

# TOWN OF TOPSFIELD



## PERSONNEL RULES, REGULATIONS AND PROCEDURES

Adopted  
Board of Selectmen  
June 25, 2018

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1.0 General Provisions

1.1 Management Rights

Except as otherwise expressly provided in a specific provision of this Agreement, the Town of Topsfield reserves and retains to it and the Administration all management rights under Massachusetts and Federal law to manage, direct, and control the operation of the Town of Topsfield. These rights include, but are not limited to:

- A. Determine matters of inherent managerial policy, which include, but are not limited to areas of discretion or policy such as the function and programs of the employer, standards of service, its overall budget, utilization of technology, and organizational structure.
- B. Direct, supervise, evaluate, or hire bargaining unit members;
- C. Maintain and improve the efficiency and effectiveness of operations;
- D. Determine the overall methods, process, means, or personnel by which operations are to be conducted.
- E. Suspend, discipline, demote, discharge for just cause, lay off, transfer, assign, schedule, promote, or retain bargaining unit members;
- F. Determine the adequacy of the work force;
- G. Take actions to carry out the duties and mission of the organization.

The exercise of the foregoing powers, rights, authority, and duties and responsibilities of management, and the adoption of policies, rules, regulations and practices in furtherance thereof, and the use of judgment and discretion in connection therewith, shall be limited only by the specific and express terms of this written Agreement.

1.2 Authorization

These policies are promulgated in accordance with the authority granted by the Personnel Bylaw. In the case of a conflict between the provisions of these policies and the provisions of any collective bargaining agreement, the provisions of the collective bargaining agreement shall prevail.

1.3 Purpose

The purpose of these policies is to establish a fair and equitable system of personnel administration based on principles that ensure a uniform, fair, and efficient application of personnel policies.

1.4 Definitions

The following definitions shall apply:

“Affirmative Action,” the commitment to the recognition, development, and utilization of the abilities of members of protected groups. Affirmative action is a process used to achieve the purpose and spirit of anti-discrimination laws.

“Alcohol,” the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohol including methyl and isopropyl alcohol.

“Alcohol concentration,” the alcohol in a volume of breath, expressed as grams of alcohol per 210 liters of breath, as indicated by an evidential breath test such as a Breathalyzer.

“Alcohol use,” the consumption of a beverage, mixture, or preparation, including medications, containing alcohol.

“Americans with Disabilities Act,” the federal law enacted in 1990 to ensure non-discrimination in employment against qualified individuals with disabilities.

"Appointing authority," any board or official authorized by General Law, or otherwise, to employ personnel to perform services for the Town.

“Automobile allowance,” that amount approved by the Board of Selectmen to compensate an employee for regular and routine use of a personal automobile. Automobile allowance is considered to be a salary item and, as such, is subject to taxation.

"Board," the Board of Selectmen of the Town.

“Breath alcohol technician (BAT),” an individual who instructs individuals in the alcohol testing process and operates and evidential breath testing (EBT) device.

"Bylaw," the Personnel Bylaw adopted by the Town.

“Class,” A group of town employment positions defined by similar duties, responsibilities, and qualification requirements.

“Classification” The assignment of Town employment positions to appropriate classes. The official or approved list of town positions classified in accordance with their position description.

“Classification Series,” One or more classes of positions which are class for class substantially similar as to of work involved and differ only in rank (level) as determined by the importance of the duties, degree of responsibility, and amount of prior training or experience required.

“Compensation,” Hourly wages, annual salary, or stipend paid by the Town in return for services rendered in any of the classified positions contained in the Classification Plan.

“Compensation Plan,” The official or approved ranking of compensation in accordance with their classification series.

“Compensatory Time,” time off in lieu of wages for hours worked in excess of an employee’s normally scheduled work hours, per day or per week, depending upon work location and collective bargaining agreement.

“Confirmation test, alcohol,” a second test, following a screening test with a result of 0.02 or greater that provides quantitative measurement of alcohol concentration.

“Concentration test, drug,” a second test to identify the presence of a specific drug or metabolite. In order to ensure reliability and accuracy, this test is separate from and uses a different technique and chemical principle from that of the alcohol-screening test.

“Controlled substances,” used interchangeably with the term “drugs” and, unless otherwise provided, refer to marijuana, cocaine, opiates, phencyclidine (PCP), amphetamines (including methamphetamines).

"Department Head," the officer responsible for supervising a department's operations and activities. A department head may be an appointing authority.

“Discrimination,” unequal treatment or categorization of individuals on a basis other than individual merit such as race, sex, age, color, religion, marital status, national origin, sexual orientation, or disability.

“Driver,” any person who operates a commercial motor vehicle (CMV) including:

1. Full-time, regularly employed drivers
2. Casual, intermittent or occasional drivers
3. Leased drivers
4. Independent, owner-operator contractors who are either directly employed by or under contract to an employer or who operate a commercial motor vehicle at the direction of or with the consent of an employer.

“Emergency Hire,” any employee who has been hired by a Town board, commission, or agent in response to an event or series of events with adverse effects upon the safety of the Town's residents or property thereof.

“Employee”, any individual who performs services for and under the control and direction of an employer for wages or other remuneration.

"Employer", the commonwealth, and its agencies or subdivisions including, but not limited to, cities, towns, counties and regional school districts, or any authority, commission, board or instrumentality thereof.

“Equal Employment Opportunity,” a course of action that ensures that hiring and other employment decisions are made solely on an individual’s merit and qualifications, without regard to race, color, national origin, sex, age, religious or political affiliation, physical disability, sexual preference, or veteran status.

“Evidential Breath Testing (EBT) Device,” a device used for alcohol breath testing that has been approved by the National Highway Safety Administration.

“Exempt Employees,” those employees who are excluded from overtime compensation in accordance with the U.S. Fair Labor Standards Act, as determined by the Town Administrator.

“Expense Reimbursement,” that payment for approved expenses (such as personal automobile use) upon receipt of written documentation. Expense reimbursement is not considered to be a salary item.

“Full-Time,” any employee who spends an amount of time equal to thirty-seven and one half (37.5) hours or more permanently scheduled work per week in the service of the Town. Employees on the payroll prior to the 1996 Annual Town Meeting who worked thirty or more hours but less than thirty-seven and one half hours (37.5) shall retain their full time status for the purpose of benefit administration. Compensation shall be in accordance with the schedules established for their hours worked or the pay level established in the July 1, 1999 schedules whichever is higher.

"General Laws," the General Laws of the Commonwealth of Massachusetts.

"Health care provider," a doctor of medicine or osteopathy authorized to practice within the located state, or any person determined by the Secretary of Labor, or others capable of providing health care services as defined by the Department of Labor Family and Medical Leave Act rules.

“Hourly (Non-Exempt)”, any employee of the Town who by virtue of his classified position is compensated on an hourly rate of service rendered.

“Improper governmental action” means any action by a Town officer or employee:

1. That is undertaken in the performance of the officer’s or employee’s official duties, whether or not the action is within the scope of the employee’s employment; and
2. That:
  - a. Is in violation of any federal, state or local law or rule;
  - b. Is a substantial and specific danger to the public health or safety; or
3. Improper governmental action does not include personnel actions including, but not limited to, employee grievances, complaints, appointments, promotions, transfers, assignments, reassignments, reinstatements, restorations, reemployments, performance evaluations, reductions in pay, dismissals, suspensions, demotions, violations of applicable collective bargaining, alleged labor agreement violations, reprimands, or any other personnel action taken under authority of state law.

“Individual with a Disability,” an individual who has a physical or mental impairment that substantially limits one or more of his or her major life activities or who has a record of such an impairment, or who is regarded as having such an impairment. An individual who currently uses drugs illegally is not considered to be an individual with a disability.

"Intermittent leave," time away from the job taken in separate blocks of time due to a single illness or injury.

“Job Description,” the official written description of a class which consists of a class title, a general statement of duties and abilities, and training required or desired for that particular class of positions.

“Keeper of the Records,” that person who has custodial authority over certain records, such as the Secretary to the Town Administrator for personnel files, and the Town Accountant for payroll data.

“Major Life Activities,” activities that an average person can perform with little or no difficulty, such as walking, speaking, breathing, performing manual tasks, seeing, hearing, learning, caring for oneself, or working.

“Management Employees,” those employees who are responsible for a Department or Division and who are expected to work the required number of hours to fulfill the responsibilities of their positions. Managers are not necessarily required to work the same regularly scheduled work hours as non-management employees.

“Medical Review Officer (MRO),” a licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by an employer’s drug testing program. The MRO must have knowledge of substance abuse disorders and appropriate medical training to interpret and evaluate an individual’s confirmed positive test, medical history, and other relevant biomedical information.

“Minor,” a person below the age when full civil and personal rights can be exercised (in this context, 18 years of age).

“Minority,” a person with permanent residence in the United States who is Black, Hispanic, Native American, Alaskan Native, Asian or Cape Verdean.

“Municipal Vehicle,” those automobiles, trucks, vans, or other self-propelled equipment owned, rented, or leased by the Town and licensed for travel on a public way.

“Non-exempt Employees,” those employees who are entitled to receive overtime compensation in accordance with the U.S. Fair Labor Standards Act, as determined by Town Administrator.

“Non-smoking area,” any area that is designated and posted by the person in charge as a place where smoking is prohibited.

“Overtime Pay,” payment of time and one half an employee’s regular rate of pay for approved hours worked in excess of forty (40) hours per week.

“Part-time employee,” an employee working fewer than thirty seven and one-half (37.5) hours but more than twenty (20) hours per week for fifty two weeks per year and is eligible for benefits except as otherwise noted.

“Part-time Employee without benefits,” an employee working fewer than twenty (20) hours per week or 1000 hours per year and is not eligible for benefits. This includes seasonal, temporary or intermittent employees.

“Personal Automobile,” that automobile owned or available for private use by the employee.



“Post-Employment Documentation,” information, forms, or other similar documentation submitted by or about an employee after he/she begins employment with the Town.

“Pre-Employment Documentation,” information, forms, or other similar materials submitted by a candidate prior to his/her beginning employment with the Town.

"Probationary period," the first 180 days of employment.

“Promotion,” a change from a position of lower classification and compensation grade to a position in the same department and with similar work, but with greater responsibilities and in a higher classification and compensation grade.

“Protected Class,” legally identified groups that are specifically protected by statute against employment discrimination.

"Public body",

1. the United States Congress, any state legislature, including the general court, or any popularly elected local government body or any member or employee thereof;
2. any federal, state, or local judiciary, or any member or employee thereof, or any grand or petit jury;
3. any federal, state or local law enforcement agency, prosecutorial office, or police or peace officer; or
4. any division, board, bureau, office, committee, or commission of any of the public bodies described in the above paragraphs of this subsection.

“Public Records,” those records defined in MGL Chapter 4, Section 7, including all books, papers, maps photographs, recorded tapes, financial statements, statistical tabulations, or other documentary materials or data, regardless of physical form, made or received by the Town to serve a public purpose, unless specifically exempted.

“Qualified Individual with a Disability,” an individual with a disability who meets the skill, experience, education and other job-related requirements of a position held or desired, and who, with or without reasonable accommodation, can perform the essential functions of the particular job.

“Reasonable Accommodation,” a modification or adjustment to a job, employment practices or work environment that makes it possible for an individual with a disability to enjoy an equal employment opportunity.

“Reclassification,” a change made to a position title within the Classification Plan as a result of a change in duties, increased responsibilities or increased levels of certification (technical or academic) required to perform the job.

"Retaliatory action", the discharge, suspension, or demotion of an employee, or other adverse employment action taken against an employee in the terms and conditions of employment.

“Rule” means any order, directive, or regulation, the violation of which subjects a person to a penalty or administrative sanction.

“Salaried” (Exempt) Any employee of the Town who by virtue of his classified position is compensated on an annual basis for services rendered

“Screening Test, alcohol,” the initial test to determine if a driver has a prohibited concentration of alcohol in his or her system.

“Screening Test, drug,” a screen to eliminate ‘negative’ urine specimens from further consideration.

"Serious health condition," an illness, injury, impairment or physical or mental condition that involves:

1. incapacity or treatment as an inpatient in a hospital, hospice or residential medical care facility, or
2. incapacity requiring absence from work or other activities for more than three (3) calendar days and involves continuing treatment of a health care provider, or
3. continuing treatment by a health care provider for a chronic or long-term health condition that is incurable or if left untreated would result in incapacity for more than three (3) calendar days.

“Sexual Harassment,” unwelcome conduct of a sexual nature.

“Stipend,” a set annual rate of compensation for a specified activity. Stipend employees are not eligible for benefits (i.e., vacation, sick time, insurance, etc.)

“Substance abuse,” refers to the patterns of substance use that result in health consequences or impairment in social, psychological, and occupational functioning.

“Substance abuse professional,” a licensed physician (medical doctor or doctor of osteopathy) or a licensed or certified psychologist, social worker, employee assistance professional, or certified addiction counselor with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substance-related disorders.”

"Supervisor", any individual to whom an employer has given the authority to direct and control the work performance of the affected employee, who has the authority to take corrective action regarding the violation of the law, rule or regulation of which the employee complains, or who has been designated by the employer on the notice required.

“Tardiness,” reporting to work after the customary reporting time has passed.

"Temporary/Seasonal employee," an employee whose fixed tenure of service is stipulated at the time of hire, excluding those who are appointed to serve in positions for which a term of office is stipulated by law or bylaw, and generally for a period not to exceed six (6) consecutive months or

1000 hours.

"Town," the Town of Topsfield.

"Twelve month period," a "rolling" period measured forward from the date an employee uses any family and medical leave.

"Undue Hardship," an action that is excessively costly, extensive, substantial, or disruptive, or that would fundamentally alter the nature or operation of the department.

"Workplace," any area within a structure or portion thereof at which employees perform services for their employer, including employee lounges, rest rooms, conference rooms, hallways, stairways, and entranceways.

1.5 Amendments

These policies may be amended as provided by the Town Personnel By-Laws.

1.6 Personnel Officer

The Town Administrator shall serve as the personnel officer for the Town responsible for administration of the personnel system. The personnel officer shall provide assistance and training to appointing authorities and department heads to ensure that recruitment, selection, appointment and retention of employees, maintenance of the classification plan and salary schedule, application and periodic review of personnel policies, and administration of a problem resolution system are accomplished in ways that are consistent with the Bylaw and these policies. The personnel officer shall supervise the maintenance of a personnel record keeping system. The personnel officer shall bring to the Board's attention issues or matters requiring their attention in the administration of these policies.

2.0 Recruitment

2.1 Posting and Advertising of Vacancies

Job vacancy notices for vacant positions shall be developed by the appointing authority/department head based on the position description on file with the Town Administrator. Job vacancy notices shall not be required for temporary appointments or for the temporary replacement of incumbents on approved leave status.

The position description on file with the Town Administrator is the official description of the duties of the position. The appointing authority/department head will prepare the job posting based on the official job description, grade, and current salary information. All postings and advertisements shall include:

1. position title;
2. salary or salary range;
3. a brief description of the duties;
4. minimum qualifications including licenses and/or certifications
5. name and address to which to send applications;

6. last day for filing applications; and
7. an AA/EEO statement.

Internal applicants will be considered prior to external candidates if they meet minimum entrance requirements. When recruiting candidates for a position, internal recruitment will be by way of a posting in Town Buildings. External recruitment will be by way of an advertisement as indicated below. The appointing authority should prepare the text of the classified advertisement and forward it to the Town Administrator for review.

The Town Administrator shall review and approve the content of all job notices prior to posting and the content and funding availability of all job advertisements prior to publication.

Job notices shall be posted for seven (7) business days. Job advertisements shall be placed in local newspapers, Boston newspapers, or trade journals as appropriate after consultation with the Town Administrator.

## 2.2 Equal Employment Opportunity/Affirmative Action

The Town recognizes the right of individuals to work and advance on the basis of merit, ability, and potential without regard to race, sex, color, disability, religion, national origin, sexual orientation, or age. Non-discrimination and equal opportunity are the policy of the Town in all of its hiring programs and activities.

Toward this end, the Town commits itself to take affirmative measures to ensure equal opportunity in the recruitment and hiring, rate of compensation, and all terms and conditions of employment. The Town is committed to fostering and encouraging a workplace comprised of individuals of diverse backgrounds, races, genders, abilities, religious beliefs, sexual orientation, and ages.

All Town employees are encouraged to take diligent, affirmative steps to ensure equal opportunity and respect for diversity. The policy of the Town is to recruit and hire without regard to race, sex, color, disability, religion, national origin, sexual orientation, or age. Decisions about employment will be made so as to encourage the development of a diverse workforce.

### 3.0 Hiring

#### 3.1 Screening/Interviewing

The appointing authority/department head will screen resumes and applications based on criteria established prior to receipt of resumes. Appointing authorities and department heads should follow standard procedures when screening resumes and conducting interviews. The following are general guidelines:

1. Devise standard selection questions which are not gender or race biased, and use the same questions for all candidates;
2. Screen resumes for minimum entrance requirements;
3. Select candidates for interview, and send a letter to candidates not selected for interview;
4. Notify successful candidates of selection (by telephone) and then interview those candidates (interviews conducted by Town Boards and Committees are subject to the provisions of the Open Meeting Law);
5. Select candidates for final (or second) interview, contact references, and conduct final interviews;
6. Select final candidate. Review offer to candidate with Board of Selectmen or its designee and secure approvals if offering higher than minimum entrance rates;
7. Offer the candidate employment in writing; and
8. Notify unsuccessful candidates by telephone, email or by mail.

#### 3.2 Employment Applications

All applicants for employment will complete an official employment application form that shall be retained by the appointing authority and the Town Administrator. The form will include a statement signed by the applicant certifying to the truthfulness and accuracy of all information provided on the form. Resumes may be accepted as supplements to the application, but not as substitutes. Language that should be included at the end of the Employment Application or as an attached Release to the Application is found in Attachment A to this document.

#### 3.3 Reference and Background Checks

It is the policy of the Town to check references of all potential employees. It is the responsibility of the appointing authority to conduct reference checks on the final candidates they are considering to hire. The job applicant will be asked to provide at least three references from previous employment. The appointing authority/designee will make at least one attempt to contact each reference and keep careful written records of having done so. The appointing authority/designee shall not request any information about a job applicant from a previous employer, family member, or other source that it may not itself request of the job applicant.

Candidates should be informed that reference checking may be extended to their current and any or all of their previous employers, even though they may not be on their reference list. **However, do not contact the current employer unless the candidate has specifically authorized you to do so; we do not want to jeopardize their current position and thereby subject the Town to legal action.** The candidate is not required to provide this authorization, but checking references should be considered a very important part of the selection process and the appointing authority

should be very cautious about hiring a new employee who will not provide adequate reference checking authorization.

Before making reference calls, the appointing authority/designee will prepare a set of questions that are related to the position and help with the hiring decision. The appointing authority should describe to the reference the position that the candidate has applied for and describe what he/she is looking for in the ideal candidate.

When calling a reference, introduce yourself, state that you are checking the reference on (name), a candidate for (state the position) and you have the candidate's permission to talk with the reference. If they refuse to provide a reference, ask them what their policy is on providing references for current or past employees to assess whether the issue is their blanket policy on providing references or the fact that they will not provide a reference for this particular employee (or former employee). Questions regarding attitude, skills, experience, and performance should be asked.

Reference check questions should be directly related to the duties and performance of the person's job. Do not contact "character references" or references who have not worked with the candidate. Questions related to protected class status or disability claims should be avoided. (Sample reference questions can be found in Appendix A.)

While the employer has the right to check employment references, state and federal laws protect candidates and employees from unreasonable intrusions by prospective employers into their private, non-job related activities and status. (There are a few exemptions to this rule, for example, law enforcement candidates).

### 3.4 Employment Eligibility

The Town's policy with respect to employment eligibility is set forth in accordance with the Immigration Reform and Control Act of 1986 that requires that employers verify the employment eligibility of prospective employees. This law sets for the requirements for eligibility to work in the United States.

It is the policy of the Town that new employees must provide proof of authorization to work in the United States prior to beginning employment with the Town as mandated by federal law. After making an offer of employment, the department manager/designee should verify the candidate's eligibility to work in the United States, using the "Employment Eligibility Form" (I-9 Form).

The department manager/designee should outline the purpose of the form and give the candidate the Employment Eligibility Information Sheet. The department manager/designee should complete the I-9 form and verify the documentation submitted as instructed on the form.

Prospective employees must sign the I-9 form and provide the appropriate documentation on the first day or prior to beginning work. The department manager should stress during the interview that all offers of employment are contingent on the candidate's providing the Town with the appropriate documentation prior to being placed on the payroll. This statement should be included

in the offer letter, where applicable. Documentation provided with the I-9 should be photocopied and attached to the I-9. Such documentation will not become a part of the employee's personnel file but will be maintained by the Treasurer/Collector's Office in chronological order.

### 3.5 Offer of Employment

An appointing authority shall provide an offer of employment in writing to any prospective employee that contains the rate of pay, hours of work, starting date for employment and other relevant information. A copy of such offer of employment, signed by the new hire and their supervisor, should be provided to the Town Administrator. Each new employee shall be directed to consult with the Accounting Office, Treasurer's Office and the Retirement Board during the first week of employment to ensure compliance with all legal requirements and facilitate enrollment in health insurance plans and the retirement system, as appropriate.

### 3.6 Hiring Documentation

The following documentation should be compiled and forwarded to the Town Administrator along with the Application for Employment/resume prior to the employee's first day of work:

1. Payroll Authorization Form (This form should also be copied to the Town Accountant)
2. Employment Eligibility Form (I-9)
3. Pre-Employment Physical Examination Form, if applicable
4. Confidential Employee Information Form (What is this?)
5. Employee signed acknowledgement of appropriate Town Policies such as Computer Use Guidelines, etc.

On the first day of employment, or at latest, during the first week of employment, the employee will be required to submit the following documentation:

1. W-4 or W-4A tax withholding form;
2. Retirement form 101;
3. Birth certificate;
4. Basic and optional life insurance enrollment form or waiver;
5. Health insurance enrollment form or waiver;
6. Annuity/deferred compensation enrollment form (optional); and
7. Section 125 ("Cafeteria Plan") benefit waiver

### 3.7 Pre-Employment Physicals

At the discretion of the Town Administrator, applicants for appointive employment by the town may be certified by a practicing physician, designated by the town, as to his or her physical fitness to perform the duties of the position to which such applicant seeks appointment and as to any physical condition of the applicant which might adversely affect the insurance coverage of the town under Chapter 152 of the General Laws of the group insurance coverage of other town employees. If the Town Administrator deems such action necessary to the protection of the town, Town Administrator may require any applicant for temporary appointive employment by the town who is to be employed for thirty (30) days or more, or any temporary appointive employee who has been employed by the town for thirty (30) days and has not been so certified, to be

certified by a physician designated by the town as to his or her physical fitness to do the work required by the town and as to the presence of any condition detrimental to the insurance coverage hereinbefore described. The certification required hereunder shall be in such form as the Board shall determine. The cost of any physical examination required by this section shall be paid by the town and shall be charged to the hiring department or shall be charged to such special appropriation as the town may make for the purpose of this section.

3.8 Probationary Period

For all employees, the first one hundred and one hundred and eighty (180) days of employment shall be a probationary period. Probationary employees shall have no rights to contest the termination of their employment during the probationary period. Probationary employees should receive an appraisal of their performance after the initial one hundred and eighty (180) days of employment.

Probationary employees will earn benefits throughout this probationary period as specified within this document

3.9 Temporary and Seasonal Employment

Department heads and appointing authorities may appoint temporary and seasonal employees to titles contained in the Classification Plan in accordance with procedures outlined herein.

Temporary and seasonal employees are not entitled to benefits such as health insurance, paid holidays or accrued leave regardless of the number of hours worked per week.

Temporary and seasonal appointments must not exceed six (6) consecutive months or 1000 hours. A specified term of service must be stipulated prior to appointment. Temporary and seasonal employees must be appointed to titles that are contained in the current Classification Plan. Temporary and seasonal employees will be paid at the entry level rate of the position to which they are appointed. Upon receipt of a written request from an appointing authority or department manager, the Town Administrator may adjust the rate of compensation for any temporary and seasonal position but shall not increase the rate by more than two (2) compensation grades.

Department heads/appointing authorities making temporary/seasonal appointments must follow the general recruitment and hiring procedures outlined herein.

3.10 Employment of Minors

The Town will comply with all laws of the United States and the Commonwealth of Massachusetts in the area of child labor. Department managers should pay strict attention to the procedures and requirements listed below in order to insure compliance with the law and the safety of children who may work for the Town.

Minors sixteen (16) years of age and older may not work more than nine (9) hours per day, nor more than forty-eight (48) hours per week. Such minors may not work between 10:00 p.m. and 6:00 a.m. Such minors must submit an educational certificate that they have obtained from their school or the Superintendent of Schools in the town where they live. Minors sixteen (16) years of age and older may perform most types of work, except work involving hazardous occupations as established by the State and Federal Secretaries of Labor (see Attachment B)



Minors fourteen (14) and fifteen (15) years old must have on file and “Employment Permit” from their school or the Superintendent of Schools in the Town where they live. Such minors may not be employed during school hours (unless as part of a qualifying “work experience program”). Such minors may not be employed between 7:00 p.m. and 7:00 a.m. (except that from July 1 through Labor Day they may work until 9:00 p.m.). Such minors may not be employed:

1. More than three (3) hours per day on school days;
2. More than eighteen (18) hours per week in school weeks;
3. More than eight (8) hours per day during a period of not more than nine (9) consecutive hours on non-school days;
4. More than forty (40) hours per week; or
5. More than six (6) days in a week.

Minors of fourteen (14) and fifteen (15) years are prohibited from working in the occupations listed in Attachment C.

The Town must keep posted in a conspicuous place, in the room where such minors are employed or report to work, a printed notice or schedule stating the number of hours such minors are required or permitted to work on each day of the week, the total number of scheduled hours for the week, the hours commencing and stopping work, and the hours when the time allowed for meals begins and ends for every day of the week.

### 3.11 Probationary Compensation

At the discretion of the supervisor an employee may be compensated during his/her initial employment at a probationary rate for a period not to exceed six (6) months. The probationary pay shall be five (5) percent less than the entry level or starting step for the classification. No additional compensation shall be paid to any employee designated as having been paid a probationary rate.

#### 4.0 General administration

##### 4.1 Classification Plan and Salary Schedule

The Town Administrator shall establish for the approval of the Board of Selectmen a uniform system for the classification of positions based on similarity of duties performed and the responsibilities assumed so that the same qualifications may reasonably be required, and the same schedule of pay may be equitably applied to all positions in the same class. Said Schedule will appear as Attachment D to these Policies. No employee may be appointed to a position not included in the classification plan

The classification plan shall cover and include all Town departments and positions in the Town service other than positions under the direction and control of the School Committee, positions filled by popular election or employees represented by union contracts. When necessary, the Board, after consultation with appointing authorities, may establish temporary classifications with related compensation.

The Town Administrator shall establish, maintain, and amend, as it deems necessary, written job descriptions for each class of positions. The job description shall describe the essential character of the duties and responsibilities of positions properly allocated to the class with illustrative examples of work where desirable and shall state the minimum qualifications for entrance to positions of the class.

The minimum qualifications for all classes of positions shall be prescribed by the Town Administrator and shall be based upon:

1. the minimum qualifications recommended by a department head,
2. an examination of work content of positions allocated to the class,
3. a study of comparable positions in private employment and in the service of other municipalities.

The minimum qualifications for employment in paid elective positions shall be lawful election to the position and compliance with any special qualifications prescribed by law for such positions.

The title of each class established by the classification plan shall be the official title of every position allocated to the class and the official title of each incumbent of a position so allocated, and it shall be used to the exclusion of all others on payrolls, budget estimates, and other official records and reports pertaining to the position.

Upon recommendation of the Town Administrator, the Board of Selectmen shall adopt a salary schedule of hourly rates of pay, attached to these Policies as Appendix B. The compensation of elected officers of the Town shall be established annually by vote of the Town Meeting, as required by General Laws c. 41, §108.

##### 4.2 Reclassification and Salary Adjustments

Town employees or registered voters may request the Town Administrator to consider changes in the classification of positions, changes in the compensation of Town personnel covered by these Policies, or amendments to the Policies. Such requests shall be filed with the Board of Selectmen

not later than the tenth day of January in each year.

No position may be reclassified, nor may any class be assigned to a different compensation grade, until the Town Administrator has determined such reclassification or reassignment is consistent with the classification plan and it has been voted by the Board of Selectmen.

Department heads shall include in their estimates required by the provisions of General Laws c. 41, §59, a pay adjustment section setting forth in detail the amounts which will be required for anticipated pay adjustments during the ensuing year and shall furnish a copy thereof to the Board of Selectmen and Town Accountant.

#### 4.3 Hours of Work and Work Schedules

The hours of work shall be those necessary for the efficient conduct of the Town's business as determined by the appointing authority. The basic workweek shall be five (5) days, totaling forty hours (40) or as otherwise stated in a collective bargaining agreement.

Subject to approval of the appointing authority, each department manager shall schedule normal working hours for his or her department. In addition, department managers may establish irregular work schedules due to seasonal or other workload requirements. In establishing such schedules, department managers shall carefully consider the convenience of the employees involved, the impact on internal/external customers and the impact on department productivity .

However, due to the specific responsibilities of various departments, different hours and days of work and different tours of duty may be established for certain positions. Each employee will be notified by the department manager as to the specific hours of work established for that department.

Appointing authorities and department managers may establish flexible working schedules for employees consistent with the staffing of the particular department and the business hours of the municipal building in which the department is located. Such schedules shall be reduced to writing, and may be changed only at the discretion of the appointing authority.

Exempt employees work a considerable number of nights, and often work additional hours attending board and committee meetings, Town Meetings, and responding to emergencies. When workloads permit, and taking into consideration the individual circumstances in each department, appointing authorities are urged to allow exempt professional and managerial staff to adjust their work schedules.

#### 4.4 Performance Appraisal

The Town will utilize its established Performance Appraisal system in order to accomplish several goals: to continuously improve the effectiveness and efficiency of Town services; to provide an opportunity for two-way communication and planning between employees and supervisors; to assist employees in increasing the effectiveness of their job performance; to provide a mechanism for the establishment of individual and department goals; to serve as the basis of acknowledging employee's accomplishments and recognizing employee's potential need for guidance, training, and/or support; and to provide documentation of employee performance to

serve as the basis for salary adjustments and personnel actions.

The Performance Appraisal system will apply to all employees, excluding employees under the control and supervision of the School Committee, positions filled by popular election or employees represented by union contracts.

It is the policy of the town that all full-time and permanent part-time employees will be evaluated on an annual basis. Additionally, employees who are nearing the end of the probationary period will be evaluated prior to the determination as to whether the employee should be retained on a permanent basis.

#### 4.5 Promotions and Transfers

Each employee in a position for which step rates are provided will be considered for an increase in compensation to a higher rate for that position after completion of the required period of continuous service and an annual performance evaluation of M (meets expectation), E (exceeds expectation), or CE (consistently exceeds expectation).

Any employee who has been at the maximum step on his/her schedule for five (5) years may, upon recommendation of his department head, be considered for a merit increase to be acted upon at the Annual Town Meeting, said merit increase to be no more than five percent (5%) of the employee's current base salary.

When an employee is promoted or transferred to a higher-rated position, he/she shall enter it at the minimum rate for that position. If his/her existing rate is higher than the minimum rate of the new position, he/she will advance to the next step above his/her present rate. He/she may also receive a one-step increase at the time of promotion, if the department head recommends, in writing, that qualifications and performance warrant it and if the Town Administrator approves it.

If an employee is transferred or demoted to a lower-rated position, they shall enter it at their rate in the position from which they are transferred. The pay rate of such employee shall be adjusted to the appropriate rate for their new position within one (1) year by such adjustments as the Town Administrator shall determine.

#### 4.6 Longevity Compensation

Full-time employees who have worked continuously for the Town for ten (10) years or more shall receive an increase in compensation as follows:

Years of Service as of July 1	Amount of Increase
After 10 years of continuous service	\$ 650
After 15 years of continuous service	\$ 750
After 20 years of continuous service	\$1,000

For part-time employees with benefits, any longevity payments granted under the terms of this policy will be pro-rated on the basis that their part-time service bears to full-time service.

Employees eligible to receive longevity who leave the Town in good standing and return to work

within two years will be entitled to receive credit for prior service for the purpose of calculating continuous service for longevity. The length of the absence shall not be included in the calculation of continuous service.

Interruption of employment for the purpose of performing military service under orders shall not be deemed a break in continuous employment with the Town for the purpose of determining longevity eligibility, provided that no employment other than military service under orders is entered into during the period of interruption, and that the employee returns to Town service within thirty (30) days after honorable discharge from active military service, or immediately upon release from reserve duty.

Employees who transfer from the School Department to a General Government department may request that the Board of Selectmen approve the inclusion of such School Department service for the purpose of calculating continuous service for longevity.

An employee who elected an unpaid leave of absence of more than ten days per fiscal year shall have his/her longevity date adjusted by the number of calendar days spent on unpaid leave, in accordance with the Leave of Absence Policy.

#### 4.7 Holidays and Holiday Pay

Full-time and part-time employees shall be entitled to the legal holidays on which State or County offices are closed as provided in General Laws as follows:

One day of paid leave shall be granted to all regular status employees for each of the following days:

<u>Holidays</u>	<u>Observed On:</u>
New Year's Day	January 1
Martin Luther King Day	Third Monday in January
Presidents' Day	Third Monday in February
Patriot's Day	Third Monday in April
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	First Monday in September
Columbus Day	Second Monday in October
Veterans' Day	November 11
Thanksgiving Day	Fourth Thursday in November
Day after Thanksgiving	Friday After Thanksgiving
Christmas Day	December 25

Temporary and limited status employees are not eligible for holiday pay, except as provided by Town Administrator policy for temporary status Recreation Department employees who work consecutive seasons resulting in year-round employment.

To qualify for holiday pay, an employee must be on paid status on his/her last regularly scheduled work day immediately preceding the holiday and on his/her first regularly scheduled work day immediately following the holiday.

Town Personnel Policies and Procedures may provide further definition of the leave and/or pay granted for holidays defined above.

If any holiday falls on full time employee's normal day off, the employee shall be entitled to compensatory time off. Such compensatory time off shall be taken within sixty (60) calendar days of the holiday, and shall be taken with the prior approval of the department head.

Holiday pay for full-time employees shall be eight (8) hours pay. Holiday pay for eligible part-time employees shall be based on their regularly scheduled work week. Temporary seasonal employees shall not receive holiday pay.

Full-time and part-time employees performing their official duties on a holiday, and employees performing emergency work on a holiday shall be paid at the rate of two times their basic hourly rate of compensation. In the alternative, the employee may elect to take one compensating day off subject to supervisory approval.

#### 4.8 Personnel Records

This policy applies to all General Government employees. Collective bargaining agreements are subject only to those provisions in this policy which are not specifically regulated by the collective bargaining agreement.

A centralized personnel file shall be kept for each employee by the Town Administrator. Such files shall include applications, evaluations, reports, and records pertinent to an employee's employment. To ensure the uniformity and confidentiality of employee personnel files, content of and access to files is limited and shall be controlled in accordance with this policy.

It is the policy of the Town that all employees shall comply with the laws governing public records and confidential information. No employee shall knowingly or willingly release confidential personnel information, nor shall employees refuse to provide public information.

Town employees have a diminished expectation of privacy as public employees. However, all medical information is to be considered confidential at all times.

##### 4.8.1 Content

Pre-employment documents such as applications, resumes, required licenses, offer of employment letters, copies of transcripts or diplomas, pre-employment physical reports, military discharge documentation, and other similar materials shall be included in the personnel file.

Post-employment documents such as performance appraisals, disciplinary action notices, physician's statements, commendations, copies of information sent to the employee, or to third parties about the employee, etc. shall be included in the personnel file. When post-employment information is inserted into an employee's personnel file (excluding routine paperwork), he/she shall be given a copy of such material by the appointing

authority/designee at his/her discretion.

The appointing authority/designee at his/her discretion shall determine whether a report or record will be placed in the employee's personnel file, except for information submitted by the employee him/herself in rebuttal. Any material submitted by a person other than the appointing authority or the employee (excluding routine paperwork) shall be forwarded to the appointing authority for his/her approval prior to insertion into the file.

All medical-related information will be kept segregated.

#### 4.8.2 Removal

Once inserted into an employee's personnel file, documents may only be removed if there is a clear and compelling reason to do so. The employee or his/her appointing authority must make such requests. The employee should forward a request to his/her appointing authority. The appointing authority shall forward the request, and a letter of support or denial, to the Town Administrator.

The Town Administrator will make a determination as to whether or not the material in questions should be removed from the employee's personnel file. If the appointing authority is not satisfied as to the decision of the Town Administrator, he or she may file an appeal with the Board of Selectmen in accordance with the Personnel Procedures.

#### 4.8.3 Location and Security

Employee personnel files will be maintained in the Town Hall under the supervision of the Personnel Director who will be responsible for their safety and security. It is the responsibility of the appointing authority/department manager to forward all relevant documents to the Personnel Director for inclusion in the official file. Department managers may keep duplicate copies of personnel records. However, these personnel records maintained in remote locations are considered to be part of the employee's personnel record and must be shown to the employee upon request.

#### 4.8.4 Access

An employee, upon written or verbal request and in the presence of Town Administrator or designee, may review, add rebuttal to a particular document, or be provided with a copy of all or part of his/her personnel file. An employee now or formerly in the employ of the town may see and or receive a copy of his or her own personnel records by asking in person or in writing.

Other individuals authorized access to employee personnel files include: attorneys or union representatives of the employee who have written authorization from the employee; the department manager and appointing authority who supervise the employee; attorneys or their agents representing the town; and third parties in response to a court order and supervisors considering any town employee for promotion or transfer with written consent of the employee.

A subpoena or court order requires the appearance of the named individual, such as the keeper of records, and may also require those individuals to bring to a court appearance certain employee records which they have in their possession. Any employee who receives a subpoena or court order requiring personnel or payroll information should contact the Town Administrator immediately. The Town will only release confidential personnel information in response to a court order. The employee will be notified by the Town Administrator in the event that confidential employee data is released in response to a court order.

Authorized employees may respond to requests for verification of employment from banks, mortgage companies, credit card agents, etc. by providing basic public information such as length of service and salary rate. Employees who receive requests for personnel information other than employment verification, even that which is public record, should refer such requests to the Town Administrator or his/her designee.

4.9 Educational Reimbursement

Upon recommendation of the employee's supervisory authority, the Board of Selectmen may approve the reimbursement by the Town from seventy-five (75) percent to one hundred (100) percent of the cost of position related educational courses or training sessions at accredited institutions for Town employees. Approval for reimbursement shall be given prior to enrollment on forms provided and shall be conditional upon successful completion of the program as evidenced by a course grade of "C" or equivalent or the presentation of a certificate of achievement.

4.10 Health Insurance.

The Town will be in compliance with applicable state statutes.

4.11 Licenses and Certificates

The Department Head shall keep a record of all licenses and operator certificates that are required to carry out the duties of the employment position. A copy will be sent to the employee's personnel file. The Town shall reimburse upon receipt of proper documentation one-hundred (100) percent of the employee's expenses incurred for examination and/or training sessions required by the laws of the Commonwealth or by virtue of the position.

4.12 Weather and Emergency Events

Under certain conditions including severe weather, the Board of Selectmen may direct employees not to report to work or to delay arrival to work. In these instances, approval for paid leave will be granted for employees regularly scheduled for work that day or time period

During adverse weather not severe enough to warrant administrative office closings, if an employee reports to work and chooses to leave, the employee may opt to use her or his accrued vacation or personal leave accruals for the balance of the working day that the Town offices remain open. If the Board of Selectmen closes the Town offices later in the day, the employee becomes eligible for paid leave from the time the Town offices closed until the end of the employee's regular work schedule for that day.



An announcement will be placed on the telephone answering systems to indicate that the Town offices are closed on account of weather and/or travel conditions.

Employees on vacation, sick or personal leave or otherwise not scheduled to work during the affected period of time are not eligible to be paid under this policy. In the instance of a delayed opening, an employee will be paid for the period of the delay. If an employee opts not to come to work at the delayed opening time, the employee should notify his or her supervisor as soon as the respective Town office is scheduled to open. They may use their accrued vacation or personal leave time allowance for the balance of the working day.

When the Board of Selectmen determines that the severe weather or travel conditions exist that warrant the closure of the Town offices or the delayed opening, a designated Board member will contact the Town Administrator who will in turn contact respective department heads who will inform their respective staff

#### 4.13 Retirement Benefits

The following employee retirement benefits shall apply only to Full Time and Part Time Employees with Benefits.

##### 4.13.1 Life Insurance.

As a condition for the Town to continue the sixty-seven (67) percent contribution towards the employee's premium payments, upon the employee's retirement, the disability provision of the policy shall be canceled and death benefits shall be reduced to not less than two thousand five hundred (2,500) dollars. This provision is subject to the availability of such a policy.

##### 4.13.2 Medex or 65 Plan Health Insurance.

Retired employees who are eligible for retirement benefits under the Essex Regional Retirement Pension System or the Massachusetts Teachers Retirement System shall be eligible for reimbursement from the Town for sixty (60) percent of the premium paid for Medex or an indemnity Health Insurance Policy or sixty-seven (67) percent of an HMO covering the retired employee and spouse.

##### 4.13.3 Essex County Retirement Plan.

Any full-time or part-time employee of the Town or school (not enrolled in Mass. Teacher's Retirement) shall be enrolled in the Essex County Pension Plan.

## 5.0 Standards of Conduct

### 5.1 General Conduct and Standards

Town employees are expected to act honestly, conscientiously, reasonably and in good faith at all times having regard to their responsibilities, the interests of the Town and the welfare of its residents.

Employees have an obligation to be present at work as required and to be absent from the workplace only with proper authorization; to carry out their duties in an efficient and competent manner, and maintain specified standards of performance; to comply with reasonable employer instructions and policies and to work as directed; to respect the privacy of individuals and use confidential information only for the purposes for which it was intended; to neither use, nor allow the use of Town property, resources, or funds for other than authorized purposes; to incur no liability on the part of the Town without proper authorization; and, to maintain all qualifications necessary for the performance of their duties legally and efficiently.

The intent of this policy is to ensure that: 1) employees meet the Town's legitimate expectations in the areas of performance and behavior; 2) employees whose performance or behaviors are deficient are provided with the necessary assistance and motivation to meet the Town's expectations; and 3) disciplinary action initiated against an employee is fair and appropriate.

Failure to behave in a manner consistent with the standards of conduct and policies included herein may result in disciplinary action being initiated against the offending employee. The Town shall utilize a fair and equitable process in reviewing an employee's alleged violation of these standards and policies and shall discipline the employee, if called for, in a manner appropriate given the alleged violation. *{Guidelines for Disciplinary Procedures are included as Appendix C}*

This policy applies to all paid, appointive employees in Town Service other than those positions under the supervision and control of the School Committee. Employees subject to collective bargaining agreements are subject only to those provisions which are not specifically covered by collective bargaining agreements.

### 5.2 Non-Discrimination

The Town recognizes the right of individuals to work and advance on the basis of merit, ability, and potential without regard to race, sex, color, disability, religion, national origin, sexual orientation, or age. Non-discrimination and equal opportunity are the policy of the Town in all of its employment programs and activities.

Toward this end, the Town commits itself to take affirmative measures to ensure equal opportunity in the areas of recruitment, hiring, promotion, demotion or transfer, layoff or termination, rates of compensation, in-service or apprenticeship training programs, and all terms and conditions of employment. The town is committed to fostering and encouraging a workplace comprised of individuals of diverse backgrounds, races, genders, abilities, religious beliefs, sexual orientation, and ages.

All town employees are encouraged to take diligent, affirmative steps to ensure equal opportunity

and respect for diversity, not only in the internal affairs of the Town departments and agencies, but also in their relations with the public, including those persons or organizations doing business with the Town. The policy of the Town is to:

1. Recruit, hire, and promote in all job classifications without regard to race, sex, color, disability, religion, national origin, sexual orientation, or age.
2. Make decisions about employment so as to encourage the development of a diverse workforce.
3. Ensure that employment and promotion decisions are made in accordance with the principles of equal opportunity, by imposing only valid, job-related requirements for employment and promotional opportunities.
4. Ensure that all other personnel actions such as compensation, benefits, transfers, layoff, recall, training, tuition assistance, and social and recreational programs will be administered without regard to race, sex, color, disability, religion, national origin, sexual orientation or age.
5. Prohibit any kind of harassment based on race, sex, color, disability, religion, national origin, sexual orientation, or age.

No retaliatory action against those persons who file complaints of discrimination or against individuals who cooperate in such investigations will be tolerated. Violation of this policy will lead to appropriate disciplinary action up to and including termination from Town Service.

Anyone who feels that he or she has been discriminated against by the Town on the basis of race, sex, color, religion, national origin, sexual orientation or age in employment practices may file a grievance in accordance with the procedures described in Section 5.4 of this document.

### 5.3 Americans with Disabilities Act

It is the policy of the Town to comply with requirements of the regulations contained in the U.S. Americans with Disabilities Act of 1990. This policy applies to all employees of the Town excluding those employees under the supervision and control of the School Committee.

The Town will not discriminate against people with disabilities in any employment practices or in terms, conditions or privileges of employment, including, but not limited to: application, testing, hiring, assignment, evaluation, disciplinary action, training, promotion, medical examination, layoff/recall, termination, compensation, leaves or benefits.

The Town has and will continue to establish occupational qualifications for each position, including the education, skills, and work experience required, and the physical, mental and environmental standards necessary for job performance, health, and safety. Such standards are job-related and consistent with business necessity.

The Town will provide reasonable accommodation to the known physical or mental limitations of a qualified applicant or employee unless such accommodation will impose undue hardship on the Town. The Town will provide reasonable accommodation:

1. To ensure equal employment opportunity in the application process

2. To enable a qualified individual with a disability to perform the essential functions of the job
3. To enable an employee with a disability to enjoy equal benefits and privileges of employment.
4. The Town need not provide reasonable accommodation for an individual who is otherwise not qualified for a position.
5. The duty to provide reasonable accommodation is on-going, and may arise any time an employee's job changes.
6. It is the obligation of the individual with the disability to request the accommodation.
7. If the cost of providing the accommodation is determined to meet the criteria of undue hardship on the Town, the affected individual will be offered the opportunity to provide the accommodation or partial accommodation him or herself.

Some examples of reasonable accommodation include, but are not limited to, the following:

1. Making facilities readily accessible and usable;
2. Restructuring a job by reallocating or distributing marginal job functions;
3. Altering when or how an essential job function is performed;
4. Creating part-time or flexible schedules;
5. Obtaining or modifying equipment or devices;
6. Providing qualified readers or interpreters;
7. Permitting the use of accrued or unpaid leave for treatment; and,
8. Providing reserved parking.

When attempting to identify what is a reasonable accommodation, appointing authorities and department managers should do the following:

1. Examine the particular job involved, determining its purpose and its essential functions.
2. Consult with the individual with the disability to find out his or her specific physical or mental abilities and limitations.
3. In consultation with the individual, identify potential accommodations and assess how effective each would be.
4. If an individual requests an accommodation which the appointing authority or department head considers to be unnecessary, the department head may ask for written documentation from a physician or other professional with knowledge of the individual's functional limitations.
5. The determination that any reasonable accommodation represents an undue hardship will be made by the Town Administrator or his/her designee.

No pre-employment inquiries may be made about an applicant's disability. This prohibition does not prevent an employer from obtaining necessary information regarding an applicant's qualifications, including medical information necessary to assess such qualifications and to ensure health and safety on the job. Before making a job offer, the Town may ask questions about an applicant's ability to perform specific job functions and may make a job offer that is

conditioned on satisfactory results of a post-offer medical examination or inquiry. The Town may not make inquiries about specific disabilities. Questions which may not be asked during a pre-employment interview include (but are not limited to):

1. Have you ever had, or been treated for any of the following conditions?
2. Please list any conditions or diseases for which you have been treated in the past three years.
3. Have you ever been hospitalized? If so, for what conditions?
4. Have you ever been treated by a psychiatrist or psychologist? If so, for what condition?
5. Have you ever been treated for any mental condition?
6. How many days were you absent from work because of illness last year?
7. Do you have any disabilities or impairments which may affect your performance in the position?
8. Are you taking any prescription drugs?
9. Have you ever been treated for drug addiction or alcoholism?
10. Have you ever filed a workers' compensation claim?

In addition, these questions may not be asked of a previous employer or other reference provider for an applicant during reference checks. In addition, the hiring manager may not ask the reference provider about the applicant's:

1. Disability;
2. Illness; or,
3. Workers' compensation history.

Even if the applicant is qualified to perform the job, the Town may deny employment if such employment would pose a direct threat to the health and safety of the individual or others, if such threat cannot be eliminated through reasonable accommodation. Such determination must be made by the Town Administrator or his/her designee after careful review of the circumstances.

An employee who is an alcoholic is considered to be a person with a disability under the terms of the ADA. However, the Town may discipline, discharge or deny employment to an alcoholic whose use of alcohol adversely affects job performance or conduct to the extent that he or she is "not qualified" for the position.

Persons addicted to drugs, but who are no longer using drugs illegally and who are receiving treatment for drug addiction, or who have been rehabilitated successfully, are protected from discrimination by the ADA. However, the Town will discharge or deny employment to current illegal users of drugs, in accordance with policies established herein. The Town may ask questions regarding the use of alcohol or illegal use of drugs. However, the employer may not ask whether the applicant is a drug addict or alcoholic, or whether he/she has ever been in a drug or alcohol rehabilitation program.

Violation of this policy will lead to appropriate disciplinary action up to and including termination from Town Service.

The Town's grievance procedure for discrimination based on disability is contained in Section 5.4 below.

#### 5.4 Discrimination Grievance Procedure

The purpose of this procedure is to encourage local resolution of grievances concerning employment. It is important to note that grievants are not required to exhaust the Town's procedures prior to filing a state or federal complaint or taking court action.

Anyone who feels that he or she has been discriminated against by the Town on the basis of race, sex, color, disability, religion, national origin, sexual orientation or age in employment practices may file a grievance.

Grievances should be in writing and should include information about the alleged discrimination such as name, address, phone number of grievant and location, date and description of the problem. Reasonable accommodations, such as personal interviews or a tape recording of the complaint will be made available for persons with disabilities who are unable to submit a written complaint.

The grievant should first attempt to resolve the grievance at the level of the department manager. The department manager will notify the Town Administrator if such a grievance is submitted. If the grievance is not resolved to the satisfaction of the grievant, or if the department manager lacks authority or jurisdiction to correct the problem, the grievance should be submitted by the grievant and or his/her designee as soon as possible to the Town Administrator.

Within 15 calendar days after receipt of the grievance, the Town Administrator will meet with the grievant to discuss the grievance and possible resolutions. Within 15 calendar days after the meeting, the Town Administrator will respond to the grievant in writing, or, where appropriate, in a format accessible to the grievant such as audio tape. The response will explain the position of the Town and may offer options for substantive resolution of the grievance. As appropriate, the recommendation may contain disciplinary action where illegal or inappropriate conduct is disclosed. The Town Administrator, in consultation with the respective Department Head and Board of Selectmen, will provide a final review, conclusion and course of action as may be appropriate including any related disciplinary action up to and including discharge.

All grievances received by the Town Administrator and responses from same, will be kept by the Town for at least three (3) years. Such documents will remain strictly confidential.

This grievance procedure is meant to be informal, and cannot be legally binding on either part. Any grievance or complaint involving existing or threatened civil or criminal litigation may not be addressed using this informal procedure.

No retaliatory action will be taken against those persons who file complaints of discrimination on the basis of race, sex, color, disability, religion, national origin, sexual orientation, or age, or against individuals who cooperate in such investigations.

## 5.5 Sexual Harassment

It is the goal of the Town to promote a workplace that is free of sexual harassment. Sexual harassment of employees occurring in the workplace or in other setting in which employees may find themselves in conjunction with their employment is unlawful and will not be tolerated by this organization. Further, any retaliation against an individual who has complained about sexual harassment or retaliation against individuals for cooperating with an investigation of a sexual harassment complaint is similarly unlawful and will not be tolerated. To achieve our goal of providing a workplace free from sexual harassment, the conduct that is described in this policy will not be tolerated and a procedure by which inappropriate conduct will be dealt with if encountered by employees is established below.

Because the Town takes allegations of sexual harassment seriously, we will respond promptly to complaints of sexual harassment and where it is determined that such inappropriate conduct has occurred, we will act promptly to eliminate the conduct and impose such corrective action as is necessary, including disciplinary action where appropriate.

While this policy sets forth our goals of promoting a workplace that is free of sexual harassment, the policy is not designed or intended to limit our authority to discipline or take remedial action for workplace conduct which we deem unacceptable, regardless of whether that conduct satisfies the definition of sexual harassment as outlined below.

### 5.5.1 Definition

In Massachusetts, the legal definition of sexual harassment is as follows:

Sexual advances, requests for sexual favors, and verbal or physical conduct of a sexual nature when:

1. Submission to or rejection of such advances, requests or conduct is made either explicitly or implicitly a term or condition of employment or as a basis for employment decisions; or,
2. Such advances, requests or conduct have the purpose or effect of unreasonably interfering with an individual's work performance by creating an intimidating, hostile, humiliating or sexually offensive work environment.

Under these definitions, direct or implied requests by a supervisor for sexual favors in exchange for actual or promised job benefits such as favorable reviews, salary increases, promotions, increased benefits, or continued employment constitutes sexual harassment.

The legal definition of sexual harassment is broad and in addition to the above examples, other sexually oriented conduct, whether it is intended or not, that is unwelcome and has the effect of creating a workplace environment that is hostile, offensive, intimidating, or humiliation to male or female workers may also constitute sexual harassment.

While it is not possible to list all those additional circumstances that may constitute sexual harassment, the following are some examples of conduct which, if unwelcome,

may constitute sexual harassment depending upon the totality of the circumstances including the severity of the conduct and its pervasiveness:

1. Unwelcome sexual advances, whether they involve physical touching or not;
2. Sexual epithets, jokes, written or oral references to sexual conduct, gossip regarding one's sex life; comment on an individual's body, comment about an individual's sexual activity, deficiencies, or prowess;
3. Displaying sexually suggestive objects, pictures, cartoons;
4. Unwelcome leering, whistling, brushing against the body, sexual gestures, suggestive or insulting comments;
5. Inquiries into one's sexual experiences; and,
6. Discussion of one's sexual activities.

All employees should take special note that, as stated above, retaliation against an individual who has complained about sexual harassment, and retaliation against individuals for cooperating with an investigation of a sexual harassment complaint is unlawful and will not be tolerated.

#### 5.5.2 Complaint Procedure

If an employee believes that he or she has been subjected to sexual harassment, the employee has the right to file a complaint with the town either in writing or verbally. An employee wishing to file a complaint should contact the Town Administrator.

When a complaint is received, the allegation will be promptly investigated in a fair and expeditious manner. The investigation will be conducted in such a way as to maintain confidentiality to the extent practicable under the circumstances. The Town's investigation will include a private interview with the person filing the complaint and with witnesses. The Town will also interview the person alleged to have committed sexual harassment. When the investigation is completed, the Town will, to the extent appropriate, inform the person filing the complaint and the person alleged to have committed the conduct of the results of that investigation. If it is determined that inappropriate conduct has occurred, the Town will act promptly to eliminate the offending conduct, and where appropriate, impose disciplinary action. The Town will take corrective action including disciplinary action up to and including termination where appropriate, if it is determined that the conduct did occur and was inappropriate. Disciplinary action will be in accordance with negotiated Bargaining Union agreements and applicable Town policies.

All employee warnings, reprimands, letters of performance concerns, etc. associated with this policy will remain in their personnel file for an indefinite period of time unless said document is removed by majority vote of the Board of Selectmen.

Employees having a warning or similar action as noted above will not be eligible for any compensation adjustment unless and until an action is recommended to and approved by the Board of Selectmen.



In addition to the above, if an employee believes he or she has been subject to sexual harassment, he or she may file a formal complaint with either or both of the government agencies set forth below. Using the town's complaint process does not prohibit an employee from filing a complaint with these agencies. Each of the agencies has a short time period for filing a claim. (The EEOC is 300 days; the MCAD is 6 months).

The U.S. Equal Employment Opportunity Commission  
One Congress Street  
10<sup>th</sup> Floor  
Boston, MA 02114  
(617) 565-3200

The Massachusetts Commission Against Discrimination

Boston Office:  
One Ashburton Place, Room 601  
Boston, MA 02108  
(617) 727-3990

#### 5.6 Commercial Driver's License (CDL) Alcohol and Drug Testing Policy

The following is the policy of the Town regarding testing associated with alcohol misuse and drug use by those employees operating motor vehicles which require a Commercial Drivers' License. The terms alcohol misuse, drug use, and substance abuse are used interchangeably herein. Definitions for specific terms used within this policy can be found in the definitions section under General Provisions.

This policy applies to all employees subject to the regulations of the Federal Highway Administration, Department of Transportation Alcohol and Drug ruling that includes every person who operates a commercial motor vehicle in interstate or intrastate commerce, and is subject to the commercial driver's license requirements of Part 383.

##### 5.6.1 Safety-Sensitive Functions

Regulations are based on the delineation of safety-sensitive functions that are defined as including any of the following circumstances and or activities:

1. At a carrier or shipper plant, terminal or facility, or other property, or on any public property, waiting to be dispatched, unless the driver is relieved from duty by the employer;
2. Inspecting service brakes, including trailer brake connections, parking (hand) brakes, steering mechanism, lighting devices and reflectors, tires, horn, windshield wipers, rear vision mirrors, coupling devices, fire extinguishers, spare fuses, or warning devices for stooped vehicles;
3. Inspecting, servicing, or conditioning any CMV in operation;
4. At the driving controls of a CMV in operation;

5. While in or upon an CMV, except when resting in a sleeper berth;
6. Supervising or assisting in loading or unloading a vehicle;
7. Attending a vehicle being loaded or unloaded;
8. While in readiness to operate the vehicle;
9. When giving or receiving receipts for shipments loaded or unloaded;
10. Performing the driver requirements of sections 392.40 and 392.41 of Part 392, Driving Motor Vehicles, relating to accidents;
11. Repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

#### 5.6.2 Alcohol Prohibitions

The following prohibitions are established by the DOT relative to alcohol use for performance of safety-sensitive functions:

1. A driver may not report for duty or stay on duty:
  - a. With a blood alcohol concentration of 0.04 or greater
  - b. If in possession of alcohol, unless it is being transported as cargo (this includes any product, medication, or food containing alcohol regardless of the alcohol content)
  - c. If using alcohol
  - d. Within four hours of using alcohol
2. A driver who has an accident may not use alcohol until post-accident testing is done or for a period of eight hours, whichever comes first
3. Drivers cannot refuse to submit to alcohol testing
4. Employers who know about any of the above acts cannot permit the driver to perform a safety-sensitive function.

#### 5.6.3 Drug Prohibitions

The following prohibitions are established by the DOT relative to drug use for performance of safety-sensitive functions:

1. The Federal Highway Administration bans the use of controlled substances by drivers.
2. Drivers may not report for duty or stay on safety-sensitive duty while using any controlled substance. There may be an exception to this ruling if a physician has prescribed a substance and has advised you that it does not interfere with your ability to operate a vehicle in a safe manner.
3. Drivers may not report for duty or stay on duty if they have tested positive for a controlled substance.
4. Employers who know about either of the above acts cannot permit the driver to perform a safety-sensitive function.
5. Employers may require drivers to report the use of any therapeutic drugs.

#### 5.6.4 Alcohol and Drug Testing

Testing to determine the presence of alcohol and/or drugs can and may be performed in any of the following situations:

1. Pre-Employment: Before a new hire can perform any safety-sensitive duties or when a person transfers into a safety-sensitive function from elsewhere in the municipality (no person will be considered for a Driver's position who has had a positive drug and/or alcohol test within two years of his or her application).
2. Post-Accident: Following an accident where a life was lost or the driver was cited for a moving traffic violation. Post-accident alcohol testing shall be done within two hours of the accident, or not at all. Post-accident drug testing shall be done within 32 hours, or not at all.
3. Random: Unannounced random testing is required on a certain percentage of drivers each year. The random selection process used shall ensure that each driver has an equal chance of being tested each time selections are made. Drivers are randomly selected from the pool. Random testing for alcohol shall be completed just before, during or immediately after performing safety-sensitive work. Random testing for drugs may be done at any time you are at work. Once notified that you have been selected for random testing, you must proceed immediately to the test site. Random testing is done as follows:
  - a. 25% of all drivers shall be randomly tested for alcohol during the first year of the testing program. The number to be randomly tested in following years depend on the percentage of positive tests for the entire industry.
  - b. 50% of drivers shall be randomly tested for controlled substances during each year of the testing program.
4. Reasonable suspicion: If your supervisor has reason to believe that your behavior or appearance may indicate alcohol or drug abuse, he or she may require you to be tested. Testing for reasonable suspicion is based on:
  - a. The observances of a trained supervisor
  - b. Specific, clearly stated observations concerning the driver's appearance, behavior, speech or body odor.

Observations made for alcohol testing shall be made just before, during or just after the performance of safety-sensitive function. The supervisor who makes the observation and determines that reasonable suspicion testing should be done may not conduct the alcohol test on the driver. Alcohol testing for reasonable suspicion must be done within two hours of the observation. Tests that cannot be done within eight hours of the observation shall not be done. You cannot report for duty or stay on the job while under the influence of alcohol or while impaired by alcohol as shown by behavior, speech or performance that indicates alcohol misuse. You will not be allowed to continue to perform safety-sensitive duties until your alcohol concentration is less than 0.02 or 24 hours have passed from the time of initial observation. Action regarding alcohol misuse cannot be taken against a driver unless an alcohol test was administered or was refused by the driver.

5. Return to duty and follow-up: Return to duty testing is required for drivers who violate prohibitions and are returning to work. In order to return to work, an alcohol concentration of less than 0.02 or a negative drug test is required. Follow-up testing is required when a driver returns to a safety-sensitive function. A minimum of six tests shall be performed during the first year back in a safety-sensitive position. However, follow-up testing may continue for up to five years.

As part of the alcohol and drug rule and this policy, you must submit to alcohol and drug testing as required. If you refuse to be tested, you cannot continue on the job. Refusal to be tested is considered to be any time you either fail to provide enough breath for alcohol testing or enough urine for controlled substance testing without a valid medical reason after being notified of the testing requirements, or if you clearly obstruct the testing process.

All alcohol testing is done by a certified Breath Alcohol Technician (BAT) in a private setting where no one but you and the BAT can see or hear the test results. An evidential breath testing (EBT) device approved by the NHSA must be used. The BAT will ask for identification. You may ask the BAT for identification as well.

To complete the test you must blow forcefully into the mouthpiece of the testing device. The BAT must show you the test result on the testing device. A screening test is done first. If the reading is less than 0.02, you will sign the certificate and fill in the date on the form. The test will be reported as negative to the employer.

If the reading is 0.02 or greater, a confirmation test must be done (after 15 minutes but within 20 minutes of the first test). You will be asked not to eat, drink, belch or put anything in your mouth. These steps prevent the buildup of mouth alcohol which could lead to an artificially high result. If the screening and confirmation test results are not the same, the confirmation test result is used.

Drug testing is done by analyzing a urine sample, which is collected in a private location. Urine specimens are divided into two containers by the collection site person in your presence. These two samples, called 'primary' and 'split,' are sent to a testing laboratory certified by the Department of Health and Human Services (DHHS).

At the laboratory, a screening test is performed on the primary sample. If this test is positive for drugs, a confirmation test is required. The confirmation test must use a specialized procedure called gas chromatography/mass spectrometry, to ensure that over-the-counter drugs are not reported as positive. If the first test is positive, the Medical Review Officer (MRO) will notify you to find out if there is a medical reason for the drug use. If you can document why the substance is being taken and the MRO finds it is a legitimate medical use, the test may be reported as negative to the employer.

After being notified that the first test was positive, you have 72 hours to request a test of the split specimen. If you make this request, the split specimen is sent to another DHHS-certified lab for the test. If you do not contact the MRO within 72 hours, but can prove to

the MRO that you had a legitimate reason for not doing so, the MRO can order the split specimen tested. Removal from safety-sensitive duty as required by the DOT following a positive drug test is not delayed to await the result of the split specimen test.

If the analysis of the split sample does not confirm the presence of a drug, the MRO cancels the test and reports this to the DOT, to the employer, and to you.

#### 5.6.5 Violation of Policy

Consequences for violating the alcohol or drug prohibitions are as follows:

1. Alcohol violations
  - a. Removal from safety-sensitive functions
  - b. Prohibition from return to safety-sensitive duties until an evaluation has been done and any recommended treatment is completed
  - c. Employees with an alcohol concentration of 0.02 or greater but less than 0.04 are prohibited from returning to safety-sensitive duties for at least 24 hours.
2. Drug violations
  - a. Removal from safety-sensitive functions
  - b. Prohibition from return to safety-sensitive duties until an evaluation had been done, recommended therapy is completed, and a verified negative drug test is produced.

The alcohol and drug rule requires that the Town, as the employer, provide you with an opportunity for treatment. The ruling does not, however, require the Town to hold a job open for you or to pay for rehabilitation. If you violate an alcohol or drug prohibition you must be evaluated by a substance abuse professional to determine what help is needed. If you would like further information on alcohol or drug issues, you may do so on a confidential basis through our Employee Assistance Program. The following person should be contacted for assistance with drug and/or alcohol problems

#### 5.7 Vehicle Use Policy

The purpose of this policy is to set forth the guidelines under which town vehicles will be authorized to Town personnel and the guidelines under which Town vehicles may be used.

The provisions of this policy apply to all General Government employees, excluding the Police Chief and the Fire Chief. Employees whose employment is regulated by collective bargaining agreement are subject only to those provisions of this policy not specifically regulated by agreement.

It is the policy of the Town that certain positions require employee access to municipal vehicles, either during the work shift or on a 24-hour on-call basis. Town vehicles are not personal vehicles and are not for personal use. Town vehicles should be viewed as belonging to the citizens of the Town and are assigned solely for the purposes consistent with providing services to those citizens.

The assignment of municipal vehicles during work time is based upon job description. Appointing authorities who have municipal vehicles available for this purpose may assign such

vehicles in a manner consistent with departmental workload and employee function. The assignment of vehicles may be rescinded at any time by the appointing authority/department manager.

The assignment of vehicles for 24-hour use will be made in writing by the Town Administrator and will only be considered for employees who require a vehicle for the ordinary and necessary discharge of their job functions. Criteria which will be used in the determination of eligibility for 24-hour vehicle use include:

1. Officially designated on-call status;
2. Requirement for frequent emergency availability;
3. Issuance of a pager or other communication device;
4. Emergency or other equipment contained in the vehicle; and/or
5. No town facility is available for garaging in a safe and convenient location.

Vehicle use is limited to travel to and from the residence and place of work. The vehicle should be driven over the most direct route taking into account road and traffic conditions. The vehicle should not be utilized for travel outside a direct commuting route for personal reasons. Whenever a position becomes vacant, the authorization for 24-hour use shall be re-evaluated.

Employees assigned vehicles for 24-hour use involving a commute of more than 25 miles one way shall reimburse the Town for the additional fuel cost as determined by the Town Accountant.

Employees assigned municipal vehicles on a 24-hour basis will be given a copy of this policy and will be required to sign a confirmation of receipt.

Employees authorized to commute in a Town vehicle may be subject to imputed income tax regulations as set forth by the Internal Revenue Service, which considers a certain portion of the vehicle use (namely the commute) to be income for the purposes of income taxation. The Accounting Department shall be responsible for determining any tax liability and will be provided with the names of all employees authorized to use Town vehicles for commuting purposes, and the normal, one-way commuting distance, each December 1<sup>st</sup>. Employees who are assigned marked and unmarked police vehicles, and/or marked municipal vehicles carrying tools and meeting certain other eligibility criteria will not be subject to imputed income taxation as a result of the vehicle assignment.

#### Rules Governing Use

1. Municipal vehicles may only be used for legitimate municipal business.
2. Municipal vehicles will not be used to transport any individual that is not directly or indirectly related to municipal business. Passengers shall be limited to Town employees and individuals who are directly associated with Town work activity (committee members, consultants, contractors, etc.). Family members shall not be transported in Town vehicles.
3. Vehicles should contain only those items for which the vehicle is designed. The Town shall not be liable for the loss or damage of any personal property transported in the vehicle.

4. Employees are expected to keep municipal vehicles clean, and to report any malfunction or damage to their supervisor immediately.
5. Employees assigned vehicles for commuting purposes are expected to park such vehicles in safe locations.
6. Employees must wear seatbelts in vehicles so equipped during operation of the vehicle.
7. Employees may not operate municipal vehicles under the influence of alcohol, illegal drugs, or prescription drugs or medications which may interfere with effective and safe operations.
8. Employees who operate municipal vehicles must have a valid motor vehicle license issued by the state of their current residence and may be required to provide proof of valid motor vehicle license once every six (6) months.
9. Employees driving municipal vehicles shall obey all applicable traffic and parking regulations, ordinances, and laws.
  - A. Employees who incur parking or other fines in municipal vehicles will generally be personally responsible for payment of such fines unless the payment of such fines by the town is approved by the Town Administrator.
  - B. Employees who are issued citations for any offense while using a municipal vehicle must notify their supervisor immediately when practicable, but in no case later than 24 hours. Failure to provide such notice will be grounds for disciplinary action.
  - C. An employee who is assigned a municipal vehicle and who is arrested for or charged with a motor vehicle offense for which the punishment includes suspension or revocation of the motor vehicle license, whether in his or her personal vehicle or in a municipal vehicle, must notify his or her supervisor immediately when practicable, but in no case later than 24 hours. Conviction for such an offense may be grounds for loss of municipal vehicle privileges and/or further disciplinary action.
10. No employee may use a municipal vehicle for out of state use without advance approval of the Town Administrator.
11. Employees whose vehicles are equipped with cellular phones are expected to reimburse the Town for any personal use of those phones.

Failure to comply with any and all provisions of this policy may result in disciplinary action up to and including removal of Town vehicle privileges, suspension, and/or termination from Town service.

#### 5.8 Tardiness and Failure to Report to Work

The purpose of this policy is to ensure proper coverage in all offices and work locations in order to maintain the highest level of service to the taxpayers of the Town. This policy defines the Town's expectations of employees and describes management's course of action in monitoring and controlling tardiness and failure to report to work.

This policy applies to all paid and appointive positions in Town service excluding those employees under the supervision and control of the School Committee. This policy does not apply to management employees who do not work regularly scheduled hours and who are

required to work as many hours per week as may be required by the Appointing Authority. Employees who are covered by collective bargaining agreement are subject only to those portions of this policy which are not specifically regulated by law or agreement.

It is the policy of the Town that all employees assume their assigned duties at the start of the regularly scheduled work day. Tardiness and failure to report to work are viewed as unacceptable job performance and may be grounds for progressive disciplinary action.

An employee who anticipates that he or she will arrive after the start of the work day or shift must notify the work location and speak directly to his/her supervisor or the supervisor in charge to inform him/her of the delay and expected time of arrival. The employee should call the work location prior to his/her expected time of arrival, if possible. Employees will be required to provide a reasonable explanation of their tardiness, and may be required to provide documentation, if appropriate.

If an employee exhibits a pattern of repeated tardiness, he/she may receive an oral reprimand. Subsequent tardiness may result in a written reprimand or further disciplinary action. If an employee is tardy for more than two (2) consecutive hours without cause, he/she may receive a written reprimand without having received a prior oral reprimand. Subsequent tardiness may result in further disciplinary action.

If an employee does not report for his/her scheduled work hours/shift, and fails to notify the work location of the absence by the end of the regularly scheduled shift, the employee shall be considered on unauthorized leave without pay for the day and may be subject to disciplinary action, unless the absence resulted from an emergency. The employee may be required to provide documentation of the emergency. Further incidents of this nature may result in subsequent disciplinary action up to and including termination of employment. Failure by an employee to report to work without permission and without notice for seven (7) or more consecutive business days may result in the employee being considered to have voluntarily and permanently separated him/herself from Town service.

## 5.9 Drug Free Workplace

It is the policy of the Town to provide employees with a working environment that is free of the problems associated with the use and abuse of controlled substances. The use of controlled substances is inconsistent with the behavior expected of employees and subjects the Town to unacceptable risk of workplace accidents or other failures that would undermine the Town's ability to operate effectively and efficiently

The non-prescriptive use, sale, possession, distribution, dispensation, manufacture, or transfer of controlled substances on Town property, or at any other worksite where employees may be assigned, or elsewhere during work hours, is strictly prohibited.

Further prohibited is the use, sale, possession, distribution, dispensation, manufacture, or transfer of controlled substances on non-working time to the extent that such use impairs an employee's ability to perform his/her job or where such use, sale, possession, distribution, manufacture or



transfer affects the reputation of the Town to the general public or otherwise threatens its integrity.

Employees who are convicted of controlled substance-related violations in the workplace under state or federal law, or who plead guilty or *nolo contendere* to such charges, must inform their department head or appointing authority within 5 days of such conviction or plea. Department heads or appointing authorities shall notify the Personnel Director immediately.

Employees who are convicted, or who plead guilty or *nolo contendere* to such drug-related violations may be required to successfully complete a drug abuse or similar program as a condition of continued employment or re-employment.

All employees must sign a statement indicating that they have been informed of the rules and requirements of the Drug Free Workplace Act.

The Town recognizes that drug dependency is an illness and a major health problem. Employees who wish to obtain help in dealing with such problems are encouraged to contact the Town Administrator, Public Health Nurse, or their health insurance provider for assistance. Conscientious efforts to seek such help will not jeopardize an employee's job, and will not be noted in any personnel record.

Violations of any and all provisions of this policy may result in disciplinary action up to and including termination.

#### 5.10 Membership in Professional Associations

The purpose of this policy is to convey the Town's expectations for professional and management employees concerning membership in professional associations, including appropriate use of Town time and expenses related to association business. All General Government employees are subject to the provisions of this policy.

The Town supports and encourages employees to join and participate in organizations or associations related to their municipal position or professional discipline. It is the policy of the town that a reasonable amount of Town expense and work time may be devoted to such organizations, subject to the procedures set forth below.

##### 5.10.1 Dues

Subject to appropriation, department managers may authorize payment of dues to professional associations for themselves or for staff members. Dues for organizations which were created to encourage professional development for members, or to propose and advocate for legislation in support of municipal interests, are appropriate.

##### 5.10.2 In-state Conferences or Meetings

Subject to appropriation, department managers may authorize payment of registration fees, expenses, and paid leave from work for attendance at in-state conferences held to promote the training, education or the professional development of participants. Payment for travel or expenses for other non-educational meetings for other professional

associations is appropriate if conducted in a reasonable manner.

#### 5.10.3 Out-of-state Conferences or Meetings

Subject to appropriation, and any approvals contained in the Travel Expense Policy, department managers may authorize payment for out of state conferences or meetings held to promote the training, education or professional development of participants. The appropriate amount of time devoted to out of state travel for education, training and/or professional development will be determined by the appointing authority.

Department managers may authorize attendance at out of state meetings which are not educational in nature. Employees are responsible for their own travel arrangements for non-educational meetings, such as conference planning or sub-committee meetings. The appropriate amount of time devoted to out of state travel for meetings other than education, training and/or professional development will be determined by the appointing authority. In extenuating circumstances, the Town Administrator may approve payment for travel arrangements for such meetings.

#### 5.10.4 Publication

All employees are encouraged to publish articles in professional, technical and scholarly journals. To protect the integrity of Town government, all such articles should bear the following caveat: "This article represents the opinions and conclusions of the author and not necessarily those of the Town of Topsfield."

Any employee who violates this policy shall be subject to disciplinary action, up to and including suspension or discharge.

#### 5.11 Smoking in the Workplace

In accordance with all applicable Health regulations, it is the policy of the Town that smoking in the workplace is prohibited. No department head or appointing authority who has control or authority over a Town facility which constitutes a workplace shall knowingly permit a violation of this policy.

Any employee having a complaint that he or she is being exposed to smoke or smoking by-products because of poor ventilation may object in writing to his or her department head. The department head must respond to the employee within ten working days of receipt of the complaint.

If the issue is not resolved to the satisfaction of the employee within ten days, he or she may immediately file a written complaint to the Town Administrator, who will respond within ten working days of receipt of that complaint.

If, after twenty working days from the date the original complaint was filed with the department head, the Town has not begun to resolve the objecting employee's complaint, the employee may file a written complaint with the Board of Health.

Any employee who continues to knowingly violate this policy may be subject to disciplinary action up to and including termination.

5.12 Conflict of Interest/Financial Disclosure

The purpose of this policy is to ensure that Town employees comply with the requirements of Chapter 268A of the Massachusetts General Laws which governs conduct as a public official or public employee. It is the policy of the Town to require compliance with the provisions of this law, as outlined below.

Town employees may not:

1. Ask for or accept anything (regardless of its value), if it is offered in exchange for your agreeing to perform or not perform an official act.
2. Ask for or accept anything worth \$50 or more from anyone with whom you have official dealings. Examples of regulated gifts include: sports tickets, costs of drinks and meals, travel expenses, conference fees, gifts of appreciation, entertainment expenses, free use of vacation homes and complimentary tickets to charitable events. If a prohibited gift is offered: you may refuse or return it; you may donate it to a non-profit organization provided you do not take the tax write-off; you may pay the giver the full value of the gift; or, in the case of certain types of gifts, it may be considered “a gift to your public employer,” provided it remains in the office and does not ever go home with you. You may not accept honoraria for a speech that is in any way related to your official duties, unless you are a state legislator.
3. Hire, promote, supervise, or otherwise participate in the employment of your immediate family or your spouse’s immediate family.
4. Take any type of official action which will affect the financial interests of your immediate family or your spouse’s immediate family. For instance, you may not participate in licensing or inspection processes involving a family member’s business.
5. Take any official action affecting your own financial interest, or the financial interest of a business partner, private employer, or any organization for which you serve as an officer, director or trustee. For instance: you may not take any official action regarding an “after hours” employer, or its geographic competitors; you may not participate in licensing, inspection, zoning or other issues that affect a company you own, or its competitors; if you serve on the Board of a non-profit organization, you may not take any official action which would impact that organization or its competitors.
6. Have more than one job with the same municipality or county or more than one job with the state, unless you qualify for an exemption.
7. Have a financial interest in a contract with your public employer except under special circumstances. For instance: if you are a town employee, a company you own may not be a vendor to that town unless you meet specific criteria, the contract is awarded by a bid process, and you publicly disclose your financial interest.
8. Represent anyone but your public employer in any matter in which your public employer has an interest. For instance, you may not contact other

government agencies on behalf of a company, an association, a friend, or even a charitable organization.

9. Ever disclose confidential information, data or material which you gained or learned as a public employee.
10. Take any action that could create an appearance of impropriety or could cause an impartial observer to believe your official actions are tainted with bias or favoritism, unless you make a proper, public disclosure including all relevant facts.
11. Use your official position to obtain unwarranted privileges, or any type of special treatment, for yourself or anyone else. For instance, you may not approach your subordinates, vendors whose contracts you oversee, or people who are subject to your official authority to propose private business dealings.
12. Use public resources for political or private purposes. Examples of “public resources” include: office computers, phones, fax machines, postage machines, copiers, official cars, staff time, sick time, uniforms, and official seals.
13. After leaving public service, take a job involving public contractors or any other particular matter in which you participated as a public employee.

#### 5.13 Dress Code

Employees are encouraged to dress in an appropriate manner which is consistent with their work environment. Town employees should take pride in their appearance by looking neat and clean at all times.

#### 5.14 Workplace Violence/Possession of Weapons

The Town maintains a zero tolerance policy toward workplace violence, or the threat of violence, by any of its employees, customers, the general public, and/or anyone who conducts business with the Town. It is the intent of the Town and this department/division to provide a workplace that is free from intimidation, threats, or violent acts.

Workplace violence includes, but is not limited to harassment, threats, physical attack, or property damage. A threat is the expression of an intent to cause physical or mental harm regardless of whether the person communicating the threat has the present ability to carry out the threat and regardless of whether the threat is contingent, conditional or future. Physical attack is intentional hostile physical contact with another person such as hitting, fighting, pushing, shoving, or throwing objects. Property damage is intentional damage to property which includes property owned by the Town, employees, or others.

The Town subscribes to the concept of a safe work environment and supports the prevention of workplace violence. Prevention efforts include, but are not limited to informing employees of this policy, instructing employees regarding the dangers of workplace violence, communicating the sanctions imposed for violating this policy, and providing a reporting hierarchy within which to report incidents of violence without fear of reprisal.

Each incident of violent behavior, whether the incident is committed by another employee or an external individual such as a customer, vendor, or citizen, must be reported to department management. Management will assess and investigate the incident and determine the appropriate

action to be taken. Department management will inform the Town Administrator of all reported incidents of workplace violence and will inform the employee of their right to have the Police Department notified.

In critical incidents in which serious threat or injury occurs, emergency responders such as Police, Fire and/or Ambulance personnel must be promptly notified. As necessitated by the seriousness of the incident, the Town Administrator may assemble a Management Response Team that consists of staff from the affected Department, Board of Selectmen, Town Counsel, and may include the Employee Assistance Program, Emergency Response, Police Department and others as deemed necessary.

The Management Response Team is responsible for establishing the protocol in the event of a threat or violent incident that may include but is not limited to:

1. evaluating the potential violence problems,
2. assessing an employee's fitness for duty (through mental health professionals),
3. establishing a plan for the protection of co-workers and other potential targets,
4. coordinating with affected parties such as victims, families, employees, media, or law enforcement personnel,
5. referring victims to appropriate assistance and community service programs,
6. assuring that immediate (within 24 hours) and on-going counseling is available to traumatized individuals.

Any employee who acts in good faith by reporting real or implied violent behavior will not be subjected to any form of retaliation or harassment. Any action of this type resulting from a report of violence must be reported to the appropriate management staff for investigation and decision regarding proper action.

It is a violation of this policy to engage in any act of workplace violence. Any employee who has been determined by the Department Board/Committee, Department Manager, or Police to be in violation will be subject to disciplinary action up to and including termination and, depending upon the violent act, may be subject to criminal sanctions.

Whenever the physical layout of the work space is significantly altered, the Department Manager will examine the escape routes of the work area and communicate any changes to all department/division employees. On an as needed basis, the Department Manager may request a security audit from the Police Department to determine available security measures. All employees should openly communicate with each other to be aware of any unusual activity that may identify the potential for or actual occurrence of a violent incident.

The Department Manager, or his/her designee, will orient all new employees to departmental/divisional procedures regarding reporting incidents of violence, what to do if the employee is threatened and/or if an incident of violence actually takes place, and dealing with the after effects of an act of violence.

Should an employee become the victim of an incident of workplace violence, the Department Manager may offer additional referral services to assist in coping with any effects of the incident. Should an employee commit an act of violence and it is determined in the investigation that the employee did, in fact, commit the violent act, s/he may be referred to the EAP by the Department Manager. In these cases, failure by the employee to keep an initial appointment with the EAP may result in disciplinary action.

#### 5.15 'Whistleblower' Policy

This policy is adopted pursuant to and in accordance with the Massachusetts Whistleblower Protection Act, 1992, Massachusetts General Laws, Chapter 149 (the "Act") and is designed specifically to protect such conduct and provide such remedies as are set forth in the Act.

It is the policy of the Town:

1. To encourage the reporting by its employees of improper governmental action taken by Town officers or employees; and
2. To protect Town employees who have reported improper government actions in accordance with this policy.

The Town encourages the reporting of improper governmental action taken by any Town officers or employees, and the reporting of retaliatory actions for such reporting. The Town encourages initial reporting to the Town to allow for expeditious resolution of all such matters and to minimize any adverse impacts of the improper action. This policy states the Town's procedures for reporting improper governmental action and for protecting employees against retaliatory actions.

Town employees who obtain knowledge of facts demonstrating improper governmental actions should raise the issue first with their supervisor, the Town Administrator/designee, or the appropriate governmental agency responsible for investigating such improper action. If requested by the supervisor, the Town Administrator /designee, the employee shall submit a written report to the town stating in detail the basis for the employee's belief that an improper governmental action has occurred.

In the case of an emergency, the employee may report the improper governmental action directly to a person or entity who is not the person's supervisor, the Town Administrator /designee, or other government agency. In all other cases, the employee must first follow the reporting procedure outlined above.

An employee is not required to comply with the above procedure if he/she:

1. is reasonably certain that the activity, policy or practice is known to one or more supervisors of the employer and the situation is emergency in nature;
2. reasonably fears physical harm as a result of the disclosure provided; or
3. makes the disclosure to a public body for the purpose of providing evidence of what the employee reasonably believes to be a crime.

Town employees who fail to make a good-faith attempt to follow this policy in reporting improper governmental action shall not receive the protections provided under this policy or the

Act. Employees who make false reports may be subject to the disciplinary procedures in the town personnel code.

The supervisor or the Town Administrator/designee, as the case may be, shall take prompt action to assist the town in properly investigating the report of improper governmental action. Town officers, administrators, supervisors, and employees involved in the investigation shall keep the identity of reporting employees confidential to the extent possible under the law, unless the employee authorizes the disclosure of his or her identity in writing. After an investigation has been completed, the employee reporting the improper governmental action shall be advised of the summary of the results of the investigation, except personnel actions taken as a result of the investigation may be kept confidential.

Town officials, administrators, supervisors and employees are prohibited from taking retaliatory action against the town employee because he or she has in good faith reported an improper governmental action in accordance with this policy.

Employees who believe that they have been retaliated against for reporting an improper governmental action should advise their supervisor or the Town Administrator/designee. Town officials, administrators and supervisors shall take appropriate action to investigate and address complaints of retaliation. If the supervisor or the Town Administrator/designee, as the case may be, does not satisfactorily resolve an employee's complaint that he or she has been retaliated against in violation of this policy, the employee, in accordance with the Act, may, within two years, institute a civil action in the superior court. Any party to said action shall be entitled to claim a jury trial. All remedies available in common law tort actions shall be made available to prevailing plaintiffs. These remedies are in addition to any legal or equitable relief provided herein.

The Town Administrator/designee is responsible for implementing the town's policies and procedures: (1) for reporting improper governmental actions, and (2) for protecting employees against retaliatory actions. This includes insuring that this policy is permanently posted where all employees will have reasonable access to it and that this policy is made available to any employee upon request. The town will, to the extent it considers practical, provide training and education on the whistleblower policy. Town Administrator and supervisors are responsible for insuring that this policy is fully implemented within their areas of responsibility. Violations of this policy may result in appropriate disciplinary action, up to and including dismissal. Disciplinary action will be in accordance with negotiated Bargaining Union agreements and applicable Town policies.

All employee warnings, reprimands, letters of performance concerns, etc. associated with this policy will remain in their personnel file for an indefinite period of time unless said document is removed by majority vote of the Board of Selectmen.

Employees having a warning or similar action as noted above will not be eligible for any compensation adjustment unless and until an action is recommended to and approved by the Board of Selectmen.

## 5.16 Computer, Electronic Mail and Internet Use Policy

### 5.16.1. INTRODUCTION

This Policy is intended to provide guidance on the appropriate use of the Topsfield's electronic communication and information equipment and systems ("Systems"). Such Systems include, but are not limited to, computer workstations, hardware and software, electronic mail ("e-mail"), telephones, cellular phones, pagers, "blackberry"- style devices, facsimile machines, and the internet.

Use of the Town's Systems by any employee, contractor, consultant, and/or volunteer ("user") shall constitute acceptance of the terms of this Policy and any such additional related policies that may be issued by the Town.

Access and use of the Town's Systems is intended for business-related purposes, including communicating with coworkers and colleagues, and researching topics relevant to Town business. All existing state, federal, and local laws and Town policies apply to your conduct while using the Town's Systems, particularly those that govern intellectual property protection, sexual or other harassment, misuse of Town resources, privacy rights, and confidentiality.

This Policy sets forth general guidelines and examples of prohibited uses of the Town's Systems for illustrative purposes, but does not attempt to identify all required or prohibited activities by users. Questions regarding whether a particular activity or use is acceptable should be directed to the Systems administrator, and/or your supervisor. These guidelines may be supplemented by more specific administrative procedures and rules governing day-to- management and operation of the Town's Systems. Furthermore, this Policy may be amended from time to time, and is meant to be read in conjunction with all other applicable policies of the Town of Topsfield.

### 5.16.2 PRIVACY

Users should not expect any right of privacy in said Systems, including electronic communications and information made or stored on the Town's Systems. The Town retains the right to inspect its Systems, including any Town owned or leased computer or electronic communications equipment, any data contained in such equipment, and any data sent or received by that equipment. The Town will exercise that right when reasonable and in pursuit of legitimate needs for supervision, control, and the efficient and proper operation of the workplace. Users should be aware that appropriately authorized network administrators may monitor network traffic, and/or access all files, including e-mail files and Internet use history, stored on any equipment.

All electronic files and documents originating from or passing through the Town's Systems are considered to be the property of the Town.

### 5.16.3 SECURITY

All usernames and passwords are for the exclusive use of the individual to whom they are assigned. The user is personally responsible and accountable for all activities carried out



under his/her username, and should take all reasonable precautions to protect his/her password. The password associated with a particular username must not be given or divulged to another person (with the exception of the Systems administrator). No one may use, or attempt to use, a username or password assigned to another person, or pose as another user.

#### 5.16.4 INTERNET GUIDELINES

While we increasingly use the Internet as a tool 'in the workplace, misuse or abuse of the Internet can result in wasted time, as well as potentially violate laws, bylaws, ordinances, regulations, or other Town policies. Therefore, users should adhere to the following Internet Guidelines.

- A. Use for Official Business. It is the Town's policy to restrict Internet access to official Town business. Use of the Internet for personal matters is prohibited.
- B. Authorization. Authorization for Internet access must be obtained through the Systems administrator. Once authorization is approved, each user is responsible for the security of his or her account password and will be held responsible for all use or misuse of such account (see Section III, Security, above).
- C. Compliance with Laws. Users must not utilize the Internet to knowingly violate any state, federal or local law, or the laws of any other nation. United States copyright and patent laws may apply to information and material(s) accessed through the Internet, and care should be taken to not violate the copyrights or patents of others on or through the use of the Internet.
- D. Viruses. All appropriate precautions should be taken to detect viruses, including scanning all computer files (including attachments) that are downloaded and/or opened from the Internet, before installation or execution of such files/attachments. Users should direct any questions regarding the proper use of virus detection software to the Systems administrator prior to downloading and/or opening any computer files/attachments.
- E. Town Monitoring. As noted above, users should not have any expectation of privacy as to their computer or Internet usage, including the receipt and sending of e-mail. It is possible for the Town to monitor Internet usage histories and/or patterns, and the Town may inspect, without limitation, any portion of its Systems, including files stored either on the computer hard drive or the Town's server, to the extent necessary to ensure compliance with this Policy or any other applicable state, federal, or local law or Town policy.
- F. Prohibited Practices.
  - (1) Users shall not use Town computers knowingly to download or distribute pirated software or data. Any software or files downloaded via the Internet may be used only in ways that are consistent with their licenses or copyrights. The

downloading of games or other programs for amusement/entertainment purposes is strictly prohibited.

(2) Users shall not make an unauthorized attempt to enter into another employee's computer (commonly referred to as "hacking").

(3) All computer hardware and software shall at all times remain the property of the Town of Topsfield, and may not be removed from their respective sites or downloaded onto personal computer equipment without the express written approval of the Systems administrator. The installation or upgrade of computer software programs on computer hardware, without the express written approval of the Systems administrator, is strictly prohibited.

(4) Users must not utilize the Internet to deliberately propagate any virus, worm, "Trojan horse," trap-door or back-door program code, or knowingly disable or overload any computer system, network, or to circumvent any system intended to protect the privacy or security of another user.

(5) Users shall not disclose confidential information or promote personal political beliefs, discrimination, sexual harassment, and any unlawful activity; nor shall the Town's computers be used for private financial gain, or commercial, advertising or solicitation purposes.

(6) Use of the Town's Systems, including computers, to display any kind of image or document that is obscene, pornographic, sexually explicit or sexually suggestive, is prohibited. Additionally, these materials may not be archived, stored, distributed, edited, or recorded using Town network, printing, or computing resources.

(7) Users shall not utilize the Town's Systems for the purpose of sending "chain-letters", unsolicited mass e-mails, or other "spam."

(8) Users shall not maliciously use or disrupt the Town's computers, networks, Internet services; nor breach the Systems' security features; nor misuse or damage the Town's equipment; nor misuse passwords or accounts; nor attempt to access unauthorized sites; nor use the Town's Systems after such access has been denied or revoked; nor attempt to delete, erase or otherwise conceal any information stored on any portion of the Town's Systems.

G. Best Practices Use only licensed software. Only software that is properly licensed should be installed and used on any computer operated for town business.

H. Media disposal. Old or obsolete media that is to be disposed of should not be thrown away. To properly dispose of such media, do the following.

1. Magnetic tapes: erase the tapes, then throw them in the trash.
2. CD/DVD: destroy them in a CD shredder.

#### 5.16.5 ELECTRONIC MAIL ("E-MAIL") GUIDELINES

1. The Internet does not guarantee the privacy and confidentiality of information. Sensitive material transferred over the Internet may be at risk of detection by a third party. Users must exercise caution and care when transferring such material in any form. Each and every electronic communication sent through the Town's Systems must include the following message:

*This electronic message is confidential and intended for the named recipient only. Any dissemination, disclosure or distribution of the contents of this communication is unlawful and prohibited. If you have received this message in error, please contact by return email or telephone (Department's Telephone Number), and delete the copy you received. Thank you.*

2. The Secretary of State's Office of the Commonwealth has determined that e-mail qualifies as "public records", as defined in Chapter 4, section 7(26) of the Massachusetts General Laws. Therefore, all e-mail sent by or received through the Town's Systems shall be archived by the Systems administrator. All users shall retain either a printed or digital record of e-mail sent by or received through the Town's Systems, in the same manner that other paper records are kept by their departments, and in accordance with the Record Retention requirements.

3. Users should be aware that opening programs or files attached to email messages may cause computer viruses to infect the Town's Systems, and thus should only open such attachments from anticipated and trusted sources.

4. Employees shall not broadcast messages to all employees via e-mail without permission from the Board of Selectmen.

#### 5.16.6 TELEPHONE USAGE

Telephones (including cellular phones) are provided for business use. Personal telephone calls may be permitted, but users should exercise good judgment in making such calls. Managers/department heads are responsible for monitoring their employees' telephone usage. Excessive usage for non-business related purposes, as well as misuse of telephones, such as to make harassing or threatening calls, may result in discipline, up to and including termination from employment.

#### 5.16.7 VIOLATIONS OF POLICY

A violation/violations of this Policy may result in either the suspension or permanent loss of the privilege to use the Town's Systems. It may also result in disciplinary action being taken against the employee, up to and including termination from employment.

Additionally, users shall be personally liable for any losses, costs or damages incurred by the Town related to violations of this Policy. Similarly, the illegal use of the Town's Systems may result in referral to law enforcement authorities. Employees shall report violations of this Policy to their supervisor, or in the case of department heads, directly to the Board of Selectmen. Retaliation against another user for reporting a violation or

violations of this Policy, including the use of e-mail or the Internet in a retaliatory manner, is strictly prohibited by the Town ELECTRONIC COMMUNICATIONS AND COMPUTER USAGE POLICY.

5.16.8 Employee Acceptance of Policy

As a condition of employment, all Town employees shall be required to sign the following acknowledgement.

This acknowledges that I have received and reviewed the Electronic Communications and Computer Usage Policy of the Town of Topsfield ("Policy"). By signing this form, I agree to abide by the Policy and any Guidelines promulgated hereunder, and I agree to review periodically any changes or modifications. I recognize that the law and associated Policy regarding the use of Internet, electronic mail and the Town's electronic communications and information systems are continually evolving. Therefore, I understand that my regular review of policy is required.

Print Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

*To be included in employee's personnel file.*

5.16.9 Open Meeting Law

Users need to take into consideration the applicability of the open meeting law when participating in an electronic conversation through email, chat or other such method of electronic communication.

5.17 Dispute Resolution

Employees are encouraged to bring any problems or complaints regarding their work or other day-to-day relations with the Town to the attention of their supervisors.

If an employee has a particular request or a problem, he or she should discuss the matter with his or her immediate supervisor or appointing authority.

If the matter remains unresolved after the discussion with the supervisor, the employee should contact the appointing authority in writing. The appointing authority shall discuss the matter with the employee and others who may be involved and attempt to reach a satisfactory understanding and resolution of the problem.

If the dispute remains unresolved more than two (2) weeks after the submission in writing to the appointing authority, the employee may appeal to the Town Administrator. The Town Administrator shall take the question under advisement, collecting such facts relating thereto as may seem helpful and it may, in its discretion, hold public or private hearings with respect to the question, subject to the provisions of the Open Meeting Law, General Laws c. 39, §§23A-23C and 24.

No later than thirty (30) days after receipt of the written submission of the matter, the Board shall render its decision and thereafter promptly take such action as may be appropriate relative to the problem. If the decision rendered by the Town Administrator is unsatisfactory to any party to the problem or dispute, he or she may appeal for relief to the Board of Selectmen.

## 6.0 Leave Policies

### 6.1 Civic Duty Policy

The purpose of this policy is to define and establish procedures for an employee to fulfill his/her civic duty when serving on juries or appearing as a witnesses in court proceedings.

#### 6.1.1 Applicability

This policy is applicable to all non-represented General Government employees.

#### 6.1.2 Definitions

6.1.2.1 Jury Fees: Those fees, exclusive of reimbursement for expenses, paid by the court for Jury services.

6.1.2.2 Subpoena: A formal, legal notice to appear in a court or requesting to provide specific information.

#### 6.1.3 Policy

Employees are entitled to leave with pay when called to perform their civic duty, such as for jury service or when subpoenaed as a witness on behalf of any city, town, county, the commonwealth or federal government. Employees are not entitled to receive payment from both the Court and the Town unless they are using their own accumulated time.

#### 6.1.4 Procedures

6.1.4.1 The appointing authority or department head shall require that the

employee provide official notice of jury service or witness appearance prior to approving employees for such purposes.

6.1.4.2 An employee who receives fees for jury service, exclusive of reimbursement for travel, meals and incidentals, may:

6.1.4.3 retain the fees, in lieu of regular straight time pay, if such fees exceed his/her regular rate of pay; or

6.1.2.2 receive regular straight time pay and remit the fees for jury service to the Town Treasurer's Office, if the fees are less than his/her regular rate of pay.

6.1.3 An employee on civic leave status must remit witness and other fees, exclusive of those for reimbursement for travel, meals and incidentals, to the Town for service performed during regular working hours. Any fees for service paid during an employee's vacation or on a holiday may be retained by the employee if that day is properly charged to vacation or falls on a recognized holiday.

6.1.4 Civic duty leave will not be paid to an employee who is subpoenaed to appear by a party, other than a city, town, county, the commonwealth or federal government, must use his/her accumulated leave time or request a leave of absence.

6.1.5 An employee who is discharged from jury or other court duty must report to his/her work location if, by the time he/she would arrive back at their work location, more than half of the employee's regularly scheduled work day would remain available for work.

6.1.6 Absence due to civic duty leave shall not affect an employee's eligibility for longevity, satisfactory performance step increases or benefit eligibility.

6.2 Military leave

All permanent full-time and part-time employees who are members of the ready reserve of the armed forces shall be granted leave not exceeding seventeen (17) days per fiscal year in order to receive military training. When possible, employees shall provide notice of the date of departure and date of return at least sixty (60) days prior to departure, and shall provide confirmation of the satisfactory completion of such training upon his or her return to work.

Absence from work for military training as provided in this section shall not affect the employee's right to receive normal vacation, sick leave or other employment benefits.

Employees will be eligible to receive the difference between their regular wages or salary and military pay for no more than ten (10) working days per fiscal year.

6.3 Non-Occupational Sick Leave.

Except for reasons to the extent hereinafter provided, all leaves of absence shall be without compensation. Authorized leaves of absence herein provided shall apply only to full-time and part-time employees of the Town as specified.

6.3.1 Full-time and part-time employees shall accumulate sick-leave at the rate of one and one quarter (1 1/4) days per month, commencing at the completion of the first full month of employment. Part-time employees shall accumulate sick leave based on a pro rated hours worked.

6.3.2 Sick leave so accumulated shall be paid at the scheduled compensation rate.

6.3.3 Full-time and part-time employees may be credited up to a maximum of two hundred and twenty (220) days of unused sick-leave. However, part-time employees will be pro-rated based on hours worked, provided unused sick leave has been accumulated in continuous employment.

6.3.4 If the amount of sick leave credit provided for under section (c) has been or is about to be exhausted, an employee may make application for additional allowance to that provided under subsection (a). Such application shall be made to the Board which is authorized to grant such additional allowance as the Board determines to be equitable, subject to approval by the Board of Selectmen, after reviewing all circumstances including the employee's attendance and performance record prior to conditions supporting his request for additional allowance.

6.3.5 Sick leave must be authorized by the department head and must be reported on a form provided.

6.3.6 A physicians certificate of illness may be requested by the department head after three days absence or after a series of absences during the year. This certificate shall be forwarded by the department head to the Board.

6.3.7 The Board may of its own motion, require a medical examination of any employee who reports his inability to report for duty because of illness. This examination shall be paid for by the Town and conducted by a physician appointed by the Board.

6.3.8 Injury, illness or disability self-imposed or resulting from the use of alcohol or

drugs shall not be considered a proper claim for sick leave under this section.

6.3.9 An employee who is incapacitated by reason of an injury sustained in the course of and arising out of his employment by the Town may elect to receive from his/her accumulated sick leave the difference between his normal work week compensation and the weekly indemnity as provided under GLC 152 as amended beginning with the first day of the incapacity.

6.3.10 Notification of absence due to illness must be made as early as possible on the first day of absence, either to the employee's supervisor or to the department head.

6.3.11 Employees upon retirement, are eligible for a sick time buy back. The employee shall receive a one time reimbursement from the Town for twenty-five percent (25%) of the employee's accumulated sick time as defined above. The employee's hourly rate of pay upon retirement shall determine the reimbursed amount. (add sentence about retirement vs. resignation or termination just for clarification)

6.3.12 Employees who have exhausted their personal leave for doctor's visits may use up to two (2) days of accumulated sick time for doctor's appointments that cannot otherwise be scheduled during off hours. Such leave must be approved in advance by the Department head and in no event shall the time impair the normal operations of the Department.

#### 6.4 Bereavement Leave

Any permanent full-time employee or Part Time Employee with Benefits covered by this Agreement is entitled to a leave of absence without loss of pay of up to three (3) consecutive days (prorated based on the number of scheduled work hours for Part Time Employees with Benefits) ending on the first working day following the completion date of the funeral services in case of death of immediate family. However, if the fourth consecutive working day occurs on the day after a scheduled day off, then the employee is not entitled to the fourth consecutive working day as a day off with pay.

6.4.1 The term "immediate family" shall include the employee's spouse, domestic partner, child, father, mother, sister, brother, mother-in-law, father-in-law, grandparents and grandchildren. The term "domestic partner" means two persons who meet the following criteria and jointly file a registration statement proclaiming that:

1. They are in a relationship of mutual support, caring and commitment and intend to remain in such a relationship; and,
2. They reside together; and
3. They are not married; and
4. They are not related by blood closer than would bar marriage in the Commonwealth of Massachusetts; and
5. They are each other's sole domestic partner; and
6. They are competent to contract; and
7. They consider themselves to be a family.

6.4.2 Absence of one (1) day may be granted for attending the funeral only for other members of the employee's family, including but not limited to, the employee's brother-



in-law, sister-in-law, aunt or uncle.

6.4.3 The purpose of this leave is only to attend the funeral or to attend to family or personal matters arising as a result of the death.

6.4.4 Any absence authorized under this Article shall not be deducted from sick leave.

## 6.5 Unpaid Leave of Absence

The Board of Selectmen may grant an employee, excluding those classified Part Time without Benefits, leave of absence without pay for a period exceeding fifteen (15) calendar days, but not to exceed ninety (90) calendar days. The appointing authority may grant a renewal of leave of absence on a quarterly basis not to exceed one year; provided that this provision does not apply to military leave.

Upon expiration of a regularly approved leave without pay the employee shall be offered a position comparable to that held at the time the leave was granted, if a vacant position exists in the Town.

Failure of an employee on leave to report for duty at the date designated and approved initially or upon renewal shall constitute resignation.

### 6.5.1 Criteria for Granting Leave

Leave without pay shall not be considered as a privilege, but shall be granted only when it serves to promote the mutual benefit and interests of the employee and the Town.

Leave of absence for training or study to enable the employee to render more valuable service to the Town may be deemed by the appointing authority as serving to promote mutual benefit and interest.

The appointing authority, upon the recommendation of the Department Manager, may approve or disapprove such request on the basis of the operational requirements of the department, availability of temporary substitute employees, the performance and attendance record of the individual and the reason for the request.

### 6.5.2 Procedure in Requesting Leave of Absence

An employee requesting a leave of absence for any reason must present the request in writing to the Department Manager, who shall submit a recommendation for review by the appointing authority. Requests other than for sick leave shall be made in advance to allow for the department to re-assign or reorganize the work of the department.

### 6.5.3 Disposition of Vacation

An employee who leaves Town employment directly for such leave may elect to be paid for any accrued vacation he/she may be entitled to if separating from Town employment. This decision shall be noted in the personnel status change report affecting the leave. If the employee elects not to be paid for vacation leave, then accrued vacation credits shall be reinstated upon return of the employee.

#### 6.5.4 Fringe Benefits During Leave

During any leave of absence without pay, all benefits including seniority calculations, that are normally accrued shall be frozen until the employee returns to work. All insurance benefits paid by the Town shall terminate during an unpaid leave of absence. The employee may retain membership in the Town's plans for health and life insurance for the duration of an approved leave of absence without pay, with the approval of the appointing authority and Board of Selectmen. The employee shall be responsible for paying the full cost of those benefits, including the portion normally paid by the Town, unless other provisions are approved by the appointing authority and Board of Selectmen to arrange to pay for said benefits which the employee wishes to continue while on leave of absence.

### 6.6 Maternity Leave Under Massachusetts Law (MMLA)

6.6.1 Purpose of Leave & Eligibility: The MMLA provides for up to eight weeks unpaid leave to eligible female employees and the Town has extended these benefits to eligible male employees. To be eligible, the employee must work full-time and must have completed at least three (3) consecutive months of full time employment. The purpose of this leave is for:

1. the birth of a child
2. adopting a child under 18 years of age
3. adopting a child under 23 years of age, if the child is mentally or physically disabled

Note: If an employee qualifies for FMLA, then MMLA and FMLA run concurrent for the first 8 weeks of the leave.

6.6.2. Pay Treatment and Application of Unused Sick Time and Vacation Time to Leave: The leave is unpaid. However, if an employee has time accrued as a result of unused vacation or sick leave, an employee may voluntarily use any paid accrued leave time concurrently with all or part of the paternity/maternity leave.

6.6.3. Advance Notice Requirement: In order to be eligible for this leave, an employee must give the Town of Topsfield at least two (2) weeks notice of his/her anticipated date of departure as well as at least two (2) weeks notice of his/her intention to return to work.

### 6.7 Small Necessities Leave (Massachusetts Small Necessities Leave Act – SNLA)

6.7.1 Purpose: Eligible employees may take up to twenty four (24) hours of unpaid leave, during a twelve month period for the purpose of tending to certain family matters which include:

1. Participating in school activities directly related to the educational advancement of an employee's son or daughter, for instance, a parent teacher conference or an interview at a new school.

2. Accompanying an employee's son or daughter to a routine medical or dental check up, for instance; a check up or vaccination.
3. Accompanying an elderly relative to a routine medical or dental appointment or one related to the elder's care, for instance, to an interview at a nursing or group home.

6.7.2 Eligibility: Employees are "eligible" to take SNLA leave only if they have worked for the Town of Topsfield for at least 12 months and have worked 1,250 hours during the 12 months.

6.7.3 Definition of Twelve (12) Month Period: The twelve (12) month period during which an eligible employee can take a leave under this policy is a rolling period. This period is measured forward from the date an employee first uses SNLA leave. An eligible employee's leave entitlement consists of up to twenty-four (24) hours of SNLA leave during this rolling twelve (12) month period.

6.7.4 Intermittent SNLA Leave: An eligible employee may take SNLA leave intermittently and need not use the entire 24 hour leave at once. However, the leave taken cannot exceed 24 hours during any twelve (12) month period. The 24 hours of unpaid leave are in addition to leave permitted by the FMLA and the MMLA. Whenever the need for leave is foreseeable, employees must provide the Town of Topsfield with at least seven (7) days notice prior to taking the leave. In all other instances, employees are requested to provide as much advance notice as practical.

The Town may request written certification confirming the necessity for the leave.

6.7.5 Pay Treatment and Application of Unused Sick Time and Vacation Time to Leave: This leave is unpaid, however, employees are not required to, but may use accrued vacation time when taking SNLA leave.

## 6.8 Family Medical Leave (FMLA)

6.8.1 Purpose of Leave & Eligibility: Employees employed by the Town who have worked for a total of at least twelve (12) months and have worked at least 1,250 hours over the previous 12 months are entitled to FMLA Leave. With the exception of an employee's own serious health condition, if both husband and wife are employed by the Town of Topsfield, they are together entitled to a maximum of twelve (12) work weeks of leave during any twelve (12) month period.

The Town of Topsfield will grant up to twelve (12) weeks of unpaid leave during a "rolling" twelve (12) month period to an eligible employee for one or more of the following reasons:

1. The birth, adoption or foster care placement of the employee's child \*(see note 1);

2. To care for a child during the twelve (12) month period following the birth or placement of a child for adoption or foster care;
3. To care for the employee's child, spouse or parent, if that child, spouse or parent has a serious health condition; and
4. To attend to the employee's own serious health condition that renders the employee unable to perform the functions of his or her job.

Note 1: While an employee seeking maternity leave may not be eligible for FMLA under this policy, if they have more than 3 months of service with the Town, they may qualify for leave under the provisions of the Massachusetts Maternity Leave Act (MMLA).

6.8.2. Definition of Twelve (12) Month Period: The twelve (12) month period during which an eligible employee can take a leave under this policy is a rolling period. This period is measured forward from the date an employee first uses FMLA leave. An eligible employee's leave entitlement consists of up to twelve (12) weeks of FMLA leave during this rolling twelve (12) month period. Specific questions regarding this may be directed to the Personnel Director. Example: Employee begins leave on October 15, 2005. From the period of October 15, 2005 to October 14, 2006, the employee is entitled to 12 weeks of leave. This leave may be one or more than one instance during that time period.

6.8.3. Application of Unused Sick Time and Vacation Time to Leave: Except as otherwise stated, if an employee wishing to take FMLA leave is eligible under the existing Town of Topsfield Personnel Procedures to take paid leave (for example: vacation or sick leave), the Town will require that all available paid leave be taken and exhausted during the period of FMLA. Once that paid leave is exhausted, the balance of the FMLA leave shall be unpaid leave.

6.8.4. Intermittent or Reduced Leave: When necessary, an employee eligible for FMLA leave may take "intermittent" leave (two (2) or more separate leave periods) or "reduced" leave (where an employee continues to work, but for fewer hours per day or per week). In such cases, the total number of hours or days of leave taken by the employee is limited to the equivalent of twelve (12) work weeks for that employee.

Employees must make a reasonable effort to schedule the leave in a manner that will not unduly disrupt Town of Topsfield's operations. The Town of Topsfield may transfer an employee to an available alternative position with equivalent pay and benefits for which the employee is qualified, if that position can accommodate recurring periods of leave better than the employee's regular job.

## 6.9 Personal Days.

6.9.1. General: The following provisions apply only to employees who have been in continuous employment by the Town for a minimum of one year. Part-time employees shall receive their personal days prorated. Eligibility as provided shall be determined on the basis of the anniversary date.

Personal Days off shall be approved in advance by the department head taking into consideration the request of the employee, and in no event shall the time off impair the normal operations of the department. No reason need be given by the employee for the request of said personal day.

6.9.2 Personal Days Accrual: Full time employees shall receive two (2) personal days of leave each year to be paid at their base rate. After completion of five (5) years of continuous service for the Town, each employee shall receive three (3) personal days per year. Part time employees shall accrue in the same manner on a pro rated basis.

No unused personal days may be accrued from one anniversary year to the next.

#### 6.10 Vacation Provisions.

6.10.1 General: The following provisions apply only to Full Time and Part Time Employees with Benefits who have been in continuous employment by the Town for a minimum of one (1) year. Vacation eligibility as provided herein shall be determined on the basis of the anniversary of the employment date.

Vacation schedules shall be established by the department head taking into consideration the request of the employee.

6.10.2 Vacation Time Accrual Rate: Full time employees shall receive one (1) week of paid vacation time after completing six months of continuous employment with the Town, and an additional one (1) week after completing one year of continuous employment with the Town. Part time employees with benefits shall receive two (2) weeks of paid vacation time after completing one year of continuous employment with the Town. Full and part time employees with benefits shall next be eligible for three weeks of vacation time upon completing five (5) years of continuous service to the Town. Thereafter, they shall accumulate one (1) additional vacation day every two (2) years of service until they are eligible for four weeks of vacation after completing 15 years of continuous service. Thenceforth, they accumulate vacation time at the rate of one (1) day per year of employment to a maximum of five (5) weeks of vacation after completing 20 years of continuous service with the Town.

A paid vacation week for full-time or part-time employees shall be defined as normal hours worked per week times base rate.

A paid vacation day for a full-time or part-time employee shall be defined as normal hours worked per week times the base rate divided by five.

6.10.3 Unused Vacation Time: Unused vacation time may not accrue from one year to the next, except in the event that extraordinary work or emergencies prevents the scheduling of an employees vacation within the year. In these circumstances the supervisory authority may extend vacation time for a period not to exceed one (1) additional year. Vacation time not used at the conclusion of the second year will be

forfeited. The pay for vacation time shall be in accordance with the scheduled compensation rate listed in the Personnel Schedule. Employees terminating their employment with the Town shall receive payment in lieu of any unused vacation time for which they have been credited. In the event of death, any unused vacation time of an employee shall be paid to his/her estate.

6.11 Compensatory Time.

The supervisory authority, acting with the advice and consent of the Town Administrator, may authorize compensatory time. Such compensatory time, however, shall be taken preferably by the end of the fiscal year in which it was earned but no later than one calendar year from the date it was earned. The Town Administrator shall be notified of any such action.

6.12 Department Support Staff Business Travel Policy

6.12.1 Travel undertaken at the request of Department: There may occasionally be a need for department support staff members to undertake travel to an event in order to address specific business needs of the Department.

Business needs are defined as

- a) obtaining or improving skills, education or training necessary to perform one's job.
- b) In these instances, travel and financial support will be considered if all of the following conditions are met:
  - the employee's attendance at an event is required in that the training received will address or support a defined business need of the Department,
  - the business need addressed by the event cannot be met locally,
  - the Department has the funds to support any overtime pay which may be required,
  - the daily operational needs of the Department will not be adversely affected and will not adversely impact the Department or another Department in the same building, i.e. the Department will make arrangements for coverage during those hours that the Town Hall is open.

6.12.2 The procedure for obtaining authorization for attending such conferences is as follows:

The Department Head will submit a "Request for Travel Support" and supporting documentation to the Town Administrator. The form must include:

- a) substantive justification for the employee's attendance, including the specific business need that will be met and confirmation that the need cannot be met locally,
- b) an agenda of the event and specific plans of how the employee will spend time at the event in order to address the business need,
- c) a tentative travel itinerary in order for the Town Administrator to determine the application of compliance with the policy and the calculation of overtime pay.

Final approval of the request rests with the Town Administrator. The employee's local Department will absorb all costs associated with overtime pay if required, unless otherwise stated.

#### 6.12.3 Travel undertaken at employee's own discretion

Often employees have the opportunity to attend conferences or training events that, while they may be useful to one's work or support one's professional aspirations, are not critical to the business needs of the Town or the Department. In these instances, if events are scheduled during the work week, support staff must use Vacation or Personal time to attend. If an employee does not have Vacation or Personal leave time available, they may use Leave Without Pay, provided proper guidelines are followed and approvals obtained per this policy. Employees who attend events on holidays or weekends do so on their own time and are not eligible for "comp" time.

Expenses incurred by employees for travel and attendance at events which are at their own discretion are not covered by the Town.

#### 6.12.4 Attendance at local events

The following guidelines pertain to attendance at local events. "Local" events are those which do not require an overnight stay.

- a. Paid time may be granted for an employee's event attendance during normal work hours, if they are judged to be directly related to the individual's work. Approvals are required from the the Department Head and the Town Administrator.

- b. Weekend and holiday attendance is on the employee's own time and is not eligible for "comp" time.
  - c. Expenses, such as registration fee and transportation, may be covered if the local Department has a training budget and the Department Head approves the use of those funds.
- 6.12.5 As is expected of all who attend training or association events, employees are encouraged to share their experience and the information learned through their event attendance with colleagues and staff.



Attachment A  
Standard Employment Application Form Language

All standard application forms should contain the following terms, conditions and authorizations to be agreed to by the applicant as well as warnings regarding prohibited inquiries by the Town as the potential employer.

*The information provided in this application for employment is true and complete to the best of my knowledge. In the event of employment, I understand that false or misleading information given in my application or interview(s) may result in discharge.*

*I authorize investigation of all statements contained in this application and the release of any pertinent information regarding my education, past employment history and background. I authorize the Town of \_\_\_\_\_ to obtain any information from schools, employers or individuals relating to my activities. This information may include, but is not limited to: academics, achievement, performance, attendance, personal history and discipline. Further, I hereby authorize all references, persons, schools, my current employer (if applicable) and previous employers and organizations named in this application, unless otherwise stated, to provide the Town of \_\_\_\_\_ any relevant information that may be required to arrive at an employment decision. I understand that the information released is for the Town of \_\_\_\_\_'s use only.*

*I hereby voluntarily release, discharge and exonerate the Town of \_\_\_\_\_, its agents and representatives, and any person so furnishing information from any and all liabilities of every nature and kind arising out of the furnishing or inspection of such documents, records and other information or the investigations made by or on behalf of the Town of \_\_\_\_\_.*

*I understand that all appointments are probationary and that I must demonstrate my ability for continued employment. I also understand that I must be available from time to time to work outside normal business hours, as the needs of the department require.*

*If required for the position I am seeking, I agree to take a physical examination, which may include testing for drugs or a psychological examination, as required, and recognize that any offer of employment may be contingent upon the results of such an examination.*

*I understand that any employment offer by the Town is conditional upon my ability to establish employment eligibility under the Immigration Reform and Control Act of 1986 within three days of the date of hire.*

*I represent that I have read and fully understand the foregoing and seek employment under these conditions.*

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

*"Discrimination against any person in any practice or procedure in advertising, recruitment,*

*referrals, testing, hiring, transfer, promotion or any other term, condition or privilege of employment which limits or adversely affects employment opportunities, because of political or religious opinions or affiliations, or because of race, color, sex, sexual orientation, national origin, marital status, pregnancy, parenthood, age or handicap which is unrelated to the person's occupational qualifications or any other non-merit factor which is not a bona fide occupational qualification is prohibited."*

*It is unlawful in Massachusetts to require a lie detector test as a condition of employment or continued employment. An employer who violates that law shall be subject to criminal penalties and civil liabilities.*

## Attachment B

### Prohibited Hazardous Occupations for Minors under age Eighteen (18)

1. Manufacturing and storing explosives;
2. Motor vehicle driving;
3. Coal mining;
4. Logging and saw-milling;
5. Operating power-driven wood working machines;
6. Operating power-driven hoisting apparatus;
7. Any work causing exposure to radioactive substances;
8. Operating power-driven metal-forming, punching and shearing machines;
9. Mining, other than coal mining;
10. Slaughtering, or meat packing, processing or rendering;
11. Operating power-driven bakery machines;
12. Manufacturing brick, tile, and similar products;
13. Operating power-driven paper product machines;
14. Operating power-driven circular saws, band saws, and guillotine shears;
15. Wrecking, demolition and ship-breaking;
16. Roofing;
17. Excavating;
18. Working in railway operations;
19. Working in foundries, or working in or about blast furnaces;
20. Buffing or polishing equipment;
21. Handling, serving or selling alcoholic beverages;
22. Working as a firefighter or engineer on any boat or vessel;
23. Manufacturing white or yellow phosphorous matches; and
24. Working at any occupation over thirty five feet above ground, floor or water level (including washing windows in a public or commercial building if the window is more than ten feet above the ground or floor level, or the roof of an adjoining building).

## Attachment C

### Prohibited Occupations for Fourteen (14) and Fifteen (15) Year Old Minors

1. Manufacturing of any kind;
2. Mining of any kind;
3. Processing, such as filleting fish, dressing poultry, or cracking nuts;
4. Laundering as performed by commercial laundries and dry cleaning;
5. Working in workrooms or workplaces where goods are manufactured, mined or otherwise processed;
6. Working for a public messenger service;
7. Operating or tending hoisting apparatus or any power-driven machinery (other than office machines or machines in retail, food service and gasoline service establishments);
8. Working in any occupations found and declared to be hazardous by official designation;
9. Working in connection with:
  - a. The transportation of persons or property by rail, highway, air, water, pipeline or other means;
  - b. Warehousing and storage;
  - c. Communications and public utilities; or
  - d. Construction (including repair), except in office and sales work in connection with these four categories as long as such office and sales work is not performed at the site of prohibited work;
10. Working in or about boiler or engine rooms;
11. Maintaining or repairing buildings, machines, or equipment;
12. Outside window washing that involves working from window sills;
13. Working on ladders, scaffolds, or their substitutes;
14. Cooking (except at soda fountains, lunch counters, snack bars, or cafeteria serving counters) and baking;
15. Operating, setting up, adjusting, cleaning, oiling, or repairing power-driven food slicers and grinders, food choppers and cutters, and bakery-type mixers;
16. Working in freezers and meat coolers and all work in preparation of meats for sale (except wrapping, sealing, labeling, weighing, pricing and stocking when performed in other areas);
17. Loading and unloading goods to and from trucks, railroad cars, or conveyers;
18. Working in warehouses except office and clerical work;
19. Working in any billiard or pool room;
20. Working in the theatrical trades, unless approval is obtained from the State Commissioner of Labor and Industries;
21. Working at an occupation involving industrial homework; and
22. Working in any of the occupations prohibited for all minors under the age of eighteen (18) as listed in Attachment B.

## Attachment D Classification Plan

### Section 1.0 Compensation Plan

The following compensation scales shall be utilized by all classified Town employees not otherwise covered under a collective bargaining agreement or Fee for Service Category.

After placement in the Town of Topsfield Wage Schedule an employee shall progress annually through the range based on documented satisfactory performance. Employees failing to achieve a satisfactory level of performance shall remain at their current rate of pay until attaining a rating of satisfactory on their annual evaluation.

Effective July, 2006 salaried positions will be compensated under a single 40 hour grid. All salaried wages, regardless of the number of scheduled work hours, will be prorated from this single grid.

Effective July 1, 2006 a percentage increase of 2.5% will be applied to all steps of the compensation plan grid. For those individuals not at step nine, step increases will be implemented.

### Section 2.0 Probationary Compensation

At the discretion of the supervisor an employee may be compensated during his/her initial employment at a probationary rate for a period not to exceed six (6) months

Probationary pay shall be five (5) percent less than entry level or starting step for the classification.

No additional compensation shall be paid to any employee designated as having been paid a probationary rate.

### Section 3.0 Classification of Town Positions (By Title)

Administrative Assistant (Grade 4)  
Assistant Assessor (Grade 6)  
Assistant Town Accountant (Grade 6)  
Assistant Town Collector/Treasurer (Grade 6)  
Building Inspector (Grade 8)  
Chief of Police (Grade 11 – Employment Contract)  
Conservation Administrator (Grade 7)  
Custodian (Grade 2)  
Data Entry Clerk (Grade 2)  
Health Agent (Grade 7)  
Highway Superintendent (Grade 10)  
Senior Library Assistant (Grade 5)  
Executive Assistant (Grade 6)  
Executive Director – Council on Aging (Grade 7)

Fire Chief (Grade 11 – Employment Contract)  
 Inspector-Electrical (Grade 6)  
 Inspector-Plumbing/Gas (Grade 6)  
 Land Use Coordinator (Grade 6)  
 Librarian-Children/Young Adult (Grade 6)  
 Librarian-Circulation (Grade 6)  
 Librarian-Technical Services (Grade 6)  
 Librarian-Reference (Grade 6)  
 Library Assistant (Grade 4)  
 Library Director (Grade 9)  
 Office Manager (Grade 6)  
 Park & Cemetery Superintendent (Grade 9)  
 Personnel Benefits Administrator (Grade 6)  
  
 Principal Assessor (Grade 9)  
 Purchasing Agent/Community Development Coordinator (Grade 7)  
 Recording Secretary (Grade 3)  
 Seasonal Equipment Operator (Grade 4)  
 Seasonal Laborer (Grade 1)  
 Senior Administrative Assistant (Grade 5)  
 Senior Library Assistant (Grade 5)  
 Town Accountant (Grade 10)  
 Town Clerk/Records Access Officer (Grade 8)  
 Treasurer Collector (Grade 10)  
 Town Administrator (Grade 12 – Employment Contract)  
 Van Driver -Council on Aging (Grade 2)  
 Water Superintendent (Grade 10)

Section 3.01      Classified Non-Union Position Titles (By Grade):

GRADE 1:  
 Seasonal Laborer

GRADE 2:  
 Van Driver-Council on Aging  
 Custodian  
 Data Entry Clerk

GRADE 3:  
 Recording Secretary

GRADE 4:  
 Administrative Assistant  
 Library Assistant  
 Seasonal Equipment Operator

GRADE 5:

Senior Administrative Assistant  
Senior Library Assistant  
Assistant to Library Director

GRADE 6:

Assistant Assessor  
Assistant Town Accountant  
Assistant Town Collector/Treasurer  
Personnel Benefits Administrator  
Executive Assistant  
Office Manager – Police  
Land Use Coordinator  
Inspector-Electrical  
Inspector-Plumbing/Gas  
Librarian-Children/Young Adult  
Circulation  
Technical Services  
Reference

GRADE 7:

Executive Director – Council on Aging  
Conservation Administrator  
Health Agent  
Purchasing Agent/Community Development Coordinator

GRADE 8:

Building Inspector  
Town Clerk/Records Access Officer

GRADE 9:

Park & Cemetery Superintendent  
Library Director  
Principal Assessor

GRADE 10:

Highway Superintendent  
Town Accountant  
Town Treasurer Collector  
Water Superintendent

GRADE 11:

Chief of Police  
Fire Chief

GRADE 12:  
Town Administrator

Section 3.02 Union/Contract Positions (By Department & Grade)

*(Note that the following non-exempt, contract employee positions are listed to illustrate the relationship and position placement within the Town's general classification system; However, the titles, compensation and terms of employment are subject to collective bargaining and the provisions under MGL 150E. They are listed here for reference purposes only.)*

Park & Cemetery Department:

GRADE 3:	Park & Cemetery Laborer	C3 (Contract)
GRADE 5:	Park & Cemetery Asst. Superintendent	C5

Highway/Water Departments:

GRADE 4:	Highway Equipment Operator	C4
	Water System Technician	
GRADE 6:	Highway Foreman	C6
	Water Systems Operator 1 & 2	

Fire Department:

GRADE 4:	Firefighter	C4
GRADE 5:	Firefighter/EMT	C5
GRADE 6:	Fire Lieutenant	C6
	Firefighter/Paramedic	
GRADE 7:	Fire Captain	

Police Department

GRADE 5:	Reserve Police Officer
GRADE 6:	Police Officer
GRADE 7:	Police Sergeant

Section 3.03 Fee for Service Titles (Per Diem)

Alternate Inspectors  
Alternate Health Agent  
Board of Health Sanitarian  
Clerk - Trust Fund  
COA-Meals On Wheels  
Camp Director-Park & Recreation  
Camp Counselor-Park & Recreation



Gate Keeper-Park & Cemetery  
Veteran's Agent (Service Agreement)  
Prisoner Watch  
Election/Poll Workers

Section 3.04    Stipend Titles

Animal Control Officer  
Animal Inspector  
Tree Warden  
Sealer of Weights & Measures  
Storm Water Coordinator

Attachment E  
Department of Employment and Training Notices

Massachusetts General Laws, Chapter 151A Section 62 contain several requirements regarding the availability of Unemployment Insurance Benefits to employees through the Massachusetts Division of Employment and Training (DET). Details regarding these requirements can be found on the DET website at [www.detma.org](http://www.detma.org). The specific items to be posted or disseminated are listed below and these materials can also be found and downloaded through the DET website.

The DET poster entitled “Information on Employee’s Unemployment Insurance Coverage” (Form 2553-A, Rev. 4-02) must be displayed at each site operated by an employer in a conspicuous place accessible to all employees. The poster must include the name and mailing address of the employer and the identification number assigned to the employer by the Division of Employment and Training. This Form can be found at: <http://www.detma.org/forms/empforms1.htm>.

Under the state’s Employment and Training Law, employers are required to give a copy of the pamphlet entitled “How to File for Unemployment Insurance Benefits” (Form 0590-A, Rev. 02-03) to each employee who is separated from work, permanently or temporarily for seven or more days. The pamphlet must include the name and mailing address of the employer and the identification number assigned to the employer by the Division of Employment and Training. This form can be found and downloaded at: <http://www.detma.org/forms/empforms1.htm>.

The DET website also contains a listing of all DET TeleClaims numbers and Walk-in Service Center locations throughout the Commonwealth which can be provided to employees. It also contains a direct link to Chapter 151A of the General Laws of Massachusetts governing how the unemployment insurance program operates in Massachusetts.

Attachment F

Acknowledgement of Receipt of Personnel Policies

The undersigned hereby acknowledges that he/she has received the Personnel Policies and Procedures and has read and understood Section 5.0 Standards of Conduct of the Town of Topsfield on this the \_\_\_\_\_ day of \_\_\_\_\_ (month), 20\_\_\_\_, and agrees to abide by all policies and procedures contained therein.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name of Witness

\_\_\_\_\_  
Title of Witness

## Appendix A

### Sample Reference Check Questions

- Please describe the position the candidate held (or holds) in your organization. Review:
  - a. duties, reporting relationships, scope of responsibility, level of autonomy;
  - b. how long they were in the position and what other positions they held in the organization;
  - c. confirm dates of employment, job title, salary and dates in current or last position.
- What were the candidate's strongest skill areas?
- Using a 1-5 scale, with 5 being the high, how would you rate the candidate in the following areas: (List the specific knowledge, skills, abilities, or tasks that are pertinent to your position.)
- Please describe how the candidate interacted in the workplace with: subordinates, peers, immediate supervisors and management (use each one that is appropriate for your position).
- Was the candidate a person whom you had to motivate or were they internally motivated?
- What aspects of candidate's job did (he/she) do well? In what aspects of their job did they require a higher level of supervision or seem to struggle with?
- Describe the candidate's quality and quantity of work.
- Did the candidate understand, follow and respect workplace rules and administrative processes?
- Please describe areas that the candidate either struggles with or should continue to work on developing?
- Was the candidate a "team player"?
- Based on the description of the position that the candidate has applied for and reviewing their current or past job description, can you foresee any problems with the candidate being able to perform the duties of the position for which they have applied?
- Would you re-hire the candidate if given the opportunity?
- Is there anything else relevant to the candidate's performance and attitude in your workplace of which I should be aware?
- Would you recommend the candidate for this position?

For Supervisor/Manager candidates also consider asking:

- How long has the candidate been a supervisor/manager?
- Please describe the number and title of the employees that the candidate supervised directly.
- Please describe the number of people indirectly supervised by the candidate (number of people reporting through other supervisors to the candidate).
- Did the candidate do the following: (Clarify as to whether they had the authority and had actual experience in each of these areas.)
  - a. Hiring
  - b. Establishing job duties
  - c. Recommending pay increases
  - d. Evaluating
  - e. Disciplining
  - f. Firing
  - g. Supervising/managing in an union environment

- Describe the candidate's supervisor/management/ leadership style (You should clarify and evaluate if it was an effective style).

## Appendix B Sample Performance Appraisal Process

### General Procedures

#### *Coordination*

The performance review system will be coordinated and monitored by the Town Administrator. Coordination will include the following tasks:

- Informing department heads about which employee reviews should be completed;
- Providing supervisors with the performance review forms needed to complete the reviews;
- Monitoring the completion of reviews;
- Placing the completed reviews in employees' official personnel files;
- Keeping employee reviews in a secure file to protect confidentiality; and
- Regulating access to employee review files.

#### *Forms*

All non-management administrative, clerical and professional employees will be evaluated using the Performance Appraisal Form approved by the Town Administrator.

#### *Timing*

All employees will be evaluated prior to the conclusion of the probationary period, and annually no later than May 1<sup>st</sup>.

#### *Meetings*

All supervisors are expected to hold a private meeting with each of their employees to complete annual reviews.

#### *Compensation*

The Town Administrator will advise the Town Accountant to withhold increases for those employees whose Performance Appraisal was Unsatisfactory. Employees failing to achieve a satisfactory level of performance shall remain at their current rate of pay until attaining rating of Satisfactory.

#### *Employee Response*

If an employee disagrees with their review, they may offer comments to be included with the Performance Appraisal Form.

### Evaluation Process

#### *Evaluation of Previous Review Period*

The evaluator should comment on the employee's performance with regard to each of the performance criteria listed on the form. A narrative description of the employee's performance must be included under each category. If the employee's performance in any of the criteria

warrants improvement, indicate the level of performance which would be acceptable and the method by which the employee may improve his/her performance.  
{Sample Performance Criteria are outlined in Appendix C.}

#### *Evaluation of Goals for Previous Review Period*

The supervisor and the employee should review the goals set the previous year. Each employee should have at least 3 goals per year, which may be modified during the mid-year review, if necessary. If a particular goal was not achieved due to mitigating circumstances, the evaluator should indicate that fact in the space provided.

#### *Goal Setting for Next Review Period*

The evaluator and the employee should mutually agree on the goals to be set for the coming year. Each goal should be a concise statement of the objectives to be attained within the performance period, and should have a specific target date. Some objectives will be on-going “maintenance” objectives and some will be unique to the evaluation period.

#### *Overall Evaluation for the Review Period*

In the space provided, or on attached sheets if necessary, the evaluator should prepare a brief narrative detailing his/her overall evaluation of the employee for the previous review period. The evaluator should take into account the eight key performance criteria as well as the completion of the goals for that period. It is up to the evaluator’s discretion as to how to weight the value of the performance criteria against the achievement of goals (or lack thereof).

#### *Employee Comments*

Any employee who wishes to comment may have the opportunity to do so before the evaluation is placed in his/her personnel file. This is not mandatory, it is entirely at the employee’s discretion.

## Appendix C

### Guidelines for Disciplinary Procedures

The Town's disciplinary policy is one of progressive discipline. Employees must know what is expected of them, and what the consequences are for failing to meet these expectations. In general, the disciplinary process is set up as follows:

- a. Oral Reprimand: May be initiated by the employee's immediate supervisor, department or division head. In all cases, the department head or his/her designee should be informed of the reprimand.
- b. Written Reprimand: May be initiated by the employee's immediate supervisor, department or division head. In all cases, the department head must review and approve of the written reprimand.
- c. Suspension and Discharge: May be initiated by the appointing authority or his/her designee. Discharge and suspension issues must be discussed with the Personnel Director prior to action.

In most cases, any disciplinary action initiated for an employee's first violation of a standard will be mild, such as informal or oral reprimands. Should such action be insufficient to cause the employee to comply with the standard, subsequent disciplinary action becomes progressively more severe until the employee has either corrected the deficiency or ceases to be an employee. In general, most of the procedures below should be followed for probationary (first 180 days of employment) employees. Even though probationary employees may be terminated without cause, they should be afforded an opportunity to improve their performance prior to being let go.

At each step the standard should be reiterated, and the employee offered any appropriate and reasonable assistance. The primary goal of each step in the disciplinary process is the correction of the problem. The goal is not to establish a basis for more severe disciplinary action.

In some areas, the Town's expectations are obvious. Employees are expected to know that they may not steal, assault members of the public or other employees, or abuse their authority for private gain. Other than such obvious examples, it is generally not sufficient for supervisors or department heads to assume that the employee is aware of the Town's expectations; nor is it generally sufficient to assume that an employee knows that his/her performance is deficient or that his/her employment may be in jeopardy. All supervisors are obliged to communicate openly and honestly with their employees, and to ensure that all employees have read and understand the Personnel Policies, by-laws, and all other rules and regulations governing their employment.

#### General Procedures

Many authorities may be involved in the final resolution of discipline issues including (but not limited to): the Town Administrator, the Board of Selectmen, or independent arbitrators. However, the standards for consideration are essentially the same:

1. There must exist sufficient cause to discipline the employee.
2. The harshness of the penalty must fit the seriousness of the action.
3. The employee must receive clear and unequivocal warning stating the precise area in



which his/her performance of behavior is unacceptable, and the probable consequences of the continuation of the behavior.

4. The employee must be given full opportunity to explain his/her actions and to reform or rehabilitate himself/herself.
5. The situation must be fully documented (unless it is a severe infraction which may be cause for immediate dismissal).

### Specific Procedures

#### 1. *Oral Reprimand*

The oral reprimand (or warning) is the least severe form of disciplinary action. In most cases it is the first form of disciplinary action taken against an employee. After meeting with the employee to communicate the warning, the department head/designee should prepare a written summary that is presented to the employee and may be placed in the employee's official personnel file.

Both the oral reprimand and the written summary should contain as many elements as listed below as are appropriate to the type of disciplinary problem involved:

- a. Rule, Regulation or Policy Involved
- b. Facts Showing Deviation from Standard
- c. Consequence to the Town/Department
- d. Expected Performance or Behavior
- e. Plan for Improvement
- f. Time Frame for Compliance and Follow-Up Measures
- g. Next Step if Improvement/Compliance not Forthcoming

#### 2. *Written Reprimand*

The written reprimand shall always be placed in the employee's official personnel file. It contains all of the elements of the oral reprimand as listed above. In most cases, this formal warning will be initiated only after an informal or oral warning has failed to bring about sufficient improvement. In some cases, in which the employee commits a fairly serious offense (e.g. insubordination) the written reprimand may be the first disciplinary action taken. As with the oral reprimand, the written reprimand should be issued following a meeting with the employee.

##### a. *Suspension*

Suspension is the temporary and involuntary separation of an employee from his/her employment. The purpose of a suspension is to serve as a final warning to an employee that continued misbehavior or poor performance may result in discharge. Suspension is generally imposed only when prior warnings or reprimands have not caused the employee to bring his/her performance or behavior up to the expected standard. In some cases involving serious misconduct, suspension may be the first disciplinary action taken.

Except in cases of serious misconduct, one or more suspensions should precede the discharge of any tenured employee. A probationary (less than 180 days with the town) employee need not be suspended prior to discharge (although a pre-termination hearing is

mandatory). Appointing authorities should contact the Town Administrator (Personnel Director) prior to implementing a suspension.

In cases where the Department head and Town Administrator determine that the unsatisfactory employee should be suspended for a period of more than five (5) days, the employee shall be granted a hearing before the department head and the Town Administrator prior to the imposition of the suspension. All suspensions shall be documented in writing including all of the reprimand elements listed above, and shall be forwarded to the Town Administrator (Personnel Director) for inclusion in the employee's official personnel file.

*b. Discharge*

Discharge is the permanent and involuntary separation of a person from his/her employment with the Town. Because of its severity, action to discharge an employee is generally initiated only after the oral and written reprimand processes and one or more suspensions have failed to bring about the employee's conformance with the requisite standards of performance or behavior.

Action to discharge a probationary employee will generally not be initiated until the employee has been clearly warned that his/her continued poor performance or inappropriate behavior could lead to his/her discharge and until the employee has been given a fair opportunity to improve following the warning.

In cases involving serious misconduct (e.g. theft, assault) discharge may be initiated without any prior warnings or suspensions.

In all cases in which the department head and Town Administrator (Personnel Director) determine that discharge may be warranted, the employee shall be given a hearing by the department head and the Town Administrator (Personnel Director) prior to the imposition of the discharge. The Board of Selectmen should be notified that this hearing is to take place at least 10 working days prior to the meeting. If discharged, the employee will be given a written notice stating the reason(s) for the discharge and the effective date of termination of employment with the Town. Such notice shall be included in the employee's official personnel file.

*c. Alternatives to Suspension or Discharge*

Prior to the initiation of action to suspend or discharge an employee, consideration should be given to other alternatives such as demotion or reassignment to other duties. These alternatives will be appropriate only in a small percentage of cases. Their use as disciplinary measures will be strictly scrutinized. Demotion or reassignment should be considered only when the employee has previously demonstrated an ability to perform the duties of the position to which demotion or reassignment is contemplated.

*The Disciplinary Interview*

Whenever possible, a meeting between the employee and department head/designee should precede the initiation of any disciplinary action against the employee. (Bargaining Unit employees who so request are entitled to union representation at any meeting which the employee

perceives to be of a disciplinary nature. However, the department head may speak directly to the employee and request that the employee answer questions. The department head should allow such employee a reasonable amount of time to secure union representation.)

The primary goals of the Disciplinary Interview are:

1. To determine whether the employee has in fact failed to comply with a required standard;
2. If so, to identify why the employee failed to meet the standard;
3. To inform the employee exactly what will be expected of him/her in order to avoid further disciplinary action and to offer any appropriate assistance; and
4. To warn the employee of the consequences of his/her continued failure to comply with the established standards.

If the Disciplinary Action under consideration is demotion, reassignment or discharge, the Department Head/designee and the Town Administrator should also attempt to ascertain:

- a. Whether any preceding disciplinary action was properly implemented, including proper follow-up on improvement plans; and
- b. Whether the employee has a documented history of satisfactory performance in another position. If so, demotion or reassignment might be considered an appropriate alternative to discharge.