that you do. We know that innovation comes from employees who are passionate about their work, which is why we are committed to providing a collaborative and inclusive work environment that encourages growth and development, and rewards individual and team achievements.

We must all remember that while we strive to meet our goals, we must do so with the highest ethical standards of compliance with our policies, procedures and practices. Honest, ethical and professional conduct remains fundamental to achieving the highest goals for the Town of Boone. This Employee Handbook was designed to ensure that you have the information you need to be successful. While this Employee Handbook provides important information relative to all aspects of your employment at the Town of Boone, it cannot be used as the basis for all decisions. I encourage you to consult your supervisors and the Human Resources staff. The Human Resources Department is structured to provide a full range of services, including benefit administration, classification and compensation, and employee relations.

I hope you will derive much satisfaction and personal fulfillment in knowing the vital contribution that you make to the success of our community. I wish you all the best with your career at the Town of Boone. Welcome to the team!

Sincerely,

John A. Ward III
Town Manager

Adopted September 18, 2018

TOWN OF BOONE PERSONNEL POLICY

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

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ARTICLE I. GENERAL PROVISIONS

Section 1. Purpose of the Personnel Policy.

It is the purpose of this Personnel Policy to establish a fair and uniform system of personnel administration for all employees of the Town under the supervision of the Town Manager. This Personnel Policy is established under authority of Chapter 160A, Article 7, of the General Statutes of North Carolina.

Section 2. Responsibilities of the Town Council.

The Town Council establishes and approves personnel policies and with reasonable advance notice to current employees, may change the policies and benefits as necessary, with such effective date(s) as they may designate.

Section 3. Responsibilities of the Town Manager with Respect to Personnel Policy.

The Town Manager is responsible to the Town Council for implementation of the personnel policy. The Town Manager shall hire, fire and discipline employees in accordance with this Policy and relevant law.

The Town Manager shall:

- a. recommend revisions to the Personnel Policy, as necessary and/or desirable;
- b. maintain a current and accurate position classification plan;
- c. prepare necessary revisions to the pay plan;
- d. apply the Fair Labor Standards Act (hereafter, the "FLSA");
- e. maintain a roster of all persons and authorized positions in the municipal service, setting forth each position and employee, class title of position, salary, changes in class title and status, and such other information as may be desirable or useful as to each position;
- f. develop and administer appropriate recruiting programs to ensure an effective Town workforce;
- g. develop and coordinate employee training and educational programs;
- h. perform such duties as may be assigned by the Town Council, so long as they are not inconsistent with this Policy; and
- i. perform such other duties as reasonably necessary to carry out this policy.

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The Town Manager may delegate or assign any of the above responsibilities to the Director of Human Resources or to another position in the Town, but shall retain final authority and responsibility for all decisions.

Section 4. Application of Policies, Plan, Rules, and Regulations.

This Personnel Policy and department rules and regulations shall be binding on all Town employees, **but shall not create any contractual rights or property interest in any person.**

Section 5. Departmental Rules and Regulations.

Subject to the prior approval by the Town Manager, each department is authorized to establish consistent supplemental written rules and regulations applicable only to the personnel of that department.

Section 6. Definitions.

The following words and phrases shall have the following meanings. Any terms which are not specifically defined shall have their common meaning, giving due regard to the context in which they are used.

Full-time employee. An employee whose position requires an average work week of 40 or more hours and who has successfully completed the designated probationary period.

Part-time employee. An employee whose position requires an average work week of 29 hours or less who has successfully completed the designated probationary period.

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

Temporary employee. An employee hired to a position expected to last for less than 12 months.

Trainee. An employee who has been hired or promoted to a new position, who does not yet meet all of the requirements for the position. While a “trainee,” an employee is on probationary status.

Section 7. At-Will Employment

We are happy to welcome you to Boone and sincerely hope that your employment here will be a positive and rewarding experience. Your employment is at-will. This means the employment relationship between the Town and the employee is terminable at the will of either at any time and with or without cause and with or without notice. No employee, officer 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 the 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 Council.

None of the benefits or policies set forth in these policies are intended, because of their publication, to confer any rights or privileges upon employees or to entitle them to be or remain

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employed by the Town. The contents of this document are presented as a matter of information only.

This personnel policy is 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 without advance notice.

ARTICLE II. POSITION CLASSIFICATION PLAN

Section 1. Position Classification Plan Purpose.

The position classification plan is intended to provide a complete inventory of all authorized positions in the Town, an accurate description of each class of employment, and standardized job titles.

Section 2. Composition of the Position Classification Plan.

The classification plan shall include:

- a. a grouping of positions in classes which are approximately equal in difficulty and responsibility, which call for the same general qualifications, and which can be equitably compensated within the same range of pay under similar working conditions;
- b. class titles descriptive of the work of the class;
- c. descriptions for each class of positions; and
- d. an allocation list showing the class title and grade of each position.

Section 3. Use of the Position Classification Plan.

The classification plan is to be used as a guide in:

- a. recruiting and evaluating applicants for employment;
- b. determining lines of promotion and developing employee training programs;
- c. determining salaries for various types of work;
- d. determining personnel costs in departmental budgets; and
- e. providing uniform job terminology.

Section 4. Administration of the Position Classification Plan.

The Town Manager shall assign each position to its appropriate class and shall be responsible for administration of the position classification plan. The Town Manager shall periodically review the classification plan and recommend necessary changes to the Town Council.

Section 5. Adoption of the Position Classification Plan.

The position classification plan must be adopted by the Town Council and must be on file with the Director of Human Resources. Copies shall be available to all Town employees upon request. New positions in the plan shall be established upon recommendation of the Town Manager and approval by the Town Council. The Town Manager shall either assign any new

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position into the appropriate existing class, or shall revise the position classification plan to add the new position and/or classification.

Section 6. Request for Reclassification.

Any employee who considers the position in which he/she is classified to be incorrect shall submit a request in writing for reclassification to his/her immediate supervisor, who shall transmit the request through the department head to the Director of Human Resources, who shall make a recommendation to the Town Manager. Upon receipt of such recommendation, the Town Manager shall review the request, determine the merit of the reclassification, and decide whether to revise the classification and pay plan. The decision of the Town Manager shall be final.

ARTICLE III. THE PAY PLAN

Section 1. Pay Plan Definition.

“The Position Classification Pay Plan (hereafter, the “Pay Plan”) establishes the Town’s basic salary schedule, including Hiring Rate, Midpoint, and Maximum rates of pay for all classes of positions. Salary increases within the pay range are based on performance. The Pay Plan must be adopted by the Town Council.

Section 2. Administration.

The Town Manager, or the Director of Human Resources, as directed by the Town Manager, shall be responsible for the administration of the Pay Plan. Each employee shall be paid at a rate listed within the salary range for his or her respective position classification, except for trainees or for employees whose existing salaries are above the established maximum rate following adoption of a new Pay Plan.

The Pay Plan is designed and intended to provide equitable compensation for all positions, reflecting differences in duties and responsibilities, changes in the cost of living, the financial condition of the Town, and other factors. The Town Manager, or the Director of Human Resources, as directed by the Town Manager, may study the Pay Plan and recommend to the Town Council such changes as may be appropriate. Those changes may increase or decrease salary ranges or grades for a class and the rate of pay for employees in the class.

Section 3. Starting Salaries.

A new employee shall normally be paid the Hiring Rate salary for his or her position classification; however, exceptionally qualified applicants may be employed at a starting salary above the Hiring Rate salary of the established salary range, but only with written justification from the department head and approval by the Town Manager.

Section 4. Trainee Designation and Provisions.

A new employee, or a Town employee who does not meet all of the requirements for the position to which he or she is being transferred, may be designated by the Town Manager as a “trainee.” In such cases, a training plan, which includes a time schedule for meeting specified training objectives, must be prepared by the department head. “Trainee” salaries may be no higher than one grade below the minimum salary established for the position for which the person is being trained. A “trainee” is always considered a probationary employee.

If the training plan is not successfully completed by the trainee to the satisfaction of the department head or Town Manager, the trainee may be transferred, demoted, or dismissed. If the training plan is successfully completed, “trainee” status will be discontinued, and the employee shall thereafter be paid at least the Hiring Rate established for the position for which the employee was trained.

Section 5. Merit Pay and Performance Evaluations

Supervisors or department heads shall conduct performance evaluation conferences with every employee at least once a year. Each employee shall be evaluated in all areas designated by the Director of Human Resources, as well as in any areas established by the department head or Town Manager. Performance evaluations shall be documented in writing and placed in the employee's personnel file.

Section 6. Merit Performance Raises and Merit Performance Pay Bonuses.

An employee may be considered for advancement within the established salary range based on the quality of his or her overall work performance, subject to the availability of funds. Each fiscal year, the Town Manager shall issue instructions, based on the approved Town budget, advising department heads of the availability of funds for Performance Pay increases and the percentage increases which may be approved.

An employee who is at the maximum salary of the salary range for his/her position classification grade is eligible to be considered for a Performance Pay bonus subject to the availability of funds. Performance Pay bonuses shall be awarded based upon the performance of the employee as described in the performance evaluation. Any Performance Pay Bonus awarded shall be in a lump sum payment and will not become part of the employee's base pay. The amount of the Performance Pay Bonus, if any, must be approved each year by the Town Manager, based on the recommendation of the department head, the availability of funds and such other factors as the Town Manager may identify.

Section 7. Merit Pay Eligibility

Employees are eligible to receive merit pay after successful completion of 6 months employment, as long as they are off probationary status.

Section 8. Effects of Promotion, Demotion, Transfer, and Reclassification upon Salary of Employee.

- a. Interim Promotion.** Interim promotional increases may be approved by the Town Manager when an employee is anticipated to be in an "acting" capacity assuming the majority of the position's responsibilities for greater than 60 days. Upon completion of the interim assignment, the employee's salary will revert to the salary that it would have been had the acting increase not occurred.
- b. Promotion.** Promotion is the movement of an employee from one position in a class assigned to one salary range, to a vacant position in a class assigned to a higher salary range. When an employee is promoted, the employee's salary shall normally be advanced to the minimum level of the new position, but this may be adjusted either upward or downward by the Town Manager to cure perceived inequities in the department or to recognize the probationary status of the promoted employee, provided, however, that the new salary may not exceed the maximum rate of the new salary range.
- c. Demotion.** Demotion is the movement of an employee from a position in a class assigned to one salary range to a position in a class assigned to a lower salary range. An employee whose work or conduct in the current position is unsatisfactory or who

is subject to disciplinary action for any other reason may be demoted, but demotion shall not be required if the conduct of the employee constitutes a basis for termination. When an employee is demoted, unless the demotion is the result of disciplinary action taken against the employee, the salary shall be set at the rate in the lower pay range at the same percentage above the base rate for the new position as the percentage above the base rate for the original position at the time of the demotion. If the demotion is the result of disciplinary action, the salary may be decreased to a level commensurate with the rate established for an employee of equivalent years of service with the Town in the lower range, or may be adjusted downward, as determined by the Town Manager, to recognized the probationary status of the demoted employee in the new position.

- d. **Transfers.** Transfer is the movement of an employee from a position in one salary grade to a position in the same salary grade. The salary of an employee reassigned to a new position in the same salary grade shall not be changed by the reassignment. An employee who has successfully completed a probationary period may be transferred into a position with the same classification without serving another probationary period.
 1. **Voluntary Transfer.** If a vacancy occurs and an employee in one department is eligible for a transfer to another department, the employee may apply for the transfer using the usual application process.
 2. **Involuntary Transfer.** Should a department head wish to transfer an employee, the department head shall make a request for such transfer to the Director of Human Resources, who must give a preliminary approval for the transfer. If there is preliminary approval, the department head then must request approval for the transfer from the Town Manager, and if the Town Manager approves the transfer, the department head must obtain the consent of the receiving department head to accept the transfer. Any regular employee transferred without having requested the action may appeal the transfer in accordance with the grievance procedure.
- e. **Reclassification.** An employee whose position is reclassified to a class having a higher salary range shall receive a pay increase to the minimum of the new pay range if that minimum is higher than the employee's current salary. Otherwise, the salary shall remain the same. If the position is reclassified to a lower pay range, the employee's salary shall remain the same. If the employee's salary is above the maximum established for the new range, the salary of that employee shall be maintained at the current level until the range is increased above the employee's salary.

Section 9. Effective Date of Salary Changes.

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

Section 10. Salaries of Supervisory Personnel and Department Heads.

Nothing herein shall limit the authority of the Town Manager to extend such employment benefits, including salary, to supervisory personnel and department heads, as the Town Manager may deem necessary to the recruitment and retention of qualified personnel to supervisory and leadership positions.

Section 11. Overtime Pay.

An employee of the Town may be required to work overtime hours as necessitated by the needs of the Town and determined by the department head. If the departmental budget for overtime has been exhausted, before requiring an employee to work overtime, except in an emergency situation, the department head shall obtain the prior approval of the Town Manager.

The Town will comply with the Fair Labor Standards Act (FLSA). The Town Manager shall establish the “workweek” for each department, and any changes to an employee’s work schedule must be approved in advance by the Town Manager. An FLSA “non-exempt” employee will be paid at a straight time rate for hours up to the FLSA established limit for the position. (40 hours per workweek for non-police and fire department employees in a 7-day period; 171 hours for police and 212 hours for fire personnel in a 28-day work cycle)

Department heads shall avoid the unnecessary expenditure of Town funds on overtime pay. Therefore, whenever possible, to offset extra hours worked within that workweek, department heads will schedule time off within the workweek. When time off within the workweek cannot be granted, overtime worked will be paid or accumulated as compensatory time in accordance with FLSA. Hours worked beyond FLSA established limits will be compensated in either time or pay at the appropriate overtime rate, but in determining eligibility for overtime in a workweek, only hours actually worked shall be considered; in no event will vacation, sick leave, school, holiday, compensatory or other category of leave be included in the computation of hours worked.

Compensatory time may be accumulated by non-exempt employees up to 100 hours, unless specific authorization is obtained from the Town Manager to exceed that amount. Any time accumulation over this limit must be paid. With the approval of the Town Manager, department heads may pay an employee for all or part of accumulated compensatory time even below this limit when it is not possible or feasible to permit an employee’s absence for the purpose of taking compensatory time or in order to control departmental liability.

In emergency situations, where employees are required to work long and continuous hours, the Town Manager may approve compensation at time-and-one-half for those hours worked and/or grant time off with pay for rest and recuperation to ensure safe working conditions.

Employees in positions “exempt” from the FLSA will not receive pay for hours worked in excess of their normal work periods.

Section 12. Call-Back Pay.

- a. Employee’s Responsibility to Respond to Call-Back. Because the Town provides a continuous twenty-four hour a day, seven day a week service to its citizens, it may be necessary for an employee to report for duty at any hour of the day or night. An employee must accept his or her share of the responsibility for

continuous service, in accordance with the nature of each job position. If an employee fails or refuses to report for duty when requested, the employee shall be subject to disciplinary action up to and including dismissal.

- b. **Minimum Compensation for Call-Back.** Non-exempt employees will be guaranteed a minimum payment of one hour's wages for being called back to work outside of normal working hours. However, this minimum does not apply to previously scheduled overtime work.
- c. **State of Emergency.** When the Governor declares a State of emergency, overtime will be paid at straight-time to FLSA exempt employees when the following conditions occur:
 - 1. A gubernatorial declaration of state of emergency,
 - 2. Requirement by management for employees to work overtime for purposes of response and/or recovery during the emergency, and
 - 3. Funds are available. The Town Manager shall determine if funds are available to cover the overtime payments. The Town shall distribute any overtime pay consistently with a pre-defined standard that treats all employees equitably.

Section 13. Payroll Deductions.

Deductions shall be made from each employee's salary as required by law. Additional voluntary deductions may be made if approved by the Town Manager.

Section 14. Payroll Procedure.

Pay periods begin on Monday at 12:00 a.m. and end on Sunday at 11:59 p.m. two weeks later, unless otherwise designated. Paychecks are issued on the first Friday after the end of each pay period. If payday falls on a holiday, employees will be paid on the last working day prior to the holiday.

ARTICLE IV. RECRUITMENT AND EMPLOYMENT

Section 1. Advertising; Promotion from Within.

The Town shall publicly advertise any vacant position. Candidates shall be chosen on the basis of their qualifications and their work records.

Section 2. Equal Employment Opportunity Policy.

It is the policy of the Town and the Town is committed to fostering, maintaining and promoting equal employment opportunity. The Town shall therefore select employees solely on the basis of their qualifications for the job and shall give equal opportunity for employment and compensation, including opportunities for training, advancement, and promotion without regard to age, sex, gender identity or sexual orientation, race, color, religion, creed, national origin, disability, political registration, marital status genetic information or any other reason prohibited by law to all persons otherwise qualified. Qualified applicants with disabilities shall be given equal consideration with other applicants for positions unless their disabilities create an unreasonable barrier to their satisfactory performance of duties, and cannot be overcome with reasonable accommodation. All personnel responsible for recruitment and employment will review regularly the implementation of this Personnel Policy and relevant practices to assure that equal employment opportunity based on reasonable, job-related requirements is being actively observed.

Section 3. Recruitment, Selection and Appointment.

- a. **Recruitment Sources.** When a vacancy occurs, the department head shall notify the Director of Human Resources concerning the position to be filled and shall take no steps to fill the vacancy until authorized by the Director of Human Resources. The Director of Human Resources shall publicize any job opening, including applicable salary information and employment qualifications, by providing the job opening information to recruitment sources, news media, the Town of Boone website, and any other places which may assist in attracting qualified applicants. Notice of any vacancy shall also be posted at designated sites within each department. Individuals shall be recruited from a geographic area as wide as necessary to ensure that the Town receives an adequate number of qualified applicants for each vacancy.
- b. **Job Advertisements.** Employment advertisements shall contain assurances of equal employment opportunity and non-discrimination in employment.
- c. **Application for Employment.** All persons expressing interest in employment with the Town shall be given the opportunity to file an application for employment for positions which are vacant. An applicant for employment must provide all information requested by the Town, including references, or will not be considered for the position.
- d. **Retention of Applications.** Applications shall be retained for a period of three years, which is one year longer than the required NC Records and Retention and Disposition Schedule.

- e. **Selection.** The Town Manager shall make the final hiring decision and determine the starting salary. Hiring factors may include, but are not limited to the following: the written recommendation of the relevant department head; the requirements and demands of the position, including, where appropriate, the skills needed to interact with the public; and the relevant and comparative qualifications of the applicants, including past work experience and performance, educational background, and suitability for the position. Should the Town Manager, at any time before a position is filled, determine that the position should not be filled at that time, he or she may suspend or discontinue the hiring process. In such event, all applicants shall be notified in writing that the hiring process has been suspended or discontinued. Neither the advertising of a position, the acceptance of applications for a position, nor any steps taken to fill a position, including the extension of an offer of employment to an applicant, shall create any contractual rights between the Town and any applicant, nor shall any action related to the recruitment or selection of employees create in any person a property interest in any position.

- f. **Offers of Employment.** All offers of employment are conditional and shall only become final after a post-employment medical examination as directed by the Risk/Safety Officer, for safety sensitive and/or CDL required positions, to determine if the applicant has the ability to safely perform the job, and to determine, if a medical condition which may interfere with that ability exists, whether the Town can make a reasonable accommodation to the employee to enable the employee to safely perform the job. In addition, the applicant must submit to a pre-employment controlled substance screening. Failure to submit to the screening, or a positive controlled substance screening shall be considered a withdrawal by the applicant of his or her application. Each employee hired to a full-time position must join the North Carolina Local Government Retirement System as a condition of employment.

Section 4. Probationary Period.

Any employee hired, demoted, promoted or transferred to a new position, except for a non-probationary employee who is transferred to a position of the same grade, must serve a minimum probationary period of six months. Such probationary period may be extended for such additional period(s) as may be determined by the Town Manager, in accordance with the following provisions.

During the probationary period, supervisors shall monitor an employee's performance and communicate with the employee concerning performance progress. Before the end of the probationary period, the supervisor shall conduct a performance evaluation conference with the employee and discuss accomplishments, strengths, and needed improvements. A summary of this discussion shall be documented in the employee's personnel file. The supervisor shall recommend in writing whether the probationary period should end according to schedule or be extended, or whether the employee should be transferred, demoted, or dismissed. Probationary periods will generally be extended no more than six additional months following the initial six-month period.

Although we hope that you will be successful, the Town may terminate your employment at any time, either during the probationary period or afterwards, with or without cause and with or

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without notice. You are also free to quit at any time and for any reason, either during the probationary period or afterwards, with or without notice. Successful completion of your probationary period does not guarantee you a job for any period of time or in any way change the at-will employment relationship between you and the Town.

ARTICLE V. CONDITIONS OF EMPLOYMENT

Section 1. Confidential Matters

Upon employment with the Town and as a condition of continuing employment, the Town requires that all employees (including temporary employees) agree to protect the confidential affairs of the Town. Disclosure of confidential information is prohibited and may result in disciplinary action up to and including immediate discharge. Unauthorized disclosure of another employee's payroll or medical information may lead to action up to and including termination of employee(s) involved. The Town policy is not to discuss payroll, personnel or related issues with spouses of employees. Any inquiries should be made directly by the employee.

The Town of Boone demands that no employee should discuss any information about the Town affairs to anyone other than Town Officials that are authorized to receive such information. If any employee is requested to make a statement about Town affairs, it is Town policy for that employee to direct that and all questions to their Supervisor.

Section 2. Work Schedule.

Subject to the approval of the Town Manager, department heads shall establish work schedules for all employees in their respective departments. Work schedules should meet the operational needs of the departments in the most cost effective manner possible. The department heads must provide current schedules for all employees within their departments to the Director of Human Resources who will keep them on file. Department heads shall immediately notify and request approval from the Town Manager, through the Director of Human Resources, of any change in an employee's schedule. Flextime is available to employees. Requests to work flextime must be made by the employee to his or her department head and approved by the Town Manager so as to minimize accrual of overtime.

Section 3. Meal and Rest Breaks.

Employees are allowed a paid fifteen (15) minute rest break once a day. Break time must be limited to the premises of the employee's principal place of work unless the employee first receives the permission of their immediate supervisor. In addition to break time, all employees are entitled to take a sixty (60) minute meal break. Meal breaks are generally unpaid unless an employee is required to work or remain at their station during the meal break in which case an employee will be paid, but only with the approval of the Town Manager. Breaks are an opportunity to rest and eat during the workday. For this reason, employees must take their breaks, as scheduled, unless they make other arrangements with their supervisor.

Section 4. Lactation Breaks.

The Town may provide reasonable paid break time for an employee to express breast milk for a child provided that doing so does not unduly disrupt the operations of the Town. If the employee does not have a private office, the Town will make reasonable efforts to provide a room or other location, excluding a bathroom, (in close proximity to the work area) where the employee can express her milk in privacy (See Section 4207 Fair Labor Standards Act)

Section 5. Political Activity.

Each employee has a 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, non-partisan, or political nature, may attend political meetings, may advocate and support the principles or policies of civic or political organizations and run for or hold a nonpartisan position in accordance with the Constitution and laws of the State of North Carolina and in accordance with the Constitution and laws of the United States. However, no employee shall:

- a. Engage in any political activity while on duty;
- b. Use official authority or influence for the purpose of interfering with or affecting the result of a nomination or an election for political office;
- c. Be required as a duty of employment or as condition for employment, promotion or tenure of office, to contribute funds for political or partisan purposes;
- d. Use any funds, supplies or equipment of the Town for political or partisan purposes, except where such political uses are otherwise permitted by law;
- e. While on duty or in the workplace, solicit contributions from another employee of the Town for political or partisan purposes; or at any time coerce or compel contributions from another employee of the Town for political or partisan purposes;
- f. Make preparations to be, be a candidate for, or hold any elective office of the Town of Boone, or
- g. Make preparations to be, be a candidate for, or hold, any partisan elective office, unless the employee first presumptively establishes, as provided for herein, that the employee is not subject to the provisions of the Hatch Act, 5 U.S. C. §§ 1501, et seq. In order to presumptively establish that he or she is not subject to the Hatch Act, an employee must, prior to engaging in preparations to be a candidate, running for, or holding any partisan elective office, obtain and provide to the Town Manager a written advisory opinion issued by the United States Office of Special Counsel in Washington, D.C., that the individual employee in question is not subject to the prohibitions of the Hatch Act.

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

Section 6. Outside Employment.

The work of the Town shall take precedence over all other occupational interests of employees. Before accepting outside employment, each employee must report all outside employment for salary, wages, or commission, and all self-employment, in advance to the employee's supervisor, who in turn must report it to the department head. The department head will review such employment for possible conflicts of interest and decide whether to approve the outside employment. Outside employment will not be approved if it involves an actual conflict of interest, a potential conflict of interest, or the appearance of a conflict of interest. Outside

employment will not be approved if it might cast the Town in a negative light. Impermissible conflicts include, but are not limited to:

- a. working for an employer who is in conflict with the Town or could likely come into conflict with the Town;
- b. working in a position that creates potential liability against the Town;
- c. working in a capacity which could affect the decisions of the employee in the normal course of his or her duties, or the decisions of other Town employees in the conduct of their duties, or which gives the appearance of such influence.

Engaging in conflicting or **unreported** outside employment may subject the employee to disciplinary action up to and including dismissal.

Section 7. Nepotism (Employment of Relatives)

The employment of relatives can cause various problems including but not limited to charges of favoritism, conflicts of interest or perceived conflicts of interest, family discord and scheduling conflicts that may work to the disadvantage of both the employer and employees.

For purposes of this section, a “relative” refers to any of the following: spouse; members of the same household (co-habitants); blood relatives, step-family and in-laws to the second degree of consanguinity by blood or affinity (including half-siblings, immediate step-family, immediate in-laws, grandparents, siblings, nieces and nephews, uncles and aunts, first cousins, parents and grandparents); or a person with whom the individual is in an intimate relationship

The Town may employ the relative of a current Town employee, provided that the individual meets the appropriate standards for the position to be filled and provided that the individual will not be in the chain of supervision of a relative. Employment will be denied under the following circumstances:

1. Where one family member would have the authority or practical power to supervise, appoint, remove, or discipline another;
2. Where one family member would be responsible for auditing the work of another;
3. Where other circumstances exist which would place family members in a situation of actual or reasonably foreseeable conflict as between the Town’s interest and their own.

Failure to advise the Town of the existence of one of these circumstances may result in a withdrawal of an offer of employment or discharge from employment.

Existing employees who become involved in one of the foregoing circumstances have an obligation to advise the Town about the conflict. Every effort will be made to resolve the conflict without loss of employment to either employee; however, the Town reserves the right to transfer one or both employees, to discharge one or both employees or to demote one or both employees to resolve the conflict. Employees who fail to advise the Town (either through their Department Head or the Director of Human Resources) of the existence of a family, spousal or intimate relationship under one of these circumstances will be subject to discipline, up to and including.

Section 8. Harassment Policy.

The Town will not tolerate any form of employment discrimination or harassment in any form, and prohibits conduct which illegally discriminates or harasses on the basis of age, sex, race, color, religion, national origin, disability, or any other reason prohibited by law.

Illegal discrimination or harassment may take a variety of forms, and supervisory personnel and department heads should, if they have any doubt about whether particular conduct constitutes illegal discrimination or harassment, therefore err in favor of reporting such conduct to the Director of Human Resources and/or the Town Manager. Any manager who is or becomes aware of any form of workplace harassment must immediately report it to the Human Resources Department or the Town Manager.

By way of example, sexual harassment includes but is not limited to unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when: 1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; 2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or 3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment. Conduct of a sexual nature or content between a person in a supervisory capacity and a person in a non-supervisory capacity within the **same** department shall be conclusively presumed to be improper harassment. Conduct of a sexual nature or content between a person in a supervisory capacity and a person in a nonsupervisory capacity within a different department shall be highly suspicious for improper harassment. Conduct of a sexual nature or content between two employees in non-supervisory capacities or two employees in supervisory capacities will be closely scrutinized for evidence of improper harassment.

Other examples of harassment include displaying or using objects or pictures which adversely reflect on a person's age, race, sex, religion, color, national origin, or disability, or use of language which is offensive due to a person's age, race, sex, religion, color, national origin, or disability.

Any employee asserting illegal discrimination or harassment may report it to his or her supervisor following standard grievance procedures or file a complaint directly with the Director of Human Resources or the Town Manager. It is crucial that employees report any harassment or discrimination to which they are subjected or of which they become aware. While the Town is committed to a workplace free of harassment and discrimination, the Town cannot ensure such a workplace unless employees do their part to report misconduct.

The Town Manager, through the Director of Human Resources, shall investigate any allegation of illegal discrimination or harassment and take whatever action he or she deems appropriate and necessary, up to and including dismissal of any employee engaging in illegal harassment and of any supervisor failing to properly report such conduct.

The Town prohibits retaliation of any kind against an employee who reports discrimination or harassment or participates in an investigation of such reports. Violations of this policy are a serious violation and will be subject to disciplinary action, up to and including discharge.

Section 9. Acceptance of Gifts and Favors.

No employee of the Town shall accept any gift, favor, or thing of value that may tend to influence such employee in the discharge of the employee's duties. No employee shall grant any improper favor, service, or thing of value in the discharge of the employee's duties. No employee shall accept a gratuity.

Section 10. Safety.

An employee shall follow the safety policies and procedures established by the Town and his or her department, and as a condition of employment, must attend all required safety training programs. An employee who violates such policies and procedures shall be subject to disciplinary action up to and including dismissal.

Section 11. Request for Medical Information.

An employee may be requested to provide medical documentation or undergo a medical examination by a physician of the Town's choice, whenever a question arises as to the physical or psychiatric ability of the employee to safely perform his or her job. If it determined that such a condition limits the employee's ability to safely perform his or her job, the medical information obtained will be used by the Town to determine whether a reasonable accommodation can be made to the employee to enable the employee to safely perform the job.

Section 12. Travel Expense and Reimbursement.

Town vehicles are to be used only for Town business, unless other options are approved by the Town. Town vehicles may not be used for personal business. Travel on official Town business outside the corporate limits and Extra Territorial Jurisdiction of the Town must be authorized by the department head, with approval by the Town Manager. A request for such travel must describe the purpose and destination of the proposed trip, and the period of time for which the employee will be away from the Town. Town employees traveling outside the Town on authorized Town business will be reimbursed for lodging, meals, and other expenses at rates established by the Town Council. Reimbursements may only be paid if accompanied by a written travel reimbursement form signed by the employee and approved by the department head and Town Manager. Receipts for the costs of hotels and related travel expenses must be attached to the form. When a Town employee uses a personal vehicle, because no Town vehicle is available, to travel outside the Town on authorized Town business, he or she will be reimbursed for mileage.

Section 13. Computer, Email and the Internet

A. Email

1. Use of Email. The email system is intended for official Town business. Although you may use the email system occasionally for personal messages, you must exercise discretion as to the number and type of messages you send. You must also ensure that your personal use of the email system does not interfere in any way with your job duties or performance. Any employee who abuses this privilege may be subject to discipline. Use of e-mail must comply with the following:

- a. Users must comply with all applicable laws and regulations and must respect the legal protection provided by copyright and licenses with respect to both programs and data. Any illegal use of e-mail is prohibited.
 - b. Email usage must be able to survive public scrutiny and/or disclosure. Users must avoid accessing sites that might bring the public service into disrepute, such as those that carry offensive material.
 - c. Sensitive or confidential information must not be transmitted via or exposed to Internet or e-mail access.
 - d. All users are prohibited from submitting, publishing or displaying any defamatory, inaccurate, abusive, obscene, profane, sexually oriented, threatening, racially offensive, harassing or illegal material. Examples of forbidden transmissions include, among other things, sexually-explicit messages, images, cartoons, or jokes; propositions or love letters; ethnic or racial slurs; or any other message or image that may be in violation of the Town's Harassment Policy.
 - e. Employees may use the Town of Boone's email services outside of scheduled hours of work for special projects and work assignments, provided that such use is consistent with professional conduct and is not used for personal gain.
 - f. Alleged inappropriate use of email will be reviewed by the Town Manager or his/her designee on a case-by-case basis and may lead to cancellation of email services and disciplinary action up to and including termination.
2. Accessing Personal Email. Employees may access their personal email accounts, such as those available from Hotmail, Yahoo, Gmail, AOL, etc., on Town-owned equipment subject to the following limitations:
- a. No work-related documents or work-related email messages shall be stored in your personal email account;
 - b. The employee shall not send work or have work sent to his or her personal email account;
 - c. The employee shall not engage in work-related communications through his or her personal email account;
 - d. The employee cannot "bounce" messages from his or her Town email account to his or her personal email account when out of the office.

Failure to adhere to the above can create significant security problems, expose confidential information, and compromise the Town's record-keeping obligations. If you work offsite (for example at home or business travel), please contact your department Director or the Town Manager to find out how to safely transmit and protect Town information.

3. Rules for Accessing Personal E-mail. Accessing your personal email account from work creates security risks for the Town's computer system and network. To help control these risks, employees must follow these rules when using Town equipment to access their personal email. Do not open any personal email messages from an unknown sender. Personal email is subject only to the security controls imposed by your provider, which may be less strict than Boone's. If a personal message contains a virus or malware, it could infect Boone's network. Before you open any attachment, you must scan it for viruses using Boone's antivirus software.
4. Email Is Not Private. Email messages, including attachments, sent and received on Town equipment are the property of the Town – regardless of whether sent to or from your personal email account or your Town email account. The Town reserves the right to access, monitor, read, and/or copy email messages on Town equipment or communicated via Town email service at any time and for any reason. You should not expect privacy for any email you send using Boone's equipment, including messages that you consider to be personal or label with a designation such as "Personal" or "Private".
5. Professional Tone and Content. Employees are expected to exercise discretion in using electronic communications equipment. When you send email using the Town's equipment, you are representing the Town. Make sure that your messages are professional and appropriate in tone and content. Remember, although email may seem like a private conversation, email can be printed, saved, and forwarded to unintended recipients.
6. Email Security. To avoid e-mail viruses and other threats, employees should not open e-mail attachments from senders they do not recognize, particularly if the email appears to have been forwarded multiple times or has a nonexistent or peculiar subject heading. Even if you know the sender, do not open an email attachment that has a strange name or is not referenced in the body of the email as it may have been transmitted automatically, without the sender's knowledge. If you believe your computer has been infected by a virus, worm, or other security threat, you must immediately inform your immediate supervisor.
7. Retaining and Deleting Email Messages. Because e-mail messages are electronic records, certain messages must be retained for compliance purposes. Please contact your supervisor for the Town's record-keeping policy for guidance on which records must be kept, and for how long. The Town discourages employees from storing large numbers of email messages that are not subject to the records-keeping policy. Employees should make a regular practice of deleting email messages once you have read and/or responded to them. If you need to save a particular message, you may print out a paper copy, archive the email, or save it on your hard drive or disk.
8. Violations. Any employee who violates this policy can be subject to discipline, up to and including termination.

B. Internet

1. Personal Use of the Internet. Use of the internet must comply with the following:
 - a. Users must comply with all applicable laws and regulations and must respect the legal protection provided by copyright and licenses with respect to both programs and data. Any illegal use of the internet is prohibited.

- b. Internet usage must be able to survive public scrutiny and/or disclosure. Users must avoid accessing sites that might bring the public service into disrepute, such as those that carry offensive material.
- c. Sensitive or confidential information must not be transmitted via or exposed to internet access.
- d. All users are prohibited from submitting, publishing, or displaying any defamatory, inaccurate, abusive, obscene, profane, sexually oriented, threatening, racially offensive, harassing or illegal material. Examples of forbidden transmissions include, among other things, sexually-explicit messages, images, cartoons, or jokes; propositions or love letters; ethnic or racial slurs' or any other message or image that may be in violation of the Town's Harassment Policy.
- e. Users shall not use the internet to operate an outside business, online auction or other sales site; solicit money for personal purposes; or otherwise act for personal financial gain or profit.
- f. Users shall not stream, run or download any non-Town-licensed software program without the express consent of the Town Manager.
- g. Users shall not stream, run, or download music, video, games, mini desktop applications (widgets), movies or any form of multimedia from the internet.
- h. Users shall not read, open or download any file from the internet without first screening that file for viruses using town's virus protection software.
- i. Employees may use the Town's internet service outside of scheduled hours of work for special projects and work assignments, provided that such use is consistent with professional conduct and is not used for personal gain.
- j. Alleged inappropriate use of the internet will be reviewed by the Town Manager or his/her designee on a case-by-case basis and may lead to cancellation of internet services and disciplinary action up to and including termination.

If you believe that your job may require you to do something that would otherwise be forbidden by this policy, ask your supervisor how to proceed.

- 2. Personal Use of the Internet. The Town's network and internet access are for official Town business. Employees may access the internet for personal use only outside of work hours and only in accordance with other terms of this policy. An employee who engages in excessive internet use, even during nonworking hours, may be subject to discipline.
- 3. No Personal Posts Using Boone Equipment. Employees may not use the Town's equipment to transmit their personal opinions by, for example, posting a comment to a blog or social networking page or contributing to an online forum except when doing so in your official capacity or at the request of the Town Manager. Even if you don't identify yourself as a Town employee, your use of the Town's equipment could cause your opinion to be mistaken for a Boone's view.

4. Internet Use is Not Private. The Town reserves the right to monitor employee use of the internet at any time. You should not expect that your use of the internet, including, but not limited to, the sites you visit, the amount of time you spend online and the communications you have will be private.

C. Email and Internet Policy Acknowledgment Form

All employees will be required to sign the Email and Internet Policy Acknowledgment Form found in the appendix of this manual. The form indicates that:

1. The employee has read the Email and Internet Policy found in this Manual and agrees to abide by its terms.
2. The employee understands that any email messages he or she send or receives using Town equipment or the Town email service are not private;
3. The Town may access, read and/or copy any email message sent or received by an employee on the Town equipment or on the Town email service at any time for any reason.

D. Software Use.

It is the Town's policy to use licensed software only in accordance with the terms of its license agreement. Violating a license agreement is not only unethical, it is also illegal and can subject the Town to criminal prosecution and substantial monetary penalties. To help us adhere to this policy, employees may not do any of the following without permission from their supervisor:

1. Make a copy of any Town software program for any reason.
2. Install a Town software program on a home computer.
3. Install a personal software program (that is software program owned by the employee) on any Town computer.
4. Download any unauthorized software program from the internet to a Town computer.

E. Personal Blogs and Online Posts

1. The Town recognizes that some of its employees may choose to express themselves by posting personal information on the internet through personal websites, social media, blogs, or chat rooms by uploading content or by making comments at other websites or blogs. We value our employees' creativity and honor your interest in engaging in these forms of personal expression on your own time, should you choose to do so. However, problems can arise when a personal posting identifies or appears to be associated with the Town, or when a personal posting is used in ways that violate the Town's rights or the rights of other employees.
2. Guidelines on Posting. You are legally responsible for content you post to the internet, in a blog, social media site or otherwise. You can be held personally liable for defaming others, revealing confidential information, and copyright infringement, among other things.

All of the Town's policies apply to anything you write in a personal blog, post to the internet, or upload to the internet. This means, for example, that you may not use personal postings to harass or threaten other employees or reveal confidential information. Embarrassing or unkind comments about other Town employees, customers, or residents are also inappropriate.

If, in the process of making a personal post or upload on the internet, you identify yourself as an employee of the Town, whether by explicit statement or by implication, you must clearly state that the view expressed in your post, or at your blog, social medial page or website, are your own, and do not reflect the views of the Town of Boone.

You may not use Town logos or other images, nor may you make false or misleading statements about the Town's policies.

The Town may have a legal duty not to disclose certain facts. If you have any concerns about the confidentiality or propriety of something you would like to post, check with your supervisor first.

Please keep in mind that your personal postings will be read not only by your friends and family, but possibly by your coworker and supervisors, as well as town residents. Even if you post anonymously or under a pseudonym, your identity can be discovered relatively easily. Use your common sense when deciding what to include in a post or comment. Don't say something that you wouldn't want these people to read.

F. Enforcement

1. It shall be the duty of each employee to abide by this policy and it shall be the responsibility of each department director to properly and equitably enforce this article for each employee.
2. Employees who violate any section of this policy are subject to disciplinary action.

G. Independent Contractors

Independent contractors and other Non-Town of Boone employees working for the Town of Boone may be granted access to the Town's internet services by using the Town's guest connection to the wireless network at the discretion of the Town Manager. Independent contractors and other non-town employees are expected to abide by the terms of this policy.

ARTICLE VI. EMPLOYEE BENEFITS

Section 1. Eligibility for Employee Benefits.

All full-time employees of the Town are eligible for employee benefits as provided for in this Article, but all such benefits are subject to change at the Town's discretion. Except for worker's compensation benefits, temporary and part-time employees are ineligible for employee benefits.

Section 2. Group Health and Hospitalization Insurance.

The Town currently provides group health and hospitalization insurance for those employees qualified under the terms of its group insurance contract. A full-time employee may purchase available group health insurance coverage for a qualified spouse and dependent(s). The Director of Human Resources shall make available to all employees information concerning the costs and benefits of this insurance coverage.

Section 3. Retiree Health Insurance.

Until a retiree is eligible for Social Security retirement or disability benefits, and Medicare benefits, employees who wish to retain health insurance benefits through the Town and who retire from the Town under the North Carolina Local Government Employees' Retirement System with 20 years of service with the Town, shall have 50% of their health insurance premiums paid by the Town; and for each additional year of service after twenty, the Town will pay an additional 2.5% of the premium up to a maximum of payment of 75% of the total premium for 30 years or more of service. Other retired employees with less than 20 years of service may continue health care insurance for themselves as allowed under the Town's group policy; however, these employees must pay for the full cost of such coverage. Entitlement for continuation coverage for health benefits is conditioned upon a retiring employee's timely submission of a written request, on such form as may be provided by the Town for that purpose, indicating his or her wish to continue health insurance coverage. Once continuation coverage is elected, the retired employee must pay his or her portion of the premium by the first of each month. Failure to timely pay the required premium may result in termination of coverage. Once coverage has been discontinued, it cannot be reinstated. The spouse of a retiring employee is eligible for continuation coverage of health insurance, assuming such coverage is available through the plan, only when the spouse has elected and maintained health insurance coverage for at least five continuous years before the employee's retirement date. However, the spouse of a retiring employee is not entitled to continue health care coverage after the retiring employee's health care coverage ends. The employee is responsible for 100% of the costs of post-retirement spousal health insurance coverage.

Section 4. Dental Insurance.

The Town currently makes available dental insurance for those employees qualified under the terms of its group insurance contract. A full-time employee may obtain dental coverage for a qualified spouse and dependent(s). The Director of Human Resources shall make available to all employees information concerning the costs and benefits of this insurance coverage.

Section 5. Group Life Insurance.

The Town provides group life insurance for each full-time employee subject to the stipulations of the insurance contract, which are subject to change. Group life insurance ends at retirement or separation from employment with the Town.

Section 6. Other Optional Group Insurance Plans and Benefits.

The Town may make other employee benefit plans available to employees upon authorization of the Town Manager or Town Council. The Director of Human Resources will make available to all employees information concerning the costs and benefits of any other benefit made available to employees.

Section 7. Participation in State Retirement System.

Each full time employee must participate in the North Carolina Local Government Retirement System as a condition of continued employment.

Section 8. Town Contributions to 401K Supplemental Retirement Plan.

For sworn law enforcement personnel, as defined by N.C. Gen. Stat. § 143-166.50(a)(3), the Town shall make contributions to the 401k supplemental retirement plan in the amount required and authorized by N.C. Gen. Stat. § 143-166.50 (e). For other regular, full-time employees, the Town shall contribute 5% of the employee's annual salary, paid on a bi-weekly basis, unless otherwise modified by the Town Council.

Section 9. Social Security and Medicare Taxes, State and Federal Withholding.

The Town shall pay its portion of Social Security and Medicare taxes for its eligible employees and shall withhold, in accordance with law, the employee's portion of these taxes and required federal and State income tax withholding.

Section 10. Worker's Compensation.

All employees of the Town are covered by the North Carolina Worker's Compensation Act. Worker's compensation provides a weekly payment, based upon a percentage of the employee's normal pay, to an employee who has suffered a work-related injury or illness. Except for payment of medical expenses, compensation is not paid until an injury or illness prevents an employee from returning to work for more than seven days. Only if the injury or illness prevents a return to work for more than twenty-one days, the employee is entitled to compensation for the first seven days following the injury or illness.

An employee must immediately report to the supervisor or department head any injury arising out of and in the course of employment. The Safety/Risk Management officer will assist any requesting employee in filing the claim for worker's compensation by providing the necessary claim forms and necessary information as to the procedure for filing a claim. However, the responsibility for claiming compensation under the Worker's Compensation Act is on the injured employee.

Upon notification to the supervisor or department head, a full-time employee absent from duty because of sickness or disability covered by the North Carolina Worker's Compensation Act may elect:

- a. to use accrued sick or vacation leave during the waiting period until the worker's compensation begins;

- b. To use accrued sick or vacation leave during the waiting period and then supplement worker's compensation payments with sick or vacation pay after worker's compensation begins, provided that the combination of leave pay and worker's compensation payments does not exceed employee's normal pay.
- c. to use no leave pay during the waiting period until the worker's compensation begins;

An employee solely receiving worker's compensation under State law is eligible for the Town's group insurance plans, but **shall not accrue vacation and sick leave.**

Section 11. Tuition Assistance Program.

A full-time employee who has completed the initial probationary period may apply for tuition reimbursement for a class taken during non-work time which is expected to improve job skills. Requests for tuition assistance shall be submitted to the department head and approved by the Town Manager prior to class registration. Subject to the availability of funds, an employee may be reimbursed for eligible expenses, including tuition, fees, and books, for one class per academic semester or quarter. Satisfactory completion (achieving a grade of at least "C" or its equivalent) of the class is required for reimbursement, and the employee must commit to remain in the employment of the Town for a period of six months following the end of the class. Should an employee leave employment before fulfilling that commitment, he or she must reimburse the Town for the cost of any tuition assistance paid, including tuition, fees, and books.

Section 12. Employee Assistance Program.

The Town has an Employee Assistance Program (EAP) to help employees resolve a wide range of personal problems that have a negative effect on their job performance. This confidential counseling service is available to employees and their family members. Town employees are encouraged to use the EAP when they are experiencing problems that impact on their ability to be productive at work. Employees may choose to go to the EAP on their own, or they may be encouraged to use the EAP by their supervisor when their job performance is unsatisfactory. Employees participating in the EAP are required to meet existing job performance standards. The employee's use of the EAP does not replace the use of established procedures for managing unsatisfactory job performance.

The Town will not have access to EAP records without written permission from the employee. All individual rights to confidentiality will be assured in the same manner as any other health records. Using the EAP services will not jeopardize an employee's employment status or promotion opportunities. With approval of the supervisor, employees may use earned sick or vacation leave for a scheduled EAP appointment. The initial EAP visits are provided to the employee without charge. After the initial visits, the EAP may recommend additional assistance that may be covered by medical insurance.

Section 13. Separation Allowances for Law-Enforcement Officers.

- (a) Every sworn law enforcement officer, as defined by N.C. Gen. Stat. § 128-21(11b) or N.C. Gen. Stat. § 143-166.50, shall be eligible for a separation allowance, as provided by N.C. Gen. Stat. § 143-166.42. Beginning in the month in which the officer retires on a basic service retirement under the provisions of N.C. Gen. Stat. 128-27(a), the Town shall pay an annual separation allowance equal to eighty-five hundredths percent (0.85%) of the annual equivalent of the base rate of compensation most recently applicable to the officer for each year of creditable service. The allowance shall be paid in equal installments on the payroll frequency used by the employer. To qualify for the allowance, the officer shall:
 - (1) Have:
 - (i) completed 30 or more years of creditable service; or
 - (ii) have attained 55 years of age and completed five or more years of creditable service; and
 - (2) Not have attained 62 years of age; and
 - (3) Have completed at least five years of continuous service as a law enforcement officer as herein defined immediately preceding a service retirement. Any break in the continuous service required by this subsection because of disability retirement or disability salary continuation benefits shall not adversely affect an officer's qualification to receive the allowance, provided the officer returns to service within 45 days after the disability benefits cease and is otherwise qualified to receive the allowance.
- (b) As used in this section, "creditable service" means the service for which credit is allowed under the retirement system of which the officer is a member, provided that at least fifty percent (50%) of the service is as a law enforcement officer as herein defined.
- (c) Payment to a retired officer under the provisions of this section shall cease at the first of:
 - (1) The death of the officer;
 - (2) The last day of the month in which the officer attains 62 years of age; or
 - (3) The first day of reemployment by a local government employer in any capacity, except that a retired officer may be employed in a public safety position in a capacity not requiring participation in the Local Governmental Employees' Retirement System without disqualifying him or herself from receiving the allowance.
- (d) This section does not affect the benefits to which an individual may be entitled from State, local, federal, or private retirement systems. The benefits payable under this section shall not be subject to any increases in salary or retirement allowances that may be authorized by local government employers or for retired employees of local governments.
- (e) The law enforcement officer, after separation from employment with the Town, must notify the Town of any new employment by a local government employer in any capacity. In the event a former law enforcement officer fails to notify the Town of employment, the Town may suspend further payments until information is provided

Adopted September 18, 2018

which establishes that the new employment is non-disqualifying, at which point the individual shall be paid any funds which were withheld, and payments shall resume.

- (f) This amendment shall not entitle any law enforcement officer to retroactive payments of any benefit for the period prior to the effective date, nor prospectively deny payment of a separation allowance to an officer who was previously determined to be eligible, unless a change in eligibility occurs subsequent to enactment.

ARTICLE VII. TYPES OF LEAVE

Section 1. Holidays.

The following days, and such other days as the Town Council may designate, are paid holidays for all full-time employees:

New Year's Day - (January 1)
Martin Luther King, Jr.'s Birthday - (third Monday in January)
Good Friday - (Friday before Easter)
Memorial Day - (last Monday in May)
Independence Day - (July 4)
Labor Day - (first Monday in September)
Veterans' Day - (November 11)
Thanksgiving Day and the day after - (fourth Thursday and Friday in November)
Christmas - (see schedule below)

When any recognized holiday, except Christmas, falls on Saturday, the holiday will be observed on the prior Friday. When a holiday falls on a Sunday, the subsequent Monday shall be observed as the holiday.

When Christmas Day falls on the day of the week indicated below, the days set forth will be observed as holidays:

Sunday	-	Friday and Monday
Monday	-	Monday and Tuesday
Tuesday	-	Monday, Tuesday and Wednesday
Wednesday	-	Tuesday, Wednesday, and Thursday
Thursday	-	Wednesday, Thursday, and Friday
Friday	-	Thursday and Friday
Saturday	-	Friday and Monday

A full-time employee required to work on any of these holidays shall receive holiday pay of eight hours, plus regular pay for the hours actually worked.

Section 2. Holidays: Effect on Other Types of Leave.

A Town holiday which occurs during an employee's vacation, sick or other leave period shall not be considered as vacation, sick, or other leave.

Section 3. Inclement Weather Conditions.

During inclement weather, Town offices and departments shall remain open for the full scheduled working day unless the Town Manager or his designee authorizes early closing or other deviation in the work schedule. Employees will be notified by their supervisor or through media should the town offices be closed to the public. A Town employee required to work on a day or part of a day when the Town is closed as a result of adverse weather conditions shall receive compensation for the time worked. Employees who are absent from work will be

required to take leave only for those hours the department is officially open during the work schedule.

Section 4. Vacation Leave.

Vacation leave may be used for rest and relaxation, for medical purposes in lieu of sick leave, and for any other purpose not prohibited by this Policy.

Section 5. Vacation Leave: Use by Probationary Employees.

An employee serving a probationary period following initial employment will conditionally earn vacation leave time, but it shall not vest and cannot be used unless the probation is successfully completed. An employee shall be allowed to use accumulated vacation leave after six months of service and completion of his or her probationary employment, subject to the other requirements of this Policy.

Section 6. Vacation Leave: Accrual Rate.

Each non-probationary employee of the Town shall earn annual leave at the following schedule for a 40 hour per week employee, prorated for employees regularly scheduled for more (when appropriate under FLSA) or less than forty hours per week:

Years of Service	Vacation Leave Earned	
	Days per Year	Hours Bi-Weekly
1 but less than 2	10	3.08
2 but less than 5	12	3.69
5 but less than 10	15	4.62
10 but less than 15	18	5.54
15 but less than 20	21	6.46
20 years or more	24	7.38

Section 7. Vacation Leave: Maximum.

Vacation leave may accrue without any maximum until December 31 of each year. Any employee who has accrued in excess of 240 hours on December 31 may transfer the excess hours into sick leave, **provided that during the course of the calendar year, the employee has actually used no less than five days of vacation leave.** Effective **December 31st** of the calendar year, all other employees with more than 240 hours of accrued leave shall have the excess leave subtracted so that only 240 hours are carried forward to January 1 of the next calendar year. Employees subject to readjustment rights pursuant to Title 38 of the United States Code, as provided in Article VI, Section 28 of this policy, insofar as they have no opportunity to take vacation time in a particular calendar year, shall automatically have excess vacation leave transferred to sick leave.

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

Section 8. Vacation Leave: Manner of Taking.

So long as it does not obstruct normal operations of the Town and is requested in advance, earned vacation leave may ordinarily be taken by an employee. A department head may deny a request for vacation leave when he or she determines that granting a leave request will hinder the effectiveness of service delivery.

Section 9. Vacation Leave: Payment upon Separation.

An employee, other than a department head, who has successfully completed six months of the probationary period will be paid for accrued vacation leave upon separation, provided the employee gives notice to the supervisor at least two weeks in advance of the effective date of resignation. A department head must give four weeks' notice in advance of the effective date of a resignation. Any employee failing to give the notice required by this section shall forfeit payment for accrued leave. The Town Manager may waive the notice requirement. Employees who are involuntarily separated after six months of employment will be paid for accrued vacation leave.

Section 10. Vacation Leave: Payment upon Death.

When an employee dies while employed by the Town, the Town will pay the appropriate person all the accrued vacation leave credited to the employee's account subject to the 240 hour maximum. For purposes of this section, the appropriate person shall be the beneficiary designated by the employee or the appointed representative of the estate.

Section 11. Vacation Leave: Advancement.

Vacation leave normally can only be taken **after** it has been credited to an employee. The department head, with the approval of the Town Manager, may advance vacation leave in an amount not to exceed the amount of vacation leave the employee can earn during the current calendar year. If the employee leaves employment with the Town before the advanced vacation leave has been earned, the employee must repay the Town the value of any unearned vacation leave.

Section 12. Sick Leave.

Sick leave is not a right, but a gift by the employer and thus, a privilege. Sick leave may be granted to an employee absent from work for any of the following reasons: sickness, bodily injury, quarantine, required physical or dental examinations or treatment, or exposure to a contagious disease which can be passed onto other workers through normal work interaction. Sick leave may also be used when the employee is required to attend to a sick immediate family member. "Immediate family" for this purpose shall be defined as spouse, child, parent, grandparent, brother, sister, grandchild, legal guardian, and step-, -in-law, or adopted relationship of any these named.

Sick leave may also be used in connection with a death in the employee's immediate family, but may not exceed five days for any one occurrence. Additional leave time required for such occurrence may be charged to vacation, compensatory leave when approved by the department head and Town Manager, or unpaid leave, when approved pursuant to **Article VII, Section 25** of this Policy.

Sick leave may also be used to supplement worker's compensation leave both during the waiting period before worker's compensation benefits begin, and after worker's compensation benefits are paid, and to supplement worker's compensation payments, except that the combined sick leave pay and worker's compensation pay together may not exceed the employee's regular salary amount.

Except in an emergency where no prior notification is possible, an employee must request sick leave **prior** to the leave or within two hours of the beginning of the workday from the employee's supervisor. In an emergency, notification must be submitted as soon as possible.

Sick leave will only be approved during the final two weeks of a resignation notice with a physician's certification or comparable documentation that the leave was taken because of illness or injury and was not anticipated at the time notice of resignation was given.

Section 13. Sick Leave: Accrual Rate and Accumulation.

Sick leave shall accrue for full-time employees at the rate of eight hours per month of service or ninety-six hours per year. Sick leave for full-time employees working other than the basic work schedule shall be pro-rated as described in **Article VII, Section 6** of this Policy. Sick leave may be accrued without limit and may be converted upon retirement to service credit consistent with the provisions of the North Carolina Local Government Employees' Retirement System. Except for a retiring employee, all sick leave accrued by an employee shall end, terminate and be forfeited without compensation when the employee resigns or is separated from employment with the Town.

Section 14. Sick Leave Transfer from Other Organizations.

An employee who has credible service in the State or Local Employee's Retirement System may transfer his or her sick leave balance from the organizations(s) in which the retirement service was gained. This sick leave balance is to be used as described above in section 12.

Section 15. Sick Leave: Advancement.

Sick leave normally can only be taken **after** it has been credited to an employee. The department head, with the approval of the Town Manager, may advance sick leave in an amount not to exceed the amount of sick leave the employee can earn during the current calendar year. If the employee leaves employment with the Town before the advanced sick leave has been earned, the employee must repay the Town the value of any unearned sick leave.

Section 16. Sick Leave: Medical Certification.

The employee's supervisor, department head or the Director of Human Resources may require a physician's certificate stating the nature of the employee's illness and the employee's capacity to resume duties when an employment-related basis exists for requesting such information. An employment-related basis exists for such a request when the supervisor, department head or

Director of Human Resources deems the information necessary to ascertain the health of the employee in order to:

1. Prevent employees from working when they might endanger their health or safety or the health or safety of other employees or members of the public; or
2. Prevent abuse of leave privileges by an employee.

Claiming sick leave under false pretenses shall subject the employee to disciplinary action up to and including dismissal.

Section 17. School Leave.

Town employees shall be permitted up to eight hours of leave each year to participate in the educational processes of a child. Requests for such leave must be approved in advance by the supervisor, department head and the Director of Human Resources.

Section 18. Family and Medical Leave.

For cause identified in Section 19, *infra*, subsections a, b, c, and f, the Town will grant up to twelve weeks of family and medical leave during any twelve-month period to eligible employees in accordance with the Family and Medical Leave Act of 1993 (hereafter, the “FMLA”). For cause identified in Section 19, *infra*, subsections d and e, the Town will grant up to 26 workweeks of leave during any single 12-month period to care for the service member. Leave under Section 19 (d) may be taken intermittently or on a reduced leave schedule. The leave may be paid vacation or sick leave, unpaid leave, or a combination of paid and unpaid leave. Worker’s compensation leave may also be designated by the Town as family and medical leave, thereby reducing the family and medical leave available. When an employee uses paid leave during the family and medical leave, the employee’s balance of accrued vacation and/or sick leave is reduced concurrently with the balance of family and medical leave. Additional time away from the job beyond the twelve-week FMLA period may be approved in accordance with *Article VII, Section 25*.

Section 19. Family and Medical Leave - Eligibility and Certification.

To qualify for FMLA coverage, the employee must have worked for the Town a minimum of 52 weeks, although these do not have to be consecutive. In addition, the employee must have worked 1,250 hours during the twelve-month period immediately before the date when the FMLA leave begins.

In order to qualify for FMLA leave for a serious health condition of the employee, or the employee’s spouse, child or parent, the employee must provide the Town with medical certification from the employee’s or the family member’s physician. The certification must include the date when the condition began, its expected duration, diagnosis, and a brief statement of the treatment required or expected. For the employee’s own health condition, it must state that as a result of the condition, the employee is unable to perform the essential functions of his/her position. For a seriously ill family member, the certification must include a statement that the patient requires assistance and the employee’s presence is necessary.

In order to qualify for FMLA leave to care for a service member, the employee must provide a certification issued by the health care provider of the service member being cared for by the employee that the service member is in need of care by the employee.

An employee seeking FMLA leave because of any qualifying exigency arising out of the fact that the spouse, or a son, daughter, or parent of the employee is on active duty (or has been notified of an impending call or order to active duty) in the Armed Forces in support of a contingency operation must provide a certification, in a timely manner of such active duty or impending call to active duty.

This certification should be furnished at least thirty days prior to the needed leave unless the employee's or family member's condition is a sudden one, in which case the certification must be furnished as soon as possible, but no later than fifteen days from the date of the employee's request. The certification and request must be made to the department head, and provided to the Director of Human Resources. The FMLA leave must be approved by the Town Manager.

Section 20. Family and Medical Leave - Purpose.

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

- a. the birth or adoption of a child in order to care for that child;
- b. the placement of a child with the employee for adoption or foster care;
- c. to care for a spouse, child, or parent with a serious health condition;
- d. because of any qualifying exigency arising out of the fact that the spouse, or a son, daughter, or parent of the employee is on active duty (or has been notified of an impending call or order to active duty) in the Armed Forces in support of a contingency operation, or
- e. for a spouse, son, daughter, parent, or next of kin to care for a service member, or
- f. the serious health condition of the employee.

A serious health condition is defined as a condition which requires in-patient care at a hospital, hospice, or residential medical care facility, or a condition which requires continuing care by a licensed health care provider for a condition of a serious and long-term nature, resulting in recurring or lengthy absences. Generally, a chronic or long term health condition which results in a period of incapacity of more than three days is considered a serious health condition.

Section 21. Family and Medical Leave - Simultaneous Requests by Husband and Wife.

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

Section 22. Family and Medical Leave - Birth of a Child.

An employee taking leave for the birth of a child may use paid sick leave for the period of actual disability, based on medical certification. Assuming adequate accrued vacation leave time, the

employee may then use all paid annual leave for the remainder of the twelve-week period. If the employee has insufficient accrued leave time to cover the entire twelve-week period, the employee may take unpaid leave for the remainder of the twelve weeks.

Section 23. Family and Medical Leave - Request.

The request for the use of FMLA leave must ordinarily be made in advance and in writing by the employee and approved by the department head and Town Manager. In an emergency situation, the request for the use of FMLA leave must be made as soon as reasonably practical. On its own initiative, the Town may designate leave as FMLA.

Section 24. Family and Medical Leave - Return to Work.

An employee taking FMLA leave for a serious health condition or the serious health condition of a spouse, child or parent is expected to return to work at the end of the leave period stated in the medical certification, unless the Town has approved additional unpaid leave or the use of available sick or vacation leave.

Prior to an employee returning to work after an FMLA leave, the employee's supervisor, department head, or the Director of Human Resources may require a physician's certification that the employee can safely resume employment and has regained the ability to effectively perform the essential functions of the job. An employee who returns to work after an FMLA leave will return to the same job, if available, or a job with equivalent status, pay, benefits, and other employment terms and requirements. The position will be the same or one which entails substantially equivalent skill, effort, responsibility, and authority.

Section 25. Unpaid Family and Medical Leave: Benefit Continuation.

Unpaid FMLA leave is subject to the normal requirements of leave without pay (*Article VII, Section 25*). The Town will continue the employee's health benefits during an unpaid FMLA leave period at the same level and under the same conditions as if the employee had continued to work. If an employee chooses not to return to work for reasons other than a continued serious health condition, the employee must repay the Town the amount paid for the employee's health insurance premiums during the FMLA leave period.

While on unpaid FMLA leave, the employee must timely make all payments necessary for the continued coverage of all employee benefits other than health insurance, which will continue to be paid by the Town. The taking of unpaid FMLA leave does not constitute a break in service for purposes of vesting and eligibility to participate in the Town's pension and retirement plans.

Section 26. Leave Without Pay.

The Town Manager may approve a request by a full-time employee for a leave of absence without pay for a period of up to six months. Leave without pay is available only after all appropriate earned leave has been exhausted, and an employee shall not accrue leave time while on unpaid leave. Leave without pay may be requested for reasons of personal disability, sickness or disability of immediate family members, continuation of education, special work that will permit the Town to benefit by the experience gained or the work performed, or for other reasons deemed justified by the Town Manager.

Any employee who requests leave without pay shall first apply in writing to the supervisor, who must forward the request to the department head. The department head shall, in turn, forward the

request to the Director of Human Resources with the department head's recommendation. The Director of Human Resources shall review the request and forward the request, along with the department head's recommendation and the Director of Human Resources' recommendation to the Town Manager for action. If such leave is approved, the employee must return to duty before or at the end of the approved leave. After a leave without pay, the employee shall be entitled to return to a position, if available, of the same grade and pay as the position held before the leave. If no such position is available, the employee may be placed in the closest comparable position which is available. The employee must immediately notify the supervisor if he/she decides not to return to work. Failure to report at the expiration of a leave of absence shall be considered a resignation.

Section 27. Military Leave.

Regular employees who are members of an Armed Forces Reserve organization or National Guard shall be granted fifteen (15) workdays per calendar year for military leave with full pay. If military duty is required beyond the fifteen (15) workdays per year, the employee will be placed on Leave without Pay status. However, the employee can opt, prior to being placed on Leave without Pay Status, to use any and all accrued annual leave as the employee chooses.

While taking military leave, the employee's leave credits and other benefits shall continue to accrue as if the employee were actively working with the Town during this period. Employees who are eligible for military leave have all job rights specified by the Veterans Readjustment Assistance Act.

Section 28. Reinstatement Following Military Service.

An employee who is absent from employment due to service in the United States uniformed services, as defined in 20 C.F.R. Part 1002, shall be entitled to full reemployment and relevant reemployment benefits provided by the Uniformed Services Employment and Reemployment Rights Act of 1994, as Amended, so long as the following criteria are met:

- a. Proper advance notice is provided by the employee to the Town. Proper notice, for purposes of this section, is notice as far in advance as is reasonable under the circumstances. Notice may be verbal or written, and may be provided by either the employee or an appropriate officer of the pertinent uniformed service, unless such notice is prevented by military necessity, as determined by a designated military authority, is otherwise impossible or is unreasonable under all the circumstances.
- b. The employee remains away from employment for a period which includes no more than five years of service in the uniformed services, except for service excluded from consideration under the Uniformed Services Employment and Reemployment Rights Act of 1994, as Amended (See 20 C.F.R. § 1002.103);
- c. The employee applies for reinstatement to the Director of Human Resources or reports to work within the following time periods, based upon the length of service in the uniformed services:
 1. For periods of service of less than 31 days, the employee must generally report back to work on the next regularly scheduled work day after the employee's return, as specified in 20 C.F.R. § 1002.115(a).

2. For periods of service between 30 and 181 days, the employee must generally apply for reinstatement within fourteen days of the employee's return, as specified in 20 C.F. R. § 1002.115(b).
3. For periods of service greater than 180 days, the employee must submit either a written or verbal application for reemployment not later than ninety days after the completion of service.
- d. For periods of service exceeding thirty days, the employee provides the Director of Human Resources with documentation to establish that the reemployment application is timely, the five-year limit for service has not been exceeded and that the separation from the service was not disqualifying.
- e. The employee is not separated or dismissed from the uniformed services:
 1. With a dishonorable or bad conduct discharge,
 2. under other than honorable conditions,
 3. as the result of a general court-martial,
 4. For any other reason specified in 20 C.F. R. §1002.124.

Section 29. Civil Leave.

A Town employee called for jury duty or subpoenaed as a witness in the federal or state courts, or in an unemployment, worker's compensation or other proceeding where subpoena authority is created under State law, may attend such jury duty or proceeding without penalty, but, except for jury duty, shall only receive leave with pay for such duty during the required absence if the appearance as a witness arises from the employee's performance of his or her duties for the Town. The employee may keep fees and travel allowances received for jury or witness duty in addition to regular compensation, except that employees must turn over to the Town any witness fees or travel allowance awarded by that court for court appearances in connection with their official duties. While on civil leave, benefits and leave shall accrue as though on regular duty. Civil leave may also be granted by the Town Manager if the employee's participation in the proceeding in question benefits the Town. Participation as a witness on behalf of the Town in litigation wherein the Town is a party shall require advance approval of the Town Manager and when approved, civil leave will not be required.

**ARTICLE VIII
LIGHT DUTY FOR INJURED OR ILL EMPLOYEES**

Section 1. Purpose.

When an employee is capable of providing a needed service to the Town during the rehabilitation process, the Town will seek to place the employee in a light duty status.

Section 2. Light Duty Defined.

Light duty is non-strenuous work which is restricted to the capacities of the employee.

Section 3. Eligibility for Light-Duty Status.

- a. An employee is eligible for light-duty status when the employee suffers from either a job-related or non-job related injury or illness which restricts the employee's ability to perform the essential functions of his or her job. The employee must provide the Town with the certification of a licensed physician knowledgeable about the employee's condition(s) and the requirements of the job, which sets out a definite time after which the employee should be able to return to full duty. The physician must also certify that in the interim the employee can safely perform duties as described.
- b. In a worker's compensation situation, if the examining physician certifies that the employee is able to safely resume light duty work, upon the Town's request that the employee return to light duty work, the employee must do so.
- c. In a non-worker's compensation situation, if the employee wishes to report for light duty the employee must submit to an evaluation by a physician chosen by the Town, which evaluation must be paid for by the employee. If the physician certifies that the employee is capable of light duty work, the employee may report for light duty if such work is available.
- d. In order to be allowed light-duty status, duties must exist which can safely be performed by a person with the restrictions indicated by the physician.

Section 4. Approval Process for Light Duty Status.

- a. Light duty status will only be approved if the proposed duties are needed by the Town.
- b. Light duty status must be approved by the Town Manager, following consideration of recommendations by the department head, Safety/Risk Management Officer and the Director of Human Resources.
- c. Light duty status may not extend for more than thirty days without review, an updated medical certification and approval by the Town Manager, following consideration of recommendations by the department head, Safety/Risk

Management Officer and the Director of Human Resources. If extended, similar reviews must occur every thirty days.

Section 5. Options Available for Light-Duty Status.

Light duty status may deviate from an employee's normal position, including, but not limited to the following ways:

- a. The employee's schedule may provide for fewer working hours and/or different working hours.
- b. Duties may be different and/or the same as required in the employee's normal position.
- c. Light duty may be performed under different supervision than the employee's normal position.
- d. Light-duty responsibilities may be adjusted as the employee's recovery progresses.

Section 6. Return from Light Duty Status to Regular Duty.

An employee will be returned to regular duty as soon as the employee's conditions permit. However, before an employee placed on light duty status may be transferred back to regular duty, the employee must provide a physician's certification that he or she can return to work without restrictions. Transfer back to regular duty must be approved by the Town Manager, following consideration of recommendations by the department head, Safety/Risk Management Officer and the Director of Human Resources. Once approved, the employee must immediately return to regular duty. Failure to comply is grounds for discipline, including dismissal.

ARTICLE IX. WORKPLACE VIOLENCE

Section 1. Acts or Threats of Violence Defined.

Acts or threats of violence include, but are not limited to, conduct against persons or property that is sufficiently severe, offensive, or intimidating to alter the employment conditions at the Town, or to create a hostile, abusive, or intimidating work environment for one or more employees. Acts or threats of violence shall constitute conduct subjecting an employee to disciplinary action.

Section 2. Scope of Prohibition against Workplace Violence.

The Town will not tolerate:

- a. Threats or acts of violence occurring on Town property, regardless of the relationship between the Town and the parties involved in the incident;
- b. Threats or acts of violence not occurring on Town property, but committed by one employee of the Town of Boone against another employee of the Town of Boone, except in self-defense;
- c. Threats or acts of violence, resulting in the criminal conviction of an employee or of an individual performing services on the Town's behalf on a contract or temporary basis, that adversely affect the legitimate interests and goals of the Town.

Section 3. Examples of Acts or Threats of Violence.

Conduct that is considered an act or threat of violence includes but is not limited to, the following:

- a. Hitting or shoving an individual;
- b. Threatening to harm an employee or official of the Town or his/her family, friends, associates, or their property;
- c. The intentional destruction or threat of destruction of property;
- d. Making harassing, intimidating or threatening telephone calls, letters or other forms of written or electronic communications;
- e. Intimidating or attempting to coerce an employee to do wrongful acts;

- f. Harassing surveillance, also known as “stalking,” the willful, malicious and repeated following of another person and making a threat with intent to place the other person in reasonable fear for his or her safety;
- g. Stating or suggesting that an act to injure a person(s) or property is “appropriate;”
- h. Inappropriate possession, brandishing or use of firearms, weapons, and objects whose purpose is violent or threatening, including knives, dangerous chemicals, explosives, chains and other objects, when carried, brandished or used for intimidating another, except as necessary for the proper functioning of the police and fire departments, or for purposes of self-defense.

While employees of the Town may be required as a condition of their work assignment to possess firearms, weapons or other dangerous devices, or permitted to carry them as authorized by law, employees must use them only in accordance with departmental operating procedures and all applicable State and Federal laws.

Section 4. Employee Obligations.

Each employee of the Town is required to report an incident(s) of a threat(s) or act(s) of violence which violate this policy to his or her supervisor, department head, the Director of Human Resources or the Town Manager. Each supervising employee to whom such report is made shall promptly notify the department head. Concurrent with the initiation of any investigation leading to a proposed disciplinary action, the department head shall report the incidents of threats or acts of physical violence to the Town Manager, the Director of Human Resources and the Boone Police Department.

In cases where the offending action(s) is perpetrated by a person who is not a Town employee, the employee shall report such incident to the department head, who shall concurrently report the incident to the Town Manager and the Town of Boone Police Department.

Nothing in this policy alters any other reporting obligation established in Town policies or in state, federal or other applicable law.

ARTICLE X. ALCOHOL AND CONTROLLED SUBSTANCE TESTING

Section 1. Purpose.

The Town of Boone seeks to protect its employees and the public and to provide employees with a drug-free, healthy, safe, and secure work environment. The Town is committed to developing and administering a fair and consistent policy to promote and maintain a drug-free work environment. Employees who abuse alcohol and/or controlled substances are encouraged and may be required to use the Town's Employee Assistance Program. Conscientious efforts to seek and use such help will not jeopardize an employee's job. However, failure to seek and use such help may subject the employee to disciplinary procedure including, but not limited to, termination.

Section 2. Definitions.

- a. **Reasonable Suspicion** means an expressible belief based on specific objective facts and rational inferences drawn from those facts that an employee has consumed or is impaired by alcohol or a controlled substance while at work. Circumstances which constitute a basis for determining reasonable suspicion may include, but are not limited to:
 1. Direct observation of use of alcohol or controlled substance and/or the physical symptoms of being impaired by a controlled substance or alcohol;
 2. A pattern of absenteeism, tardiness, or deterioration of work performance and abnormal conduct or erratic behavior while at work;
 3. A pattern of accidents and/or information that an employee has caused or contributed to an accident at work while impaired by controlled substances or alcohol;
 4. Evidence that an employee is involved in the unauthorized possession, sale, solicitation, or transfer of a controlled substance at any time;
 5. Evidence that an employee is impaired by or consumes alcohol or controlled substances while working or while operating a Town vehicle, machinery or equipment.
- c. **Approved Laboratory** means a laboratory approved and certified to conduct employee and applicant drug testing by the North Carolina Department of Human Resources or the National Institute on Drug Abuse, the College of American Pathology, the American Association for Clinical Chemistry or the equivalent.
- d. **Controlled Substance** means any substance regulated by state or federal law which has been determined to have a potential for abuse and that may lead to physical or psychological dependence. This includes all forms of marijuana (THC metabolite), cocaine, amphetamines, opiates (including heroin), phencyclidine (PCP), barbiturates and benzodiazepine. As indicated by context,

the term “drug” may be used herein to refer to controlled substances and/or alcohol.

- e. **Positive Drug Test** means a chemical test on one’s urine or blood sample performed by a certified laboratory which confirms the presence of a controlled substance. A test shall be declared positive after two tests confirm the presence of drugs in the sample.
- f. **Positive Alcohol Test** means a Breathalyzer or blood test which confirms the presence of alcohol at a level of 0.01 or greater. To ensure maximum validity, the test shall be conducted under the generally accepted test procedures accepted under the Department of Transportation (Federal Highway Administration) and North Carolina General Statutes.
- g. **Safety-sensitive employees** means those employees whose positions have been identified as safety-sensitive per a list maintained by the Town’s Safety/Risk Management Officer.

Section 3. Use of Legal Ability-altering Drugs.

The employee is responsible for ascertaining from a health care professional the effects of any prescribed drug or over-the-counter medication. Any employee with knowledge that the use of a prescribed or over-the-counter medication could alter the employee’s ability to perform the duties of the position must notify the appropriate supervisor before undertaking his or her job duties. Failure to obtain or communicate such information may result in disciplinary action.

Section 4. Employee Testing.

Employees shall be tested in the following circumstances:

- (i) when there is reasonable suspicion of prohibited alcohol and/or a controlled substance, use as defined at Section 2 of this Article;
- (ii) in the case of CDL drivers, as required by US DOT regulations AND as may be required per subsection (iii) below: and
- (iii) in any case in which an employee, while working for the Town, is operating a motor vehicle or heavy equipment that is involved in an accident resulting in a fatality, bodily injury and/or property damage of more than \$1000.00 and in which accident the employee is determined to be potentially at fault for causing or not avoiding the accident, as determined by the Town’s Safety/Risk Management Officer.

Testing following a motor vehicle or heavy equipment accident shall be administered as soon as reasonably possible, but in no event no later than eight hours from the time of the accident for alcohol testing and no later than 32 hours from the time of the accident for controlled substance testing.

Employees are also required to submit to random drug testing on the following basis: fifty percent (50%) of all CDL employees and twenty five percent (25%) of all safety-sensitive employees shall be randomly tested annually for illegal controlled substances. Twenty-five percent (25%) of all CDL employees and ten percent (10%) of all safety-sensitive employees shall be tested annually for alcohol.

Section 5. Retesting of Employees who have Tested Positive.

If an employee is allowed to continue employment after testing positive for drugs, he/she will be subject to unannounced and random testing. An employee who tests positive for alcohol at a level of 0.04 or greater will be tested a minimum of four times for the first year. After this period, the Substance Abuse Professional will determine when follow-up testing should end.

Section 6. Consent.

Before a test is administered, an employee will be asked to sign a consent form, authorizing the test and permitting the release of test results to those Town officials with a need to know as defined by North Carolina Gen. Stat. § 160A-168. The consent form shall provide space for employees to indicate current or recent use of prescription or over-the-counter medication. Consent forms shall also set forth the following information:

- a. The procedure for confirming an initial positive test result;
- b. The consequences of a positive test result;
- c. The right of an employee to explain a positive test result and to be heard at a pre-disciplinary conference"; and
- d. The consequences of refusing to undergo a test.

Section 7. Refusal to Consent.

Refusal to consent to testing will subject an employee to immediate dismissal. In addition, failing to appear for a scheduled the test will be considered to have refused to consent to the test. An employee who requests a delay of a test scheduled under the provisions of this section will be considered to have violated expected work behavior.

Section 8. The Drug Test.

Normally, a urine test will be used to determine the presence of drugs. Guidance and instructions in administering the drug test will be provided by an approved laboratory to ensure that proper steps are followed in collecting and evaluating samples. A strict chain of custody will be maintained by the approved testing laboratory. If the result is positive, the employee shall be notified in writing by the Director of Human Resources. A letter of notification shall identify the particular substance found. Within 72 hours of notification of a positive drug-test result, an employee or applicant may request that the original sample be sent to an approved laboratory for another test at the employee's own expense.

Section 9. Consequences of a Positive Drug Test.

An employee who has a positive drug test will be subject to disciplinary action up to and including dismissal. The employee may request continued employment and assistance under the Employee Assistance Program. When making recommendations for disciplinary action, supervisors and department heads shall consider factors which include the following: (1) the employee's work history; (2) the job assignment; (3) the length of employment; (4) the current

job performance; (5) the existence of past disciplinary action; and (6) the danger or potential danger to other employees and the public at large due to employee's job duties.

Pursuant to N.C. Gen. Stat. § 20-37.19(c), the Town will notify the North Carolina Division of Motor Vehicles in writing within five business days following the positive drug test of an employee who operates commercial motor vehicles for the Town and who is required as a condition of his or her job to have, hold or maintain a commercial driver's license. The Town shall provide the Department of Motor Vehicles with the employee's name, address, driver's license number, social security number and the results of the drug test.

Section 10. The Alcohol Test.

Normally, an evidential breath-testing device will be used to determine the presence of alcohol. The test will be administered by a Breath Alcohol Technician (BAT) following procedures accepted by the Department of Transportation.

Section 11. Consequences of a Positive Alcohol Test.

- a. **0.01 or greater, but less than 0.04** - An employee testing positive in this range may be subject to disciplinary action up to and including dismissal. Arrangements for safe transportation to the employee's home shall be made. If the employee refuses transportation, this shall be documented.
- b. **0.04 or greater** - An employee testing positive in this range will be subject to disciplinary action up to and including dismissal. Arrangements for safe transportation to the employee's home shall be made. If the employee refuses transportation, this shall be documented and the Town of Boone Police Department notified.

Pursuant to N.C. Gen. Stat. § 20-37.19(c), the Town will notify the North Carolina Division of Motor Vehicles in writing within five business days following the positive alcohol test of an employee who operates commercial motor vehicles for the Town and who is required as a condition of his or her job to have, hold or maintain a commercial driver's license. The Town shall provide the Department of Motor Vehicles with the employee's name, address, driver's license number, social security number and the results of the alcohol test.

Section 12. Mandatory Participation in Employee Assistance Program.

An employee permitted to continue employment after a positive alcohol or drug test or after voluntarily identifying himself/herself as a drug user or alcohol abuser will be required to participate and cooperate fully with the provisions of a recommended rehabilitation program as prescribed by the Employee Assistance Program, or comply with any long-term treatment programs which are recommended either through the Employee Assistance Program or another counseling program. Disciplinary action is not automatically suspended by an employee's participation in the Program and may be taken against employees for performance issues or conduct violations, but the employee's participation in the Program will be considered in any decision regarding disciplinary action.

Those employees participating in the Program will be subject during that participation to unannounced and random alcohol and drugs tests. Upon a positive test result, the employee will be subject to dismissal. Those employees who satisfactorily complete the rehabilitation program

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prescribed by the Employee Assistance Program will be subject to unannounced and random drug and alcohol tests for a period of two years after completion. Satisfactory completion of the rehabilitation program shall be determined by the Town with the guidance of staff of the program. Failure to enter or complete the prescribed program shall be considered by the Town as voluntary termination of employment by the employee.

The Town will pay for the first visit of an employee to the Employee Assistance Program during the calendar year. **The cost of all other visits, be they voluntary or mandatory, will be the responsibility of the employee.**

Section 13. Use of Results in Criminal Action.

No test results of the Town's drug testing program may be used as evidence in a criminal action against an employee except by order of a court of competent jurisdiction.

Section 14. Notification of Charge.

An employee charged with or convicted of an alcohol-related crime or charged with or convicted of a drug-related crime shall notify his/her department head no later than twenty-four hours after such charge or conviction. Failure to notify one's department head of such charge or conviction shall be grounds for dismissal.

ARTICLE XI. DISCIPLINARY ACTIONS

It is the Town's policy to take disciplinary actions in accordance with the procedures set forth in this Article whenever reasonably possible and appropriate. However, all Town employees are employed at-will and may be terminated at any time without notice by the Town, just as the employee may resign his or her position at any time without notice. Nothing in this Article shall be construed as or deemed to give any property right or interest to any Town employee, nor to be binding upon the Town. In the discretion of the Town Manager, a Town employee may be disciplined, up to and including dismissal, without application of the following procedures.

Section 1. Disciplinary Action for Unsatisfactory Job Performance

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

Section 2. Unsatisfactory Job Performance Defined

Unsatisfactory job performance includes any aspects of the employee's job which are not performed as required to meet the standards set by the Department Head or Town Manager.

Examples of unsatisfactory job performance include, but are not limited to, the following:

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

- 11) Failure to promptly report a work related injury or accident;
- 12) Failure to meet fitness requirements.
- 13) Violation of a provision of the Town Code in the course of Town employment.

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

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

An employee whose job performance is unsatisfactory over a period of time should normally receive at least two documented warnings, one of which may be in the final written warning, from the supervisor before disciplinary action resulting in suspension, demotion or dismissal is taken by the Town Manager. In each case, the supervisor should record the dates of discussions with the employee, the performance deficiencies discussed, the corrective actions recommended, and the time limits set.

If the employee's performance continues to be unsatisfactory after performance feedback and coaching with at least one written warning, then the supervisor should use the following steps:

- 1) A final written warning from the supervisor serving notice upon the employee that corrected performance must take place immediately in order to avoid suspension, demotion, or dismissal.
- 2) If performance does not improve, a written recommendation should be sent to the Town Manager for disciplinary action such as suspension, demotion, or dismissal.

Disciplinary suspensions are for the purpose of communicating the seriousness of the performance deficiency, not for the purpose of punishment, and should not generally exceed three days (24 hours) for nonexempt employees. Suspensions for exempt employees shall be for one full work week in accordance with FLSA requirements to maintain exempt status.

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

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

Section 4. Disciplinary Action for Detrimental Personal Conduct

With the approval of the Town Manager, an employee may be placed on disciplinary suspension, demoted, or dismissed without prior warning for causes relating to personal conduct detrimental to Town service in order to 1) avoid undue disruption of work; 2) to protect the safety of persons or property; or 3) for other serious reasons. Prior to a decision to discipline for Detrimental Personal Conduct, the department head or Town Manager will place the employee on non-disciplinary suspension

and conduct a thorough investigation regarding the alleged conduct. After the facts are clear, disciplinary action may be determined.

Section 5. Detrimental Personal Conduct Defined

Detrimental personal conduct includes behavior of such a serious detrimental nature that the functioning of the Town may be or has been impaired; the safety of persons or property may be or have been threatened; or the laws of any government may be or have been violated.

Examples of detrimental personal conduct include, but are not limited to, the following:

- 1) Fraud or theft;
- 2) Conviction of a felony or the entry of a plea of nolo contendere thereto;
- 3) Falsification of records for personal profit, to grant special privileges, or to obtain employment;
- 4) Willful misuse or gross negligence in the handling of Town funds or personal use of equipment or supplies;
- 5) Willful or wanton damage or destruction to property;
- 6) Willful or wanton acts that endanger the lives and property of others;
- 7) Possession of unauthorized firearms or other lethal weapons on the job;
- 8) Brutality in the performance of duties;
- 9) Reporting to work under the influence of alcohol or drugs or partaking of such while on duty. Prescribed medication may be taken within the limits set by a physician as long as medically necessary;
- 10) Engaging in incompatible employment or serving a conflicting interest;
- 11) Request or acceptance of gifts in exchange for favors or influence;
- 12) Engaging in political activity prohibited by this Policy;
- 13) Harassment of or discrimination against an employee(s) and/or member of the public on the basis of sex or any other protected class status, or retaliation against any person who has reported or participated in the investigation of any such harassment or discrimination;
or
- 14) Directing threatening or obscene language and/or gestures at an employee or member of the public;
- 15) Flagrant violation of work rules and regulations or serious malfeasance of work

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- 16) Using alcohol within eight hours prior to or following an accident or prior to undergoing a post- accident alcohol test;
- 17) Reporting to work or remaining at work, driving a Town vehicle or operating any vehicle on Town property with any amount of alcohol or drugs present in your system or partaking of such while on duty ;
- 18) Failure to report his or her arrest for a criminal act to a supervisor within 24 hours;
- 19) Failure to report to a supervisor within 24 hours his or her citation for a traffic violation while operating a town vehicle;
- 20) Intentional use of Town property for unauthorized purposes;
- 21) Use of the Town's internet services to conduct personal business for compensation or to access inappropriate information such as pornography;
- 22) Insubordination toward a supervisor, department head, Town Official or Town Manager;
or
- 23) Behavior outside work that is so detrimental as to be obviously contrary to the image and interests of the Town.

Section 6. Non-Disciplinary Suspension

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

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

Section 7. Pre-disciplinary Conference

Before final disciplinary suspension, demotion or dismissal action is taken, whether for failure in personal conduct or failure in performance of duties, the Town Manager, together with the Human Resources Director and/or Department Head, will conduct a pre-disciplinary conference at the request of the employee. The employee may be represented by an attorney at this conference. At this conference, the employee or his or her attorney may present any response to the proposed discipline or dismissal to the Town Manager or Department Head. The Town Manager or Department Head will consider the employee's response, if any, to the proposed discipline, and will, within three working days following the conference, notify the employee in writing of the final decision. If the employee is dismissed, the notice shall contain a statement of the reasons for the action.

ARTICLE XII. GRIEVANCE PROCEDURE

Section 1. Grievance Procedure.

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

Section 2. Grievance Defined.

A grievance is a claim or complaint by an employee objecting to an action, event or condition, other than a pay issue, which affects the circumstances under which the employee works, allegedly caused by misinterpretation, unfair application, or lack of established policy pertaining to a particular employment condition(s). **The Grievance Procedure is not available to challenge a disciplinary action by the Town Manager. The Grievance Procedure also is not properly invoked where an employee simply disagrees with an adopted policy or procedure of the Town or his or her department.**

Section 3. Purposes of the Grievance Procedure.

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

- a. Providing employees with a procedure by which their complaints can be considered promptly, fairly, and without reprisal;
- b. Encouraging employees to express themselves about the conditions of work which affect them as employees;
- c. Promoting better understanding of policies, practices, and procedures which affect employees;
- d. Increasing employees' confidence that personnel actions taken are in accordance with established, fair, and uniform policies and procedures; and
- e. Increasing the sense of responsibility exercised by supervisors in dealing with employees.

Section 4. Grievance Procedure.

The following steps must be taken by an employee wishing to use the grievance procedure. Every effort should be made to expedite the process. However, the time limits set forth may be extended by mutual consent of the employee and the Director of Human Resources. If an employee discontinues the grievance procedure prior to review by the Town Manager, the Town will assume that the employee is satisfied with the last response he or she has received.

Step 1. The first step when an issue is perceived by an employee, and prior to the submission of a written grievance, is for the employee and supervisor to meet to discuss the issue to attempt to resolve it informally. Either the employee or the supervisor may involve the department head or the Director of Human Resources as a resource to help resolve the grievance.

Step 2. If the issue is not resolved at Step 1, the employee may file a written grievance to the supervisor. The grievance must be submitted within fifteen (15) working days of the matter giving rise to the grievance. The supervisor shall acknowledge receipt of the grievance and shall respond to the grievance within ten (10) working days after receipt. The supervisor may consult with other employees of the Town in order to reach a correct and fair determination concerning the grievance. Any employee consulted by the supervisor is required to cooperate.

All responses from the supervisor shall be in writing and signed by the supervisor. The employee must acknowledge receipt of the supervisor's determination by endorsing the Town's copy. All grievance documents must be provided to the Director of Human Resources.

Step 3. If the grievance is not resolved at Step 2, the employee may appeal, in writing, to the appropriate department head within ten (10) working days after receipt of the Step 2 decision. If mailed by regular mail, the response shall be presumed to have been received two days after mailing. The department head shall decide the appeal within ten working days after receipt of the appeal.

Step 4. If the grievance is not resolved at Step 3, the employee may appeal in writing to the Director of Human Resources within ten working days after receipt of Step 3 decision. If mailed by regular mail, the response from Step 3 shall be presumed to have been received two days after mailing. The Director of Human Resources shall notify the Town Manager of the appeal, and the Town Manager shall respond to the appeal, make arrangements to hear the grievance, and render a decision within ten (10) working days after hearing of the appeal, which shall be scheduled within ten days (10) days of the receipt of the request. The Town Manager's decision shall be the final decision of the Town.

Section 5. Procedure for Alleged Discrimination.

When an employee or former employee believes that any employment action or policy discriminates against him/her based on age, sex, race, color, national origin, religion, political registration, non-job related disability, or job related disability where the employee believes that with a reasonable accommodation, he or she could perform the job, he or she has the right to appeal such action using the grievance procedure outlined above. While such persons are encouraged to use the grievance procedure, they shall also have the right to appeal directly to the Town Manager when the aggrieved party alleges that a supervisor or department head is the wrong doer, or where other good cause exists to avoid the grievance procedure. An employee should generally file a grievance regarding an alleged act of discrimination within thirty (30) calendar days of the alleged act, but is not prohibited from filing until 180 days have elapsed.

ARTICLE XIII. SEPARATION AND REINSTATEMENT

Section 1. Types of Separations.

All separations of employees from positions in the service of the Town shall be designated as one of the following: resignation, reduction in force, disability, retirement, death or dismissal.

- a. **Resignation.** An employee may resign by submitting the reasons for resignation and the effective date in writing to the immediate supervisor as far in advance as possible. The minimum notice requirement is two weeks, but for department heads, it is four weeks. Failure to provide minimum notice shall result in forfeiture of payment for accrued vacation leave, unless the notice is waived by the Town Manager upon recommendation of the department head. Three consecutive days of absence without contacting the immediate supervisor or department head shall be considered and designated a voluntary resignation.
- b. **Reduction in Force.** An employee is separated as the result of a reduction in force when the Town discontinues the employee's position, either because the employee's position is no longer needed, or because of the elimination of a group of positions as the result of budgetary or other considerations. In the event that a reduction in force becomes necessary, in determining those employees to be retained, consideration shall be given to the (1) quality of each employee's performance, (2) organizational needs, (3) seniority, and (4) such other criteria as may be designated by the Town Council. Employees who are separated because of a reduction in force shall be given at least a ten (10) working day notice of the anticipated action. No full time employee whose performance is satisfactory shall be separated because of a reduction in force while there are temporary or probationary employees serving in a position for which the employee is qualified, unless the regular employee is not willing to transfer to the position held by the temporary or probationary employee.
- c. **Disability.** An employee who, because of a physical or mental condition, cannot perform the required duties of the employee's job with reasonable accommodation may be separated for disability. Action may be initiated by the employee or the Town, but in all cases, consideration for disability separation shall be supported by medical evidence as certified by a licensed physician familiar with the employee's condition. Before designating a separation from employment as a "disability" separation, the Town may require a physical and/or mental examination, at the Town's expense, performed by a physician of the Town's choice, if the Town has a reasonable concern that due to physical and/or mental conditions, the employee can no longer safely and/or effectively perform the employee's job duties. Before an employee is separated for disability, a reasonable effort shall be made to locate alternate positions within the Town's service for which the employee may be qualified.
- d. **Retirement.** An employee who meets the conditions set forth under the provisions of the North Carolina Local Government Employee's Retirement System may elect to retire and receive all benefits earned under the retirement plan.
- e. **Death.** An employee who dies while employed by the Town shall be considered separated effective the date of the employee's death. All compensation due shall

be paid to the designated beneficiary or appointed representative of the estate of the employee.

- f. **Dismissal.** A non-probationary, non-temporary employee may only be dismissed in accordance with the provisions and procedures of Article IX. All other employees are considered employees at will and are not entitled to utilize the procedures set out therein.

Section 2. Reinstatement.

An employee who is rehired after voluntary separation is considered a new employee, unless during the period the employee was separated from Town employment, he or she was continuously employed in a position participating in the a local/state North Carolina retirement system, and the period of separation does not exceed one year.

Section 3. Exit Interview and Process.

Upon separation from Town employment, an exit interview shall be held with the Director of Human Resources. The interview shall normally be held during the last week of employment and shall document the return of any Town property issued to the employee, the reason for leaving, counseling on continuation of fringe benefits, and final payroll computation and payment information, including the employee's forwarding address. The Director of Human Resources may solicit information from the employee which may be helpful to the improvement of working conditions within the employee's former department.

ARTICLE XIV. PERSONNEL RECORDS AND REPORTS

Section 1. Personnel Records and Reports - Public Information.

In compliance with N.C. Gen. Stat. §160A-168, the following information with respect to each Town employee is a matter of public record: name; age; date of original employment or appointment to the service; the terms of any contract by which the employee is employed whether written or oral, past and current, to the extent that the Town has the written contract or a record of the oral contract in its possession; current position, title; current salary; date and amount of each increase or decrease in salary with the Town; date and type of each promotion, demotion, transfer, suspension, separation, or other change in position classification with the Town; date and general description of the reasons for each promotion with the Town; date and type of each dismissal, suspension, or demotion for disciplinary reasons taken by the Town; if the disciplinary action was a dismissal, a copy of the written notice of the final decision setting forth the specific acts or omissions that are the basis of the dismissal; and the office to which the employee is currently assigned. "Salary" shall include pay, benefits, incentives, bonuses, and deferred and all other forms of compensation paid by the Town. Any person may have access to this information for the purpose of inspection, examination, and copying during regular business hours, subject only to such rules and regulations for the safekeeping of public records as the Town may adopt, as well as such copying charges as may be generally assessed by the Town for copies of public records.

Section 2. Access to Confidential Records.

All information contained in an employee's or former employee's personnel file, other than the information identified in Section 1, is confidential and shall be open to inspection only in the following instances, in accordance with N.C. Gen. Stat. §§160A-168(c) and (c1):

- a. The employee or his/her agent, duly authorized in writing by the employee, may examine all portions of his/her personnel file except:
 1. Testing or examination material used solely to determine individual qualifications for appointment, employment, or promotion in the Town's service, when disclosure would compromise the objectivity or the fairness of the testing or examination process.
 2. Investigative reports or memoranda and other information concerning the investigation of possible criminal actions of an employee, until the investigation is completed and no criminal action taken, or until the criminal action is concluded,

Information that might identify an undercover law enforcement officer or a law enforcement informer,

Notes, preliminary drafts and internal communications concerning an employee. In the event such materials are used for any official personnel decision, then the employee or his duly authorized agent shall have a right

to inspect such materials,

Letters of reference solicited prior to employment, and information concerning a medical disability, mental or physical, that a prudent physician would not divulge to the patient, or the disclosure of which is prohibited by law.

- 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 an 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 Town Manager to be necessary and essential to the pursuit of a proper function of the inspecting agency, but no information shall be divulged for the purpose of assisting in a criminal prosecution of the employee, or for the purpose of assisting in an investigation of the employee's tax liability, absent a court order. However, the official having custody of the personnel records may release the name, address, and telephone number from a personnel file for the purpose of assisting in a criminal investigation.
- f. An employee may sign a written release to be placed with his/her personnel file that permits the record custodian to provide, either in person, by telephone, or by mail, information specified in the release to prospective employers, educational institutions, or other persons specified in the release.
- g. The Town Manager, with the concurrence of the Town Council, may inform any person of the employment, non-employment, promotion, demotion, suspension or other disciplinary action, reinstatement, transfer, or termination of a Town employee, and the reasons for that action. Before releasing that information, the Town Manager shall determine in writing that the release is essential to maintaining public confidence in the administration of Town services or to maintaining the level and quality of Town services. The written determination shall be retained in the office of the Town Manager or Town Clerk, as a record for public inspection, and shall also become a part of the employee's personnel file, pursuant to N.C. Gen. Stat. § 160A-168(c)(7).
- h. Each individual requesting access to confidential information will be requested to submit satisfactory proof of identity.

Section 3. Remedies of Employees Objecting to Material in File.

An employee, former employee or applicant for employment who objects to material in his/her file may place a statement in the file relating to the material considered to be inaccurate or misleading. Except for matters relating to disciplinary actions, the employee may seek removal of such material through the grievance procedure.

Section 4. Changes in Personal Information

Keeping your personnel file up-to-date can be important to you with regard to pay, deductions, benefits and other matters. If you have a change in any of the following items, please be sure to notify the Director of Human Resources as soon as possible:

- a. Legal Name
- b. Home address
- c. Home telephone number and mobile number
- d. Person to call in case of an emergency and his/her telephone number
- e. Number of dependents
- f. Marital status
- g. Change of beneficiary
- h. Driving record or status of driver's license, if you operate any Town vehicle
- i. Military status
- j. Exemptions on your W-4 federal tax form and state withholding tax form

Coverage or benefits that you and your family may receive under the Town's benefit package could be negatively affected if the information in your personnel file is incorrect.

Section 5. Records of Applicants.

Applications and other information gathered with respect to an applicant will be kept confidential in accordance with N.C. Gen. Stat. § 160A-168. The Town will not release this information without written permission from the applicant.

Section 6. Internal Investigation Records.

Records relating to an internal investigation into the conduct of employee shall be kept separate from the personnel file. Such records shall be kept confidential, and no person may have access to such records or disclose any information contained therein without the approval of the Town Manager.

If an internal investigation is undertaken in response to a complaint by a citizen, then the Town Manager may disclose to the complainant at the conclusion of the investigation that an investigation was completed and whether the charge was founded or unfounded. The Town may not disclose the nature of any disciplinary action taken except as required by Section 1, or in 2.

Section 7. Penalties for Permitting Access to Confidential Records.

Pursuant to Section 160A-168(e) of the North Carolina General Statutes, any public official or employee who knowingly, willfully, and with malice permits any person to have access to any confidential information contained in an employee personnel file, except as expressly authorized, is guilty of a Class 3 misdemeanor and upon conviction may be fined in an amount of up to \$500.00.

Section 8. Examining and/or Copying Confidential Material without Authorization.

Pursuant to Section 160A-168(f) of the North Carolina General Statutes, any person, not specifically authorized to have access to a personnel file designated as confidential, who shall knowingly and willfully examine it in its official filing place, remove or copy any portion of a confidential personnel file, shall be guilty of a Class 3 misdemeanor and upon conviction may be fined in an amount up to \$500.00.

**ARTICLE XV. FRAUD PREVENTION AND WHISTLEBLOWER
PROTECTION POLICY**

- I. The Town of Boone prohibits discrimination or retaliatory action against an employee because the employee in good faith does or threatens to file a claim or complaint, initiate any inquiry, investigation, inspection, proceeding or other action, or testify or provide information to any person with respect to the Worker’s Compensation Act, the North Carolina Wage and Hour Act, the Occupational Safety and Health Act of North Carolina, the Mine Safety and Health Act, N.C. Gen. Stat. § 95-28.1, which prohibits discrimination against any person possessing sickle cell trait or hemoglobin C trait, the National Guard Reemployment Rights Act, the Pesticide Board, or Chapter 90, Article 5F, relating to Control of Potential Drug Paraphernalia Products (hereafter, “protected activities”).
- II. The Town of Boone prohibits fraudulent activity or dishonest acts involving employees, administrators, officials, consultants, vendors, contractors, outside agencies, or employees of local boards, agencies and commissions or other parties having a business relationship with the Town of Boone (hereafter, “covered individuals”).
- III. The Town Manager and all levels of management within the Town of Boone are responsible for the prevention and detection of fraud, misappropriation, and other inappropriate conduct, including discrimination or retaliatory actions against employees who engage in protected activities or report fraudulent activity or dishonest acts by covered individuals. As used in this policy, the term “fraudulent activity or dishonest act” includes, but is not limited to, the following:
 - A. A willful or deliberate act or failure to act by one of the covered individuals, with an intention of obtaining an unauthorized or inappropriate financial benefit for himself or another person with whom he has a close familial, business or other associational relationship;
 - B. Any dishonest or fraudulent act;
 - C. Forgery or alteration of a check, bank draft, or any other financial document or account;
 - D. Misappropriation of funds, securities, supplies, or other assets;
 - E. Impropriety in the handling or reporting of money or financial transactions;
 - F. Accepting or seeking anything of material value from vendors, contractors, or other persons providing services or materials to the Town;
 - G. Using Town funds to make unauthorized purchases; or
 - H. Authorizing or receiving compensation for hours not worked.

- IV. No person acting on behalf of the Town shall, and it shall be considered misconduct on the part of an employee and a violation of the Code of Ethics on the part of any other covered individual, to:
 - A. Dismiss, or threaten to dismiss, any employee;
 - B. Discipline, suspend, or threaten to discipline or suspend an employee;
 - C. Impose any penalty upon an employee; or
 - D. Intimidate or coerce an employee

Because the employee has acted in accordance with the requirements of this policy to in good faith report the suspicion or detection of a fraudulent activity or dishonest act by a covered individual. However, it shall also be a violation of this policy for any informant to make a baseless allegation of fraudulent activity or dishonest act that is made with reckless disregard for the truth and that is intended to be disruptive or to cause harm to another individual.

- V. Any fraudulent activity or dishonest act by a covered individual, or discrimination or retaliation against a Town employee for reporting any fraudulent activity or dishonest act, or discrimination or retaliation against a Town employee for engaging in a protected activity, shall be reported immediately to the Town Manager, who will conduct an investigation into the alleged activity, involving other applicable personnel and law enforcement agencies as the Town Manager deems necessary or appropriate. An employee found to have engaged in any dishonest acts or fraudulent activity, or who is involved in discriminating or retaliating against a person who reports such activity or otherwise engages in protected activities, is subject to disciplinary action for misconduct by the Town of Boone, which may include dismissal and referral to the Watauga County District Attorney for prosecution, depending on the circumstances. Any dishonest act or fraudulent activity by a non-employee, covered individual may be referred to the appropriate law enforcement agency or Watauga County District Attorney for investigation and prosecution.
- VI. Any employee of the Town of Boone who has a reasonable basis for believing a fraudulent activity or dishonest act has occurred or is occurring has a responsibility to promptly notify the Town Manager, and the failure to do so may be considered misconduct by the Town, depending on the circumstances.
- VII. Elected officials of the Town of Boone have a responsibility to immediately notify the Town Attorney of fraudulent activity or any dishonest act involving covered individuals which is reported to them or which they detect or suspect. If the alleged fraudulent activity or dishonest act involves a Town employee, the Town Attorney shall refer the matter to the Town Manager for appropriate investigation or action. If the alleged fraudulent activity or dishonest act involves the Town Manager or other covered individual other than a Town employee, the Town Attorney may investigate the matter, involve law enforcement personnel to investigate the matter, or refer the matter to the Watauga County District Attorney for prosecution, depending on the circumstances.
- VIII. Other individuals can report suspected fraudulent activity or dishonest acts by a covered individual anonymously by sending written notice in a sealed envelope to the Town of Boone administrative offices to the attention of the Town Manager or Town Attorney.

Adopted September 18, 2018

Depending on the classification of the covered individual about whom the fraudulent activity or dishonest act is alleged, the Town Manager or Town Attorney shall proceed, as appropriate, pursuant to paragraph V or VII.

- IX. An employee who believes that he has been discriminated or retaliated against due to a good faith report of fraudulent activity or dishonest act, or for engaging in a protected activity, shall be entitled to file a grievance in accordance with Article XII of the Town of Boone Personnel Policy.

Adopted this 18th day of September 2014.