

TOWN OF WATERBORO PERSONNEL POLICY



Amended through 11/14/17

PERSONNEL POLICY: TABLE OF CONTENTS

TOWN OF WATERBORO

Adopted effective 1/19/1988

Selectmen approved amendments through 7/31/12 and 11/14/17

SECTION 1.00 Preamble and Purpose

1.1 Preamble and Purpose 1

SECTION 2.00 Employment

2.1 Generally..... 1
2.2 Equal Opportunity Employer2
2.3 Recruitment2
2.4 Employment Files.....3
2.5 Employment Classification3
2.6 Employee Evaluations4
2.7 Whistleblower Protection5
2.8 Anti-nepotism5

SECTION 3.00 Work Week & Attendance

3.1 Work Week.....5
3.2 Time Recording5
3.3 Overtime6
3.4 Attendance6
3.5 Snow Days6
3.6 Lunch & Break Periods7

SECTION 4.00 Compensation

4.1 Payment Schedule7
4.2 Payroll Adjustments7
4.3 Deductions8
4.3 Garnishment of Wages8
4.3 Expense Reimbursement8
4.6 Seniority8

SECTION 5.00 Employee/Volunteer Conduct

5.1 Generally.....8
5.2 Drug & Alcohol.....9
5.2.1 Alcohol And Drug Policy And Testing Procedures9
5.3 Driving Policy.....18
5.4 Loss of License or Certification18
5.5 Confidentiality18

5.6	Employee Appearance.....	19
5.7	Sexual Harassment	20
5.8	Other Forms of Harassment	21
5.9	Workplace Violence	21
5.10	Complaint Procedures & Witness Obligations	22
5.11	Workplace Safety & Injury Reporting	22
5.12	Ethics & Conflicts of Interest.....	23
5.13	Outside Employment & Solicitation	23
5.14	Political Activity.....	23
5.15	Gratuities/Gifts	24
5.16	Smoking.....	24
5.17	Municipal Property.....	24

SECTION 6.00 Employee Discipline

6.00	Employee Discipline	25
------	---------------------------	----

SECTION 7.00 Employee/Volunteer Grievance Procedures

7.1	Grievance and Complaint Procedures.....	26
7.2	Terminating Employment	28
7.3	Layoffs & Labor Force Reductions.....	28

SECTION 8.00 Benefits

8.1	Vacation.....	29
8.2	Holidays.....	30
8.2.1	Holidays for Some Emergency Personnel	30
8.3	Sick Leave	31
8.4	Insurance Benefits	32
8.5	Retirement.....	32
8.6	Worker’s Compensation.....	33
8.7	Unemployment Insurance.....	33
8.8	Social Security.....	33
8.9	Employee Assistance Program.....	33
8.10	Discretionary Benefits	33

SECTION 9.0 Leaves of Absence

9.1	Bereavement	34
9.2	Family & Medical Leave (FMLA).....	34
9.3	Leave Without Pay	36
9.4	Jury Duty	37
9.5	Military Leave	37
9.6	Victims of Family Violence	37
9.7	Emergency Disaster Volunteer Leave.....	38

The municipality specifically reserves the right to repeal, modify or amend these policies as necessary. These policies are intended as informational guidance and the municipality reserves the right to interpret any provision and to change policies with reasonable notice when possible. These policies are not to be interpreted as promises of specific treatment or as creating any contractual rights with any employee/volunteer. In addition, conflicting changes in local, state or federal laws take precedence over the contents of personnel policies, whether or not those changes were incorporated into the policy.

PERSONNEL POLICY

TOWN OF WATERBORO

SECTION 1.00 Preamble & Purpose

1.1 Preamble

A. By action of the Town of Waterboro Board of Selectmen, the Personnel Policy (here after referred to as the "Policy") was voted into effect on July 14, 2003. This Personnel Policy is established as guidelines to assist in developing sound working relationships between the municipality and its personnel. These policies and subsequent modifications shall supersede any policy and/or rules made previously by the Board of Selectmen.

B. Elected officials including the Board of Selectmen in addition to all town committee members are not under the jurisdiction of the Personnel Policy. However, it is expected that these persons will utilize sound judgment in exercising their official duties and recognize relevant sections (e.g., Employee Conduct, Conflict of Interest, Harassment and Sexual Harassment, Confidentiality) of the Personnel Policy as a guide to performance of their duty to serve the Town and voters.

Per the Town of Waterboro Fire Department and Emergency Medical Services Ordinance (Oct. 28, 1997), Fire Department Officers (Art. 4(B)(4)) and Fire Department personnel (Art. 4(C)(5)) shall be subject to the Personnel Policy of the Town of Waterboro.

All municipal volunteers, to the extent relevant and appropriate and if not exempted by policy definitions, are subject to this policy.

SECTION 2.00 Employment

2.1 Generally

A. Selection. The employment of all personnel shall be the responsibility of the Town Administrator with input, as appropriate, from Department Heads and occasionally the Board of Selectmen. According to the Town of Waterboro Fire Department and Emergency Medical Services Ordinance, the Fire Chief shall be responsible for the recruitment, training, safety, discipline (under the direction of the Town Administrator) and the efficient functioning of the Department, its members and personnel.

B. Application. All applicants must submit a written application for employment. Submission procedures should include a completed application, references, and resume. The municipality

relies upon the accuracy of information contained in the submissions, as well as the accuracy of other data presented throughout the hiring process and employment. Any willful misrepresentations, falsifications, or material omissions in any of this information or data may result in the municipality's exclusion of the individual from further consideration for employment or, if the person has been hired, termination of employment.

C. Tests. The municipality may require applicants to submit to interviews and examinations which may include, among others, written tests, agility tests, pre-employment but post-offer physical and/or psychological examination(s) as permitted under state and federal law when job related, background checks and drug tests.

D. Probation period. All employees are considered probationary for the first six (6) months of employment. The probationary period shall be considered an extension of the selection process. Probationary employees may be removed at any time during the probationary period without cause and without right to file a grievance. New probationary employees accrue vacation and sick leave but are not eligible to take vacation time unless so authorized by the Town Administrator. Sick leave accrual is subject to Section 8.3 of this Policy. Employees promoted, transferred or rehired during the probation period will accrue vacation and sick leave and are eligible to use vacation and sick leave.

2.2 Equal Opportunity Employer

The Town of Waterboro is committed to providing equal employment opportunities to applicants and employees. The Town supports a policy of nondiscrimination in hiring, employment and personnel actions. Waterboro is committed to the principle that each individual is entitled to equal employment opportunities without regard to: religion, race, sex, sexual orientation, marital status, age, color, ancestry, national origin, creed, political affiliation, veteran status, sexual preference, or physical or mental disability.

This commitment applies to recruiting, hiring, compensation, fringe benefits, staff development and training, promotion, termination, and all other conditions of employment. This policy should be made known to all entities that do business with the Municipality.

2.3 Recruitment

The municipality shall employ the best-qualified persons who are available at the salary levels established for municipal employment. Taking time limitations into account, there shall be as wide a search for qualified candidates as is practicable. The character of the recruitment and selection process for all positions will vary contingent on the position, but may include advertising and open competitive examination in addition to contact with state employment and other special sources of information. In appropriate circumstances, the municipality reserves the right to hire from within, without externally posting the job vacancy. It shall be the duty of the Town Administrator (or Fire Chief under the direction of the Town Administrator) to seek out the most qualified employees/volunteers.

Promotions and Transfers

Employees who are promoted or voluntarily switch jobs shall serve a two (2) week probation period, during which time they may request to be re-assigned to their previous position. Employees serving a probation period as part of a promotion or voluntary transfer shall not forfeit their right to appeal disciplinary action as otherwise set forth in this policy.

2.4 Employment Files

Employee files will be kept at the Town Hall, or in the case of the Fire Department at the Fire Chief's office, in accordance with state and federal guidelines. A complete file will be kept in a secured area for each employee and will include items such as: verification of pay, hiring data, applications, resumes, reference letters, signed job descriptions, employee acknowledgement forms, probationary and annual review, letters of commendation and recognition, disciplinary actions, case notes and exit interview forms. Medical information, as well as Workers Compensation information is part of the employee personnel file but, because of the confidential nature of such information, such material is kept in a secure location separated from the employee file.

An employee may, with reasonable notice to the Town Administrator or the Fire Chief and at a convenient time for the Town Administrator or the Fire Chief, review his/her employment file during regular working hours.

Employee files will be treated as confidential, to the extent permitted by law e.g. "Right to Know" mandates. Employee information is available only to the Town Administrator and Department Heads when appropriate.

Destruction of files for employees that have left the employ of the municipality shall occur according to state and federal guidelines.

2.5 Employment Classification

A. Probationary employees. All new employees and every person promoted, transferred or rehired to a position are considered probationary for the first six (6) months of employment.

The probationary period shall be considered an extension of the selection process during which time employees will be subject to review and evaluation. In no case will the probationary period be extended. If an employee's job is temporarily interrupted during the probationary period, upon return he/she will be required to complete the probationary period and may be given credit for the time already served. New probationary employees accrue vacation and sick leave but are not eligible to use vacation leave until after their probationary period is completed, unless approved by the Town Administrator. Probationary employees may be removed at any time during the probationary period without cause and without right to a hearing.

B. Full-time. A full-time employee works 32 hours or more per week on a continuing 52 week basis. Such employees are subject to all personnel policies and rules and receive all benefits for which they satisfy required eligibility criteria. This is the only employee classification to receive a town contribution towards retirement unless otherwise required by contract or authorized by the Town Administrator.

C. Continuous Part-time. An employee in this classification works more than 20 hours and less than the 32 hour workweek, but on a continuing 52 week basis. Continuous part-time employees are subject to all personnel policies and rules and are entitled to a pro rata share of vacation, holiday and sick leave benefits, but not retirement, health and dental insurance unless required by contract or approved by the Town Administrator. Benefits will be prorated according to the average hours per day that are worked compared to a full 40 hour work week. Per diem emergency personnel are not considered continuous part-time and should refer to section 2.5.1.

D. Temporary or seasonal employees. Temporary or seasonal employees work on a non-continuing basis, within a limited time frame. Temporary employees are subject to all personnel policies and rules but are not entitled to any benefits except those benefits required by law such as worker's compensation and unemployment compensation.

E. Exempt employees. Employees, who by the nature of their work, meet the exemption requirements of the federal Fair Labor Standards Act (FLSA), are deemed exempt from the payment of overtime for hours worked in excess of forty (40) hours in any week.

F. Non-exempt employees. All hourly wage earning employees who do not meet the "executive administrative or professional" criteria as set by the FLSA and, who are not otherwise exempt, or partially exempt from the overtime requirement of the FLSA, are eligible to receive overtime compensation paid at time and one-half (1.5) for hours worked in excess of forty (40) hours during any week.

Firefighters may be subject to special exceptions which permit the establishment of work periods up to 28 days. If such work periods are adopted, overtime is not measured in terms of 40 hour work weeks, but should instead be paid for work performed in excess of 212 hours over a 28 day period.

The Department Head or the Town Administrator should preauthorize all overtime when possible, but must authorize overtime recorded on weekly time sheets.

G. Contract Employment. Contract employment is employment under a personal services contract between the Town and an individual. Such employees receive salaries and benefits as negotiated and stipulated in each contract and are covered by these Rules and Regulations with regard to those areas not specifically addressed in the contract.

H. On Call. These employees are scheduled to work on an intermittent as-needed basis. These employees do not have a regular schedule. On call employees are subject to all personnel policies and rules, but are not entitled to any benefits except those benefits required by law, including workers' compensation and unemployment compensation.

I. Per Diem. These employees routinely work scheduled hours and are not included in any of the above categories. The Town offers this category in limited classifications and to a limited number of employees, such as Fire/EMS personnel. Per diem employees are not entitled to any benefits, except those benefits required by law, including workers' compensation and unemployment compensation. Service in this category cannot be credited toward a benefit program if the employee changes employment to a benefit eligible category. Firefighters may be subject to special Garcia rule exceptions which permit the establishment of work periods up to 28 days. If such work periods are adopted, overtime is not measured in terms of 40 hour work weeks, but should instead be paid for work performed in excess of 212 hours over a 28 day period.

2.6 Employee Evaluations

A. Generally. Evaluations will relate directly to the employee's position, work habits and job performance. Once a written evaluation has been completed, the employee and person charged

with performing the evaluation will meet to discuss the evaluation. The employee's signature will be obtained which acknowledges review and understanding of the evaluation. Refusal to sign will be noted.

B. Full and Continuous Part-time employees. These employees will receive a written evaluation annually, on or about their anniversary date at the discretion of the Town Administrator. Non-exempt employees shall receive their evaluation from the Town Administrator or Department Head. The Town Administrator will evaluate exempt employees. .

C. Probationary employees. Newly hired probationary employees may receive a review after 6 months of employment, although probationary employees may be terminated without cause and without advance notice. The 6-month review period should serve to guide a new employee so that he or she can attempt to correct any faults or shortcomings in their performance.

2.7 Whistleblower Protection

The Municipality strives to conduct its business with integrity and in strict compliance with all applicable federal, state and local laws and regulations. Accordingly, employees/volunteers are encouraged to bring to the attention of their Supervisor or the Town Administrator any actions of municipal officials or employees/volunteers that they believe may be illegal or unsafe. The Municipality will not retaliate against any person who makes a report in good faith to either his Supervisor, the Town Administrator or to a regulatory body.

2.8 Anti-Nepotism

No applicant shall be considered for full or continuous part-time employment in the same department where an immediate family member is already employed. This policy may be waived when the Town Administrator determines that such a waiver is necessary in order to recruit sufficient personnel to meet the Town's needs.

Such waivers shall be for a specific period of time and shall detail the position(s) covered. Waivers shall not create a grand fathered situation for future years. In a situation where the nepotism policy is waived, relatives shall not directly supervise one another and every effort shall be made to assign relatives to separate crews, shifts or Supervisors.

SECTION 3.00 Work Week & Attendance

3.1 Work Week

The regular workweek for payroll purposes begins Sunday and ends Saturday at midnight.

3.2 Time Recording.

For purposes of public accountability, all employees, exempt or non-exempt must record actual hours of work as well as paid or unpaid leave on their time sheets. Falsification of time records is a breach of Town policy and may result in disciplinary action including the possibility of dismissal.

Time sheets are due no later than noon on Monday because payroll is processed on Tuesday mornings. Employees who fail to turn in time sheets by the deadline may be subject to discipline and may have a one week delay in payment for that period.

3.3 Overtime

A. Exempt employees: Exempt employees will not receive overtime pay, and are expected to work at least 40 hours per week or more as required to perform the job. However, an exempt employee shall be entitled to one hour of compensation time for each hour worked in excess of their regular scheduled weekly hours. Compensation time may be accumulated up to twenty-four (24) hours per calendar year. Compensation time will not carry over from one year to the other without approval by the Town Administrator. There shall be no payment for unused compensation time at the termination of employment for exempt employees.

B. Non-exempt employees: Any time worked by non-exempt employees in excess of forty (40) hours and 53 hours in the case of firefighters shall be compensated at an overtime pay rate of time and one-half (1 ½). For the purpose of computing overtime, within any given week, hours spent on the job and actually worked along with military and jury time will be used to calculate overtime pay. Vacation, sick leave, bereavement leave, holiday, and all other leave will not be counted toward calculating overtime pay.

C. Overtime. The Department Head and Town Administrator will exercise discretion in authorizing overtime (and/or compensatory time if applicable). Overtime shall be considered necessary only in critical situations where additional effort is needed to complete a task within a certain amount of time. Employees working within emergency services may, at times when determined by the Fire Chief or designee, hold over staff to ensure proper staffing coverage.

3.4 Attendance

Employees shall be at their respective places of work at the appointed starting time and remaining at work until the end of the scheduled workday. It is the responsibility of employees who may be late or absent from work to see that their immediate Supervisor is advised of the reason for lateness or absence with as much advance notice as possible. If an absence which has not been previously arranged for becomes necessary, the employee is expected to contact their Supervisor two (2) hours prior to the beginning of the employee's normal shift or sooner if practicable.

If an absence continues beyond one day, the employee is responsible for reporting in each day or providing the municipality with a physician's letter that contains the date the employee is to return to work. (Refer to the Medical Leave section for information on extended sick leave reporting requirements.)

Repeated lateness, unexcused absences, absences without authorization or failure to return to duty within 24 hours may be cause for discipline and/or discharge.

Per Diem employees who call out absent are responsible for making a maximum effort to find a replacement of equally qualified staff when needed.

3.5 Snow/Severe Weather Days

With the exception of emergency services personnel, employees may be excused from work due to snow days or severe weather at the discretion of the Town Administrator. Compensation for that absence will be considered as follows:

1. If normally open municipal buildings are closed to the public because of inclement weather, affected non-essential employees will be compensated for the hours they normally would have worked at their normal rate of pay. If an employee is off on scheduled vacation, sick or other leave, that employee is not entitled to any weather related paid time off for that day.
2. When a municipal building is open, if a non-exempt employee does not report for work for weather related reasons, is offered the opportunity to leave work early and does so, or is late arriving, such employees will use vacation or any available comp time for the absence, or simply take unpaid leave if approved by the Town Administrator.

Under the Fair Labor Standards Act, exempt employees are not subject to wage reduction due to inclement weather absences during a week where any regular work is performed. However, exempt employees are expected to demonstrate professionalism and good judgment with regard to the performance of their duties on such weeks.

3. Employees will be contacted when a municipal building will be closed due to inclement weather. Department heads and the Town Administrator will coordinate to make these decisions. This involves the library, town hall and transfer station personnel as well as any Fire Department non-emergency administrative support personnel.

3.6 Lunch & Break Periods

Employees are entitled to one-half (½) hour paid lunch/meal period. One paid fifteen (15) minute break the first half of the work shift and one fifteen (15) minute break the second half of the work shift is permitted. Break time may not be taken at the beginning or end of a work shift, or immediately before or after a lunch break. Break time cannot be accumulated to be applied toward an alternate work schedule. Break time is calculated as the time the employee is away from his/her workstation. Break time is not limited to only time spent at the place break is taken. Breaks are not to be taken as conversation time in offices of other employees who are not on break.

Emergency services personnel are required to maintain availability to respond when needed and fire department management will allow the above meal and rest periods as permitted by the department's emergency calls.

SECTION 4.00 Compensation

4.1 Payment Schedule

The Deputy Town Treasurer, or designee by the Treasurer/Town Administrator, following the signing of the weekly expense warrant by the Town Administrator, will issue payroll checks on Wednesday. Paychecks will be released only to the Department Head, employee/volunteer whose name appears on the check or other staff member charged with check distribution. After July 1, 2017, all payroll will only be processed via direct deposit.

4.2 Payroll Adjustments

Salary or hourly adjustments shall be made at the beginning of each fiscal year by the Deputy Town Treasurer or as directed by the Town Administrator. Probationary employees may receive an adjustment at the end of the six month probationary period as directed by the Town Administrator.

4.3 Deductions

Employees may request deductions from their pay for payments to a financial institution, property taxes, etc. These requests will be made to the Treasurer or Deputy Treasurer in writing.

4.4 Garnishment of Wages

The municipality encourages all employees to manage their personal finances accordingly but will comply with all state and federal laws that apply to garnishment of employee wages.

4.5 Expense Reimbursement

Employees shall be reimbursed for authorized expenses incurred while carrying out official Town business. Reimbursement for use of a personal vehicle for Town business shall be at the per mile rate established by the Board of Selectmen or current IRS per mile rate (whichever is higher) and expenses for tolls, parking, meals, lodging, etc. will be reimbursed at cost. The Town will reimburse for any taxes or tips paid on such expenses but not for alcoholic beverages. Employees must submit a signed mileage sheet, and all receipts for tolls, parking, meals, lodging etc. must be approved by the Department Head for reimbursement.

4.6 Seniority

Seniority for the purpose of this policy shall be interpreted to mean the length of continuous service in Town employment from date of permanent hire. An employee shall not forfeit seniority during an authorized absence caused by illness, accident or otherwise approved leave of absence.

If an employee leaves Town employment voluntarily and returns to Town employment within six months, the employee shall be given credit for past service for purpose of wages and benefits. Seniority for all other purposes shall be from the last date of hire.

SECTION 5.00 Employee/Volunteer Conduct

5.1 Generally

Our taxpayers and residents are entitled to the best customer service we can give them. Cooperation and teamwork by all employees/volunteers is essential to efficiency. The employees of the Town are public servants and citizens must be treated with courtesy and respect. Every employee should remember that he or she may be the only contact a citizen has with his or her local government. The impression the employee makes will determine what the citizen thinks of our Town Government. Employees are expected to conduct themselves with a

professional demeanor. Failure of an employee to act with reasonable courtesy may result in disciplinary action or termination.

5.2 Drugs & Alcohol

The Town is committed to providing a drug-free, healthful and safe work environment. The term "drug(s)" also includes alcohol, marijuana, illegal drugs and prescription drugs when they are taken other than how they are prescribed. This policy applies during an employee's assigned work hours on Town premises and while conducting business-related activities off Town premises.

Employees at work shall not be under the influence of alcohol or drugs that could impair their safe work performance. The use, distribution, dispensing or sale of alcohol, marijuana or other illegal drugs during work time is strictly prohibited. Those who violate this policy are subject to corrective discipline up to and including termination of employment.

Employees seeking assistance for their substance abuse issues will be reasonably supported so that counseling appointments can be attended. Employees are accountable for their work performance whether they choose to participate in a substance abuse treatment program or not. Participation in a treatment program is voluntary and at the discretion of the employee.

The Town may discipline or terminate an employee who is impaired or otherwise violates this policy or who exhibits an on-going performance issue.

Employees using medication that may impair their work performance or pose a safety threat should notify their Supervisor or Department Head. At the discretion of the Supervisor or Department Head and with the approval of the Town Administrator, an employee may be reassigned to a less hazardous task or be placed on sick leave if the impaired performance might pose a threat to oneself or others.

Employees who seek treatment for substance abuse must use their sick leave to attend a treatment program and may also be eligible for leave under the Family and Medical Leave Act (FMLA). Employees are encouraged to discuss their questions or concerns regarding such leave with the Town Administrator.

Employees must notify the Department Head or the Town Administrator as soon as possible but no later than within five (5) days after any conviction for a drug/alcohol related offense.

5.2.1 Alcohol And Drug Policy And Testing Procedures For The Omnibus Transportation Employee Testing Act Of 1991

The Town of Waterboro has a strong commitment to the health, safety and welfare of its employees, their families, its customers, and the public at large. Accordingly, the Town seeks to hire and employ workers requiring a Commercial Driver's License (CDL) who are free from the illegal use and abuse of drugs and alcohol, and to protect employees, their families and the public from the adverse effects of alcohol and drug abuse. The Town requires that final applicants selected for the positions requiring a CDL undergo an Alcohol and Drug Test to detect the presence of alcohol and drug abuse substances in the body.

Any applicant with a positive pre-employment test may be denied employment with the Town by reason of the positive test.

The use and misuse of alcohol or drugs, whether prescribed or illegal, impairs the ability of an employee to perform assigned duties, particularly those requiring a CDL, and may endanger the employee, co-workers, the public, the Town, and the public and private property. The Town seeks to prevent employees from using alcohol and drugs when the use of such is illegal, or in any way endangers the Town or the public. The Town also wants to provide appropriate and reasonable assistance to employees whose use or misuse impairs their ability to perform their duties.

This policy is designed to comply with the Omnibus Transportation Employee Testing Act of 1991 and with the Rules and Regulations under CFR 49 Part 653, Prevention of Prohibited Drug Use in Transit Operations and CFR 49 Part 382, Substances and Alcohol Use and Testing (both published February 15, 1994) and related parts, and to provide guidance to Town officials on the implementation of the requirements of the Act.

The following circumstances shall require Drug and Alcohol Testing:

1. Pre-employment. Pre-employment Drug Testing shall be conducted before applicants are hired or after an offer to hire, but before actually performing functions requiring a CDL license for the first time. Testing is also required when employees transfer to a position requiring a CDL license. Pre-employment alcohol testing shall be required when or if the Federal Government requires it.
2. Post-Accident. Post-accident testing shall be conducted after accidents on CDL drivers whose performance could have contributed to the accident (as determined by a citation for a moving traffic violation) and all fatal accidents even if the CDL driver is not cited for a moving traffic violation.
3. Reasonable Suspicion. Reasonable Suspicion testing shall be conducted when a trained supervisor has reasonable suspicions, based upon specific, contemporaneous, articulate observations concerning the appearance, behavior, speech or body odors, that the CDL driver has:
 - A. Unlawfully used illicit drugs and/or abused controlled substances; or
 - B. Report to work under the influence of or has illicitly ingested controlled substances or alcohol during work hours.
4. Random. Random testing shall be conducted on a random, unannounced basis just before, during or just after performance of a safety sensitive function by a CDL driver. The Town has entered into an agreement with a third party administrator (TPA) to randomly select CDL employees for testing. Fifty percent (50%) of employees in the TPA's pool must be tested for controlled substances and twenty-five percent (25%) of employees in the TPA's pool must be tested for alcohol on an annual basis.
5. Return to Duty and Follow-Up. Return to duty and follow-up testing shall be conducted when an individual who has violated the prohibited alcohol or drug conduct standards returns to performing safety-sensitive duties. Follow-up tests are unannounced and at least 6 tests must be conducted in the first 12 months after a driver returns to duty.

Responsibility

It is the responsibility of the Town Administrator, to administer and enforce this policy and the procedures as outlined. Employment by the Town in a position requiring a CDL license shall not be deemed to have been offered nor shall a prospective employee have the right to accept any offer or suggestion of an offer of such employment until such time as a drug test evaluation has been received and cleared by the Town Administrator. Any work performed by an individual for or in behalf of the Town prior to such approval shall not involve the operation of any Town equipment requiring a CDL prior to testing.

The Town will contract for specimen collection, medical review, testing, and training for supervisors and employees. It is the responsibility of the Town Administrator to see that employees have notice of and are familiar with the Town's drug and alcohol policies and procedures.

Definition

Alcohol and Drug Test. A generally accepted and proven test methodology or methodologies as recommended by the Federal Rules and Regulations under 49 CFR Part 653, Prevention of Prohibited Drug Use in Transit Operations and 49 CFR Part 382, Substances and Alcohol Use and Testing. This test method determines whether an individual has ingested or otherwise used the substance in question within a period of time before the test.

Applicant. A person who has applied for a position with the Town including past employees eligible for rehire, and present employees voluntarily seeking a position requiring a CDL license.

Medical Review Officer (MRO). Physician responsible for reviewing all test results for confirmation prior to communicating same to the employer. The MRO is required to protect the confidentiality of the individual involved.

NIDA. The National Institute on Drug Abuse.

Positive Test. Alcohol and Drug tests results that meet or exceed the standards outlined in the federal regulations.

Random Testing. A scientific method used to select employees for testing at random. This method will occur throughout the year, and involve a minimum of fifty-percent (50%) employees/positions requiring a CDL selected for drug testing and minimum of twenty-five percent (25%) for alcohol testing from the TPA's pool.

Reasonable Suspicion. A determination made by a trained supervisor that an employee is in violation of the Omnibus Transportation Employee Testing Act of 1991 concerning alcohol or controlled substances. This determination must be based upon specific, contemporaneous, articulate observations concerning the appearance, behavior, speech and body odors of the driver. Circumstances which may constitute a basis for determining "reasonable suspicion" may include, but are not limited to:

1. A pattern of abnormal or erratic behavior;
2. Information provided by a reliable and credible source;

3. Direct observation of drug or alcohol use;
4. Presence of the physical symptoms of drug or alcohol use (i.e., glassy or bloodshot eyes, alcohol odor on breath, slurred speech, poor coordination and/or reflexes);
5. Any trained supervisor who has reasonable suspicion to believe that a violation has occurred must complete an "Observed Behavior-Reasonable Cause Record" form within twenty-four (24) hours of the observed behavior or before the results of the tests are released, whichever is earlier.

Substance Abuse. The use of alcohol, prescription or over the counter drugs, any of which impairs the ability of an employee to perform the job safely and effectively, or the use of illegal drugs or other controlled substances without a valid prescription.

Work-Related Vehicular Accident. Any reportable vehicular accident that damages property or involves injury to self or others for which a moving traffic violation citation is issued (does not include minor personal injury not requiring transport to a medical facility or care beyond first aid). Any vehicular accident involving a fatality.

Conduct Prohibited

The following conduct or behavior is determined to be unacceptable and therefore is prohibited under this policy. Violation shall be cause for disciplinary action.

1. Reporting to or remaining on duty with a blood/alcohol concentration of 0.02 or greater. Any employee found to have a blood/alcohol concentration of at least 0.02 but less than 0.04 shall be immediately removed from the safety sensitive position and shall not be permitted to perform that function until the start of the driver's next regularly scheduled duty period, but not less than 24 hours following administration of the test. Any employee found to have blood/alcohol concentrations of greater than 0.04 may be subject to further disciplinary action.
2. Possessing alcohol on duty.
3. Use of alcohol while on duty.
4. Use of alcohol for eight (8) hours after an accident that will require a post-accident test or until the test is performed, whichever occurs first.
5. Any use of alcohol within 4 hours of reporting to duty to perform a safety sensitive position.
6. Refusal to submit and properly participate in a required alcohol and/or controlled substances test. A refusal is defined as:
 - A. Failing to report immediately to the identified testing site, once notified, but in no case, more than two (2) hours after notification.
 - B. Failing to follow proper instructions or participate in the required testing procedures.
7. Reporting to or remaining on duty while using any controlled substance, except when used under the direct orders of a physician and the physician has informed the employee that the use will not affect the safety use and operation of the commercial vehicle.

8. Reporting to or remaining on duty after testing positive for any controlled substance under this Policy.

Testing for Job Applicants and Employees

1. Drugs to be tested for:

When chemical drug and alcohol screening is required under the provisions of this policy in 49 CFR , a breath test and/or urinalysis test will be given to detect the presence of the following drug groups:

- A. Alcohol (ethyl)
- B. Amphetamines
- C. Cocaine
- D. Opiates
- E. Phencyclidine (PCP)
- F. Marijuana

2. Applicant Testing: General Standard

Applicants for all classes of employment requiring a CDL will be required to undergo a chemical drug and alcohol test upon an offer of employment and prior to their final appointment to that position.

3. Current Employee Testing: General Standard

- A. The Town may require a current Town employee whose position requires a CDL to undergo drug and alcohol testing if there is reasonable suspicion by the immediate supervisor or other trained management personnel within the Town that the employee is under the influence of drugs or alcohol during work hours.
- B. Supervisors are required to document the specific facts, symptoms, or observations which formed the basis that reasonable suspicion existed to warrant the testing of an employee. The "Observed Behavior-Reasonable Cause Record" form must be completed.
- C. The Town will require a current Town employee in a position requiring a CDL to undergo post-accident drug and alcohol testing if he/she is involved in a reportable vehicular accident or if there is a fatality.
- D. All current employees in safety sensitive positions requiring the use of a CDL will be subject to Random Testing.

4. Record Keeping

Records shall be maintained by the Town documenting that employees have been provided with information required under this policy.

Testing Procedures

I. Notice and Consent

- A. Before a drug and alcohol test is administered, employees will be asked to sign a consent form authorizing the test and permitting the release of test results to those Town officials with a need to know. The chemical screen consent form shall provide space to indicate current or recent use of prescription and over-the-counter medication.
- B. All recruitment announcements for any position requiring a CDL, including in-hour recruitment and promotion, will disclose that a chemical, alcohol, and drug screening test will be required for the applicant.

2. Pre-employment Testing

- A. When the Town makes a conditional offer of employment to an applicant, the Town will schedule a chemical, alcohol and drug screening test for the applicant.
- B. The applicant shall be given a copy of this policy, a consent form to complete and sign, and will be informed of the test appointment.
- C. The MRO will notify the applicant of the test results, and if positive, will give the applicant an opportunity to discuss same prior to release of the information to the Town.
- D. The MRO will notify the Town Administrator or designee of the test results and whether the test is negative or positive. The Town Administrator or designee will keep this information confidential.

3. Reasonable Suspicion Testing

The Town Administrator or designee may, upon reasonable suspicion, ask any on-duty employee to submit to an immediate alcohol and drug test.

- A. The employee shall immediately be given a "Test Consent Form" to complete and sign.
- B. The employee will be immediately taken by a supervisor to the appropriate medical facility/clinic for testing.
- C. If the employee is not able to be taken to the appropriate medical facility/clinic for testing, the supervisor shall immediately telephone the agency and primary medical facility (any time, day or night) and/or call medical personnel from the primary medical facility and request that they go to where the employee has been taken to acquire the drug and alcohol test samples.

- D. The employee shall be immediately removed from duty and assisted in getting home after the drug and alcohol test.
- E. When "reasonable suspicion" is the grounds for requiring a drug/alcohol test, the employee shall be placed on paid administrative leave until the test results are available and a preliminary administrative review has been conducted.
- F. An alcohol and drug test for reasonable suspicion will include the urinalysis test.
- G. Results from the alcohol and drug screen test will be given by the laboratory to the MRO who, after confirmation, will forward to the Public Works Director.

4. Random Testing

- A. This procedure will occur throughout the year at random and unannounced times.
- B. If the test yields a positive result and the positive result is confirmed by the MRO, then the employee will be subject to disciplinary action.

5. Post-Accident Testing

- A. A post-accident test will be conducted on any CDL employee involved in a work-related motor vehicle accident if:
 - (1) The accident results in a loss of life.
 - (2) The operator receives a citation under local or State law for a moving traffic violation arising from the accident.

6. Return-to-Duty Testing

- A. Any employee returning to duty following a confirmed positive test must be subjected to a return-to-duty test following the same guidelines described in the pre-employment section. The test must show a verified negative result prior to the employee returning to duty.

7. Follow-Up Testing

- A. An employee returning to work following a confirmed positive test and period of assistance/discipline will be subject to unannounced testing for a period of not more than 60 months. There will be a mandatory minimum of 6 tests within the first 12 months.
- B. Follow-up tests may be used to determine whether or not any controlled substance is still being used.

Refusal To Consent

1. Applicants

- A. A job applicant for a position requiring a CDL license who refuses to consent to a drug and alcohol screening test will be denied employment with the Town. If the applicant is a current

Town employee, the applicant will not be considered for the position requiring a CDL license.

No denial shall be made without first attempting to discuss the impact of the refusal with the applicant.

2. Employees

- A. An employee who refuses to consent to a drug and alcohol screening test when selected for random testing, post-accident, or when reasonable suspicion of drug or alcohol use has been identified, is subject to disciplinary action up to and including termination. The reasons for the refusal shall be considered in determining the appropriate disciplinary action.

Consequences of Confirmed Positive Test Results - Drugs and Alcohol

1. Applicants: Job applicants will be denied employment with the Town if their initial positive test results have been confirmed. Applicants who are current Town employees shall be denied employment in the position for which application was made. Applicants shall be informed in writing if they are rejected on the basis of a confirmed positive test result. Employee applicants shall be handled in accordance with Section 2 below.

- A. The applicant will be provided an opportunity to discuss with the MRO the results of any positive test and seek a second confirmation test.

- 2. If an employee's positive test result has been confirmed for Drug or Alcohol use, the employee is subject to action as follows:

The employee shall be referred to a Substance Abuse Professional through the Town Employee Assistance Program (EAP). The Substance Abuse Professional shall determine what assistance, if any, is needed to resolve problems associated with controlled substance and/or alcohol abuse. In accordance with Title 26 MRSA Section 685, the Town is obligated to offer treatment assistance and limited financial assistance. Notwithstanding any recommendations made by the Substance Abuse Professional, The Town may take disciplinary action up to and including termination from employment. Factors to be considered in determining the appropriate disciplinary response include but are not limited to: employee's work history, length of employment, current job performance, compliance with recommendations of the substance abuse professional and existence of past disciplinary actions. No disciplinary action shall be taken against any employee who voluntarily identifies himself/herself as a substance abuser prior to the time that it is apparent that the use has been detected. A second positive test or further violation of this policy following an initial positive test shall be cause for discharge.

Consequences of a Controlled Substance Test Results (Drug Test)

- 1. An employee or job applicant whose drug test yields a positive result, confirmed by the MRO, shall be given a second test. The second test shall use a portion of the same test sample withdrawn from the employee or applicant for use in the first test.
- 2. If the second test confirms the positive test result, the employee or applicant shall be notified of the results by the MRO who will offer the employee an opportunity to discuss the results. The

MRO will then notify the Public Works Director or designee in writing. The letter of notification shall identify the particular substance found and its concentration level.

Confidentiality of Test Results

1. All information from an employee's or applicant's drug and alcohol test is confidential and only those with a need to know are to be informed of test results. Disclosure of test results to any other person, agency or organization is prohibited unless written authorization is obtained from the employee or applicant or upon subpoena. The results of a positive drug test shall not be released by the MRO until confirmed. The records of unconfirmed positive test results and negative test results shall be destroyed by the testing laboratory. All positive test results will be maintained by the MRO, and reported to the Public Works Director where they will be kept on file.

Privacy in Chemical Drug Testing

1. Urine samples shall be provided in a private restroom stall or similar enclosure so that employees and applicants may not be viewed while providing the sample. Employees and applicants may be required to disrobe and will be given hospital gowns to wear while they are providing test samples in order to ensure that there is no tampering. Street clothes, bags, briefcases, purses, and other containers may not be carried into the test area. The water in the commode, if any, shall be colored with dye to protect against dilution of test samples.
2. An applicant or employee may waive the right to privacy and provide the urine sample in the presence of a witness (of the same gender) and not be required to disrobe and wear a hospital gown.

Laboratory Testing Requirements

1. All chemical drug and alcohol testing of employees and applicants shall be conducted at medical facilities or laboratories selected by the Town. To be considered as a testing site, a medical facility or lab must submit in writing a description of the procedures that will be used to maintain test samples. Factors to be considered by the Town in selecting a testing facility include in addition to NIDA certification:
 - A. Testing procedures which ensure privacy to employees and applicants consistent with the prevention of tampering;
 - B. Methods of analysis which ensure reliable test results, including the use of gas chromatography/mass spectrometry to confirm positive test results;
 - C. Chain-of-custody procedures which ensure proper identification, labeling and handling of test samples; and
 - D. Retention and storage procedures which ensure reliable results on confirmatory tests of original samples.
2. Second Confirmation Test

- A. The applicant or employee may request from the MRO a second confirmation test of the same sample within 72 hours of notice that the first test was positive.
- B. The cost of the second confirmation test must be paid in advance by the applicant or employee. If the test is negative, the Town shall reimburse the applicant or employee for the cost of the test.
- C. The second confirmation test will be performed by a NIDA certified laboratory selected by the MRO.

5.3 Driving Policy

Any employee, volunteer, official or other person who drives municipal vehicles, or drives private vehicles on municipal business, must have a valid Maine driver's license and a satisfactory driving record. Any person hired for a position, which involves driving municipal vehicles or driving a private vehicle on municipal business, shall have his or her license checked annually for active status and accident/conviction history. Additional driving policies may be applicable for specific functions, such as operation of emergency services vehicles.

Any employee/volunteer cited or fined for a moving vehicle violation while on municipal time must report the event immediately to their Supervisor. If any employee's/volunteer's license is suspended or revoked while working for or providing services to the Municipality, such suspensions/revocations must be reported within 24 hours to the Department Head. The Town Administrator shall determine the appropriate course of action, including reassignment of duties, leave of absence or discipline.

Any employee/volunteer driving a municipal vehicle, receiving mileage or other reimbursement from the Municipality for driving, or otherwise driving on behalf of the Municipality, shall wear a seat belts at all times and shall require authorized passengers to wear seat belts. The Town Administrator may implement such other policies, as is necessary to ensure a safe driving policy.

5.4. Loss of License or Certification

If it is a requirement for an employee/volunteer in a specific position to possess a valid license and/or class of license or certification, then it shall be a condition of employment for that employee/volunteer to maintain such license and/or certification. Failure to do so may result in re-assignment to an alternative position or job loss.

Employees/volunteers that lose their driver's license or fail to obtain any other license or re-certification as necessary must immediately inform the Town Administrator or Department Head of their new status.

5.5 Confidentiality

Many municipal employees/volunteers have access to confidential information pertaining to persons or property in the municipality. Employees/volunteers are prohibited from disclosing confidential information to anyone not having a need to know the information. The employees/volunteers must not use confidential or privileged information to their own private advantage or to provide family or acquaintances with private advantages. Employees/volunteers

are charged with the responsibility of releasing, upon Town Administrator approval, only that information that is required under the "Right to Know" law.

5.6 Employee Appearance

Employees shall dress appropriately for their position and maintain reasonable neatness and cleanliness in order to present a professional image to customers, visitors, coworkers, and the public. Acceptable personal appearance is important in providing the taxpayers with the service they deserve. Employees should consult the Town Administrator if they have questions as to what constitutes proper attire. Exceptions may be granted to employees to accommodate religious or cultural factors or medical conditions. Employees who are inappropriately dressed may be sent home and required to return to work in acceptable attire. Under this circumstance, employees will not be paid for the time away from work.

A. Office workers who have regular contact with the public must comply with the following personal appearance standards:

- (1.) Office employees are expected to dress in a manner that is normally acceptable in a professional office which includes but is not limited to: not wearing T-shirts, halter tops, sweatshirts, low cut tops, sweatpants, clothing with slogans, shorts, novelty buttons, baseball hats and flip flops. Jeans may be worn provided they are clean, not frayed and without holes. Comfortable shoes which are not slippery and offer good support are encouraged.
- (2.) Hair makeup and accessories should be worn in accordance with professional attire and appearance. Fragrances other than deodorant should not be used prior to coming to work.

B. Employees who do not work in the office, such as Public Works employees, or others working outside much of the time should follow basic requirements of safety and comfort and still maintain a neat appearance. Employees must comply with the following standards:

- (1.) Workpants of sufficient quality and construction shall be worn which are clean and without holes.
- (2.) T-shirts with offensive logos or graphics are not to be worn.
- (3.) Steel toed shoes and other safety clothing or accessories as needed for doing the job at hand shall be worn.
- (4.) Hair should be neat and clean and facial hair neatly trimmed.

C. Fire Department employees shall follow the department's policies for uniforms and required safety clothing.

D. CLOTHING ALLOWANCE:

The Town will provide uniforms for employees who are required to wear them and will provide safety gear for those who need it. Employees will obtain approval of department head and/or Town Administrator before purchasing their clothing/boots. Each department will inform employees of what their annual clothing allowance consists of.

5.7 Sexual Harassment

This Town is committed to promoting a workplace free from harassment. The Town of Waterboro recognizes the right of each employee, in addition to municipal volunteers, to work in an environment that is free from sexual harassment of all types, including same sex harassment of employees, volunteers and or members of the public with whom the Town does business.

Harassment by Town employees/volunteers is prohibited and is considered unprofessional and unacceptable conduct. This policy specifically prohibits an employee or volunteer from engaging in any intimidating, insulting, coercive or harassing behavior that is sexual in nature.

Remember, sexual harassment is in the 'eyes of the beholder' and not the way it may have been intended.

Examples of such prohibitive conduct include but are not limited to:

- Any unwelcome sexual advance or contact
- Spoken or written comments about a person's gender
- Showing or displaying pornographic or sexually explicit objects or illustrations in the workplace or while performing duties for the Town
- Sexually offensive jokes, innuendoes, comments or visiting prohibited web sites
- Sexually oriented comments about a person's body or behavior
- Repeated requests for a date

Sexual harassment is a form of sex discrimination and is prohibited by Title VII of the Civil Rights Act of 1964 and Maine law. Sexual harassment includes any unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

- Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or participation in other Town activities
- Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual
- Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creates an intimidating, hostile, or offensive working environment; or
- Such conduct violates any statute, regulation, ordinance, or any policy

Any employee determined to have engaged in harassment of any kind and/or violence shall be subject to disciplinary action up to and including termination. Supervisors and Department Heads are responsible for monitoring the behavior of their employees/volunteers. Inappropriate behaviors must be dealt with immediately.

This policy applies to the workplace during normal business hours, to all work related social functions whether on or off Town premises, and to business related travel.

5.8 Other Forms of Harassment

Because the Town of Waterboro recognizes that each employee/volunteer has the right to work in a "safe" environment, any form of intimidation, hostility, unprofessional or obscene language will not be tolerated. Harassment related to race, color, gender, sexual harassment, national origin, age, religion, ability/disability will not be tolerated. Violations of this policy will lead to disciplinary action and can include termination of employment and criminal prosecution.

Examples include but are not limited to:

- Harassment related to race, color, gender, sexual orientation, national origin, age, religion, ability/disability
- Ridicule, slurs, offensive jokes, or derogatory actions or any other verbal abuse
- Verbal threats, threatening behaviors, intimidation, acts of violence
- Refusal to work with or cooperate with another employee or volunteer on work assignments
- Inequitable disciplinary actions or work assignments

Violators of this policy may be removed from the premises and made to remain off of Town premises until further notice pending the outcome of an investigation. Anyone who becomes aware of a potential threat must report it to his or her Supervisor or to the Town Administrator.

Supervisors and Department Heads are responsible for monitoring the behavior of their employee/volunteers. Inappropriate behaviors must be dealt with immediately.

This policy applies to the workplace during normal business hours, to all work related social functions whether on or off Town premises, and to business related travel.

5.9 Workplace Violence

Workplace violence is defined for the purpose of this policy as a literal act of violence against another individual(s) or against municipal property or a threat of violence against another individual(s) or against municipal property. This includes the use of physical force, harassment, intimidation or abuse of power or authority against another person. Acts of violence in and around the workplace are unacceptable and will not be tolerated. All such conduct will be thoroughly investigated and appropriate measures will be taken against employees/volunteers determined guilty of such offenses.

Suspected violators may be removed from the premises and may be made to remain off of Town premises until further notice pending the outcome of an investigation. Anyone who becomes aware of a potential threat must report it to his or her Supervisor or to the Town Administrator.

Supervisors and Department Heads are responsible for monitoring the behavior of their employees. Inappropriate behaviors must be dealt with immediately. It is the responsibility of all employees, supervisory and otherwise, to foster a work environment of respect and healthy conflict resolution.

This policy applies to the workplace during normal business hours, to all work related social functions whether on or off Town premises, and to business related travel.

5.10 Complaint Procedures & Witness Obligations

A. Complaints. If you believe you are being harassed, sexually or otherwise, we encourage you to complain promptly to your Supervisor or the Town Administrator.

The Town is dedicated to working with you to resolve your complaint promptly and fairly. If you believe you are being sexually harassed, you also have the right to file a complaint with the Maine Human Rights Commission (MHRC) within 300 days of the unlawful act or unlawful discrimination. To file a charge or obtain more information on the procedure, you may contact the Commission by mail at 51 State House Station, Augusta, ME 04333-0051, or by telephone at (207) 624-6050. You can also refer to the end of this policy for a copy of the MHRC procedures for filing a complaint.

If You Have Questions... Please feel free to contact the Town Administrator in person or by telephone at 247-6166, ext. 100, if you have any further questions about what harassment/sexual harassment is, how our complaint process works, or about our policy against sexual harassment.

B. Witnessing Harassment

If a Town employee/volunteer witnesses what he or she believes to be harassment (sexual or otherwise) or observes workplace violence, the individual has an obligation to report this conduct to his or her Supervisor or to the Town Administrator.

Supervisory and management staff aware of any form of harassment or workplace violence must take immediate action to stop it. Allegations will be promptly and discreetly investigated. All employees or Town volunteers, who are asked, must cooperate in any such investigation and must maintain confidentiality regarding the investigation. All "good faith" reports can be made without fear of reprisal. Retaliation against witnesses or persons reporting such conduct in good faith is prohibited.

5.11 Workplace Safety & Injury Reporting

A. Safety. Employees/volunteers will receive safety training including proper use of equipment, fire procedures, incident reporting procedures, and any other information necessary for employees/volunteers to adhere to a safe operating procedure. To use safety equipment as needed for their jobs, and to avoid willfully putting themselves or the municipality at risk of injury or liability, each employee/volunteer is expected to obey safety rules and to exercise caution in all work activities. Employees/volunteers must immediately report any unsafe condition to his or her Supervisor or the Town Administrator

Employees who violate safety standards, cause hazardous or dangerous situations, fail to report or, where appropriate, remedy such situations, may be subject to disciplinary action, up to and including termination. All "good faith" reports can be made without fear of reprisal.

B. Injury reporting. When an employee/volunteer of the municipality suffers an injury or accident in the course of employment, **regardless of how insignificant the injury may appear**, a report of the accident must be made immediately to the employee's/volunteer's Supervisor or Town Administrator. Supervisors must, in turn, report the accident immediately to the Town Administrator so that any necessary accident and injury reports may be completed.

Such reports are necessary to comply with laws and initiate insurance and Workers' Compensation benefits procedures.

C. Safety committee. Some employees by virtue of their job position will be required to participate in the Safety Committee and they include: Town Administrator, Fire Chief/EMA Director, Health Officer, Transfer Station Supervisor, Custodian, Recreation Director, and Public Works Director.

5.12 Ethics & Conflicts of Interest

Municipal employees shall be covered by the requirements of 30-A M.R.S.A. § 2604 et seq. and the following: Representatives of the Town of Waterboro shall not knowingly participate in a conflict of interest situation without making a full disclosure to the Town Administrator. A conflict of interest is any situation whereby the representative of the municipality serves to benefit, or can be perceived as benefiting, from the situation that is in his/her control. Examples may include contracts, appointments, purchases and sales. The Town Administrator has the right to take all steps necessary to ensure that a real or perceived conflict of interest situation is rectified.

5.13 Outside Employment & Solicitation

A. Outside employment. No employee may engage in additional employment that in any way interferes with the proper and effective performance of the duties of his or her position, results in a conflict of interest or subjects the Municipality to public criticism or embarrassment. If the Town Administrator determines that such outside employment is disadvantageous to the Municipality, upon notification in writing by the Town Administrator, the employee involved shall take prompt steps to resolve the situation. Failure of the employee to take proper steps may result in employee discipline up to and including termination.

Any full- or part-time employee who engages in employment outside of his or her regular working hours shall be subject to perform his or her regular municipal duties first. The Municipality shall not be liable for nor grant sick leave or disability leave in the case of any injury or occupational illness incurred by an employee while engaged in outside employment.

B. Solicitation. No employee shall engage in any business other than regular duties of the Municipality during work time, including such activities as selling to fellow employees/volunteers, lending of money for profit, etc. With the exception of municipally approved activities, no solicitation of any kind is permitted on municipal premises during work time. Work time includes the working time of both the employee/volunteer soliciting, and the employee/volunteer to whom such activity is directed. Work time does not include break time. While on municipal premises during non-work time, such as breaks and meal times, employees/volunteers may engage in personal, business or social activities that are not disruptive to those who are working.

5.14 Political Activity

No municipal employee shall participate in any political activity (including lobbying), which would be in conflict or incompatible or create an interference with the performance of his or her official functions and duties for the municipality. During the course of their employment, employees shall refrain from using their influence publicly in any way for or against any candidate seeking elective office in the Town government. Town employees shall not circulate petitions or campaign literature

for elective Town of Waterboro officials, or be in any way concerned with soliciting or receiving subscriptions, contributions, or political service from any person for any political purpose pertaining to Town government. This rule is not to be construed to prevent Town employees from running for elective office, becoming or continuing to be members of any political organization, from attending political meetings, from expressing their views on political matters, or from voting with complete freedom in any municipal, state or national election.

5.15 Gratuities/Gifts

A town employee/volunteer is prohibited from soliciting or accepting any gift, gratuity, favor, entertainment, loan or any other thing of monetary value from:

- any person who has or is seeking to obtain business with the town or,
- from any person within or outside town employment whose interests may be affected by the employee's/volunteer's performance or nonperformance of his official duties.

Acceptance of nominal gifts in keeping with special occasions, such as marriage, holidays, retirement, illness or food and refreshments in the ordinary course of business meetings; or unsolicited advertising or promotional materials, e.g., pens, note pads, calendars, is permitted. Such gifts will be shared by all employees as appropriate.

In addition, Department Heads must avoid placing themselves in a position that could interfere with, or create the impression of interfering with, the objective evaluation and direction of their subordinates. No Department Head shall accept gifts from subordinates other than those of nominal value for special occasions, and no Department Head shall borrow money or accept favors from any subordinate.

5.16 Smoking/tobacco

The municipality supports a tobacco and marijuana free workplace environment. Smoking, chewing tobacco, or any other use of tobacco or marijuana products is not permitted inside any town-owned buildings or municipal vehicles.

5.17 Municipal Property

Employees and Town volunteers should not, directly or indirectly, use or allow the use of municipal property of any kind for other than official activities. Certain nominal community related use of municipal property may be permitted at the discretion of the Town Administrator or Department Head so long as such use does not interfere with municipal operations. All Town property issued to the employee/volunteer such as keys, equipment, etc. shall be returned to the Town, in good operational condition, prior to the employee's/volunteer's last day. Failure to return Town property may result in restitution or legal action against the employee/volunteer.

Employees/volunteers should not use the telephone facilities for personal calls when the placing of such calls would interfere with the employee's/volunteer's duties, would incur additional financial liability for the municipality or would interfere with the use of the facilities for official business. Any such use should be urgent, infrequent and of short duration.

SECTION 6.00 Employee Discipline

A. Disciplinary action usually begins with the Department Head who documents performance problems. Contemplated disciplinary action must be reviewed with the Town Administrator and Department Head as appropriate.

Disciplinary action up to and including dismissal may be initiated for just cause reasons that include, but are not limited to the following:

- Absenteeism and/or tardiness
- Insubordination
- Unacceptable job performance
- Use of alcohol and/or non-prescription drugs during the work day or in any way which impairs the performance of the position and threatens the safety of co-workers or the public
- Willful destruction of public and/or private property
- Falsification of documents, concerning the employee's application to the Town, payroll or other departmental operations
- Harassing or verbally abusive behavior including obscene language directed at employees, volunteers or the public
- Failure to comply with safety regulations and requirements
- Dishonesty of any kind or theft of Town, public or private property
- Acceptance of money or any gift by an employee/volunteer for any consideration afforded to the public, in general
- Any action or conduct materially affecting or impairing the efficiency of Town services
- Any action or conduct that brings the Town into public dispute or public embarrassment

The disciplinary process may include, but is not limited to the following procedures.

B. Written Warning. The Department Head may warn an employee to improve specific performance issues or to rectify specific conduct. The date, time and nature of the warning shall be in writing and placed in the employee's personnel file. When possible, warnings should be given within two (2) days of the knowledge of the offense. The municipality reserves the right to move to a written reprimand, suspension or termination depending on the seriousness of the situation.

C. Written Reprimand. The Department Head may give a written reprimand to an employee for a repeated offense, or for an offense serious enough to require more than a written warning. A reprimand will include the nature of the offense, date and time of the offense, possibility of future disciplinary action and steps for correction of the action. A copy of the reprimand signed by the Department Head and the employee will be placed in the employee's personnel file. If the employee refuses to sign the reprimand, this fact should be noted and witnessed on the reprimand. The municipality reserves the right to move to suspension or termination depending on the seriousness of the situation.

D. Suspension. The Town Administrator may suspend an employee with or without pay for a recurring offense or an offense which merits suspension, including but not limited to any criteria in section 6A of this policy. Suspensions will be consistent with FLSA requirements. The municipality reserves the right to move to termination depending on the seriousness of the situation.

The employee will have the opportunity to respond to the charges prior to serving the suspension unless the employee's/volunteer's actions are a threat to self or others. The employee's opportunity to respond to the charges may occur at a meeting with the employee held to discuss the reasons for the suspension. The length of suspension is based on the seriousness of the offense and what the Town Administrator and Department Head may determine is warranted.

Employees will receive written confirmation of their suspension period and the necessary corrective steps. Employees will be warned of the potential for more serious disciplinary action or dismissal in the event of further offenses. A copy of the letter of suspension will be included in the employee's personnel file. Suspension with or without pay may occur for an indefinite period pending complete investigation of the incident or offense.

E. Dismissal. The Town Administrator may dismiss an employee if his or her job performance or misconduct warrants dismissal. After a meeting between the employee, Department Head, and Town Administrator, the employee shall be notified of the reason(s) for the dismissal and the effective date thereof. Dismissals shall be confirmed in writing prior to the effective date of dismissal. Terminations for just cause are subject to review, at the request of the terminated employee, by the Board of Selectmen. Any such request for review shall be submitted to the Board of Selectmen within seven (7) days of termination.

Notwithstanding the above, according to the Fire Department and Emergency Medical Services Ordinance (Art. 4(C)(2)), Fire Department personnel may be terminated by the Fire Chief for just cause, after notice to the employee. Terminations for just cause are subject to review, at the request of the terminated Fire Department employee, by the Board of Selectmen. Any such request for review shall be submitted to the Board of Selectmen within seven (7) days of termination.

SECTION 7.00 Employee Grievance Procedures

The Town recognizes that situations may arise in which an employee believes that they have been treated unfairly in accordance to the Town's policies and procedures. The employee should attempt to resolve the problem or complaint with their immediate Supervisor or Department Head as appropriate. If the matter cannot be resolved, they may file a formal complaint.

7.1 Grievance, Complaint and Appeal Procedures

Any written, signed and dated complaint filed by a citizen or another employee against any regular employee which could result in that incident being recorded in his/her respective personnel file shall be promptly submitted to the employee involved as allowed by law, providing that disclosure of the complaint would not prejudice the Town in any investigation of or future prosecution growing out of the complaint and that the complaint is submitted to the employee within ten work days of the date of the complaint.

The purpose of the complaint procedure shall be to settle employee complaints at the lowest practical level and as quickly as possible, promoting efficiency and good employee morale. The following procedures shall apply:

- A. Complaints must be filed in writing with the Town Administrator, as soon as possible but, no later than ten (10) days after the incident or complaint has occurred.
- B. The complaint by the aggrieved employee must clearly state the specifics of the complaint. Once having received the complaint, the Town Administrator may find it necessary to meet with the employee to discuss the matter. The Town Administrator shall make a separate investigation and inform the employee in writing of a decision and the reasons therefor within seven (7) working days or within a reasonable amount of time depending on the circumstances after receipt of the complaint.
- C. If the decision is unacceptable to the aggrieved employee, the grievance must be submitted in writing within five (5) working days to the Chairman of the Board of Selectmen with a copy to the Town Administrator. A five person Personnel Appeals Committee will be established by the Board of Selectmen to hear such grievances. The Board of Selectmen shall appoint from among the qualified voters of the Town five (5) regular members and two (2) alternates to serve staggered three year terms. A quorum of this 5 person voting Appeals Committee shall consist of three members and every decision shall require the affirmative vote of at least three members. The Appeals Committee may adopt rules and regulations deemed to be necessary for the transaction of its business.

If the employee or employer wishes to have a hearing before the Personnel Appeals Committee, he/she shall submit at the time of the grievance a statement of reasons why he/she believes a hearing would be appropriate. Failure to include said statement is a waiver of the right to a hearing, provided, however, that the Committee retains the right to hold a hearing. A request for a hearing does not require that the Committee hold a hearing.

The Committee in a timely manner shall review the record established in earlier disciplinary proceedings and may decide the grievance on the record, or, the Committee may hold a grievance hearing with the aggrieved employee.

If a grievance hearing is held, the employee has the right to be represented by legal counsel at the hearing, and may request the presence of Town employee witnesses, may testify and present other witnesses and may cross-examine Town witnesses. The Appeals Committee is entitled to receive written statements and other evidence which the Committee determines to be relevant and reliable as to their contents. In accordance with 1 M.R.S.A. §405 (6) (A) (3), the Committee hearing and evidence shall be in executive session, unless the employee requests the hearing be held in public session.

Upon completion of the review of the record or hearing and necessary Committee deliberation, the written decision of the Committee shall be provided to the grievant within ten (10) working days of the Committee vote and the decision of the Committee shall be final for purposes of any further appeals at that time. Per 30-A MRSA § 2702(B) (5), the Personnel Appeals Committee's final written decision shall be a matter of public record.

Time frames included above may vary by mutual consent.

- D. Notwithstanding the above, terminations of Fire Department personnel are subject to procedures established in the Fire Department and Emergency Medical Services Ordinance (Art. 4(C)(2)).

7.2 Terminating Employment

A. Generally. Employees may leave a job in a variety of ways including resignation, retirement, layoff, or discharge. When possible, a meeting with the Town Administrator will be conducted prior to the employee's last day. The purpose of the meeting(s) is to provide information regarding any benefits that are due to the employee, such as insurance coverage, unused vacation and accrued sick leave. All Town property such as keys, equipment, etc. issued to the employee shall be returned to the Town in good condition prior to the employee's last day.

B. References. Reference requests should be submitted in writing to the Town Administrator. The Town will provide verification on dates of employment, job title and a description of duties and work history. No additional information will be furnished unless it falls within the guidelines of state and federal regulations governing public information about municipal employees.

C. Resignations/Retirement. Exempt staff are encouraged to provide at least one (1) months' notice of resignation. Non-exempt staff are encouraged to provide two (2) weeks' notice of resignation. Written notice should be provided to the Town Administrator.

D. Employees who separate from the Town and who have accrued vacation and sick leave time to their credit at the time of such separation shall be paid the wages equivalent to the vacation time accrued and 50% of sick leave accrued to a maximum of thirty (30) days. Sick leave payment shall be made only when separation is in good standing.

7.3 Layoffs and Labor Force Reductions

In the event that the Town determines it is necessary to lay off personnel, employees shall be laid off (and or reassigned) in inverse order of seniority and the senior employee shall bump a less senior employee, provided the more senior employee to be retained is fully qualified with minimal training to fulfill all duties of the remaining positions(s).

Employees shall be given a thirty (30) calendar day written notice prior to layoff to the extent possible. However, in the event the Town decides to impose an immediate layoff, employees so affected shall be given two (2) weeks of wages in addition to compensation for whatever leave time may be payable upon separation from employment. If the Town Meeting is held after June 15th, the Town will not be obligated to pay the additional two weeks of wages as otherwise set forth in this policy. Should an employee leave his or her employment before this notice period has expired, he or she will not be entitled for payment for the balance of the notice period.

Laid off employees shall be entitled to health and dental insurance benefits as set forth herein through the last day of the next full month following the effective date of layoff. All other benefits shall cease as of the effective date of layoff except as otherwise prescribed by COBRA.

In the event a laid off employee is reinstated within eighteen (18) months of layoff, he or she may have all previous seniority restored and shall be immediately eligible to accumulate vacation and sick days as otherwise set forth herein.

Laid off employees shall be notified of Town vacancies for eighteen (18) months of layoff. In the event a laid off employee is reinstated within eighteen (18) months of layoff, he or she may buy

back leave time (up to the amount previously paid) and shall have all previous seniority restored and shall be immediately eligible to accumulate vacation and sick days as otherwise set forth in this policy.

SECTION 8.00 Benefits

8.1 Vacation

Eligible employees will earn paid vacation consistent with the following schedule. If any Continuous Part Time employee who works more than 20 but less than 32 hours per week or Full Time employee has different regular hours than shown in the table below, a week of their vacation time will be computed as their average hours worked per week for the previous year.

Regular Scheduled Hours worktime and available vacation time below Years of Service & Vacation weeks

	32-40 Hour & Exempt	20 Hours	25 Hours	42.5 Hours	45 Hours
Less than 5 years 2 weeks	80 Hours	40 Hours	50 Hours	85 Hours	90 Hours
5-14 years 3 weeks	120 Hours	60 Hours	75 Hours	127.5 Hours	135 Hours
15-19 years 4 weeks	160 Hours	80 Hours	100 Hours	170 Hours	180 Hours

Eligible employees will accrue paid vacation each calendar year beginning January 1st and ending on December 31 per the above table. From the initial date of hire through December 31st of the employees first months of employment, vacation leave will accrue on a pro-rated basis per the above table, but cannot be used during the six month probationary period without approval of the Town Administrator. Any deviations from this section for contract employees and other individual situations will occur only if approved by the Town Administrator. Vacation time may not be carried over to the next calendar year without prior approval from the Town Administrator. Any outstanding vacation time shall be paid to the employee in a check separate from their regular payroll at the end of the calendar year, unless other arrangements are approved by the Town Administrator.

Employees must request vacation time from the Department Head/Town Administrator at least two (2) weeks in advance to ensure appropriate staff coverage. The Town Administrator or Department Head shall have the authority to deny vacation requests if necessary. If two or more individuals request identical vacation time at the same time, then seniority will be the deciding factor for who will be granted the vacation time. Other than that, vacation time will be granted on a “first come, first serve” basis.

If an employee is absent from work, the appropriate accrued leave time shall be used. In the case of sick time, an employee must comply with the provisions of Section 8.3. Employees who terminate employment with the Town of Waterboro will receive their accrued vacation pay.

8.2 Holidays

Holiday pay is available to eligible exempt and non-exempt regular employees. Full time emergency personnel who work rotating shifts on a 24/7 basis should refer to Section 8.2.1 for their holiday information. Compensation for holidays will be based upon the number of hours that the employee would have worked if the holiday occurred on a regular workday. Holidays within vacation time are not considered a vacation day. Eligible holidays are as follows:

- New Year's Day
- President's Day
- Martin L. King's Day
- Patriot's Day
- Memorial Day
- Independence Day
- Labor Day
- Columbus Day
- Veteran's Day
- Thanksgiving Day
- Day after Thanksgiving
- Christmas Day

Employees will also be paid for the half (½) day before New Year's Day and half (½) day before Christmas if the holiday falls on Tuesday through Friday as long as the employee is scheduled to work this half day. The offices will be closed on Fridays when the holiday is on a Saturday, and on Monday when the holiday falls on a Sunday. Holiday pay shall not be given to any employee if they are on a leave of absence without pay, suspension, or any other non-pay status on the date the holiday falls. Sick leave shall not be charged on any paid holiday established above.

Employees who usually are off on Mondays will not be paid for any holiday listed above that is observed on Monday, but will be permitted to use those days as paid floating holidays during the fiscal year. A floating holiday will be earned in the week that the holiday occurs and must be scheduled in the same manner as vacation time and must be used on or before June 30th. The hours earned will equal the employee's normal work hours on the holiday. There will be no payment in late June for any unused floating holidays. If an employee works on a holiday, the employee has the choice of being paid double time that day or being paid straight time plus taking a future floating holiday at straight time. Per section 3.3.b of this policy, such paid holiday time over the work time does not count towards overtime.

8.2.1 Holidays for some emergency services personnel

The Town of Waterboro recognizes some full time emergency staff work rotating shifts on a 24/7 basis and must work some holidays. Holiday time off will be available to all full time hourly emergency services personnel (not per diem personnel) working a rotating schedule in accordance with this section only.

Employees within this section shall be allowed the holidays listed in section 8.2. Emergency personnel scheduled to work holidays regardless of the day of week shall follow the same scheduling as with other time off requests. Employees who work on a holiday have the choice of being paid double time for the holiday or being paid straight time plus having an additional floater if the holiday falls on a normally scheduled shift. Those holidays not occurring during a normally scheduled shift shall be considered a floating holiday with no additional pay. Any additional pay shall not be considered hours worked for overtime calculations.

Floating holidays must be used prior to June 30th. The hours earned will equal the employees normally paid hours for the shift based on the 28 day cycle.

8.3 Sick Leave

Paid sick leave for each full time employee working 32 or more hours per week is earned at the rate of one 8 hour day for each calendar month of service and may accumulate up to 180 days. Continuous Part Time employees working 20 or more hours per week and 52 weeks per year will receive a prorated amount of sick time in proportion to their average hours worked compared to a 40 hour work week. Sick days may be used in one hour increments. Sick days cannot be used the day before or the day after a holiday unless approved by the Town Administrator. Employees absent from work on the day before or after a holiday may be requested to provide a physician's note certifying that the reason for the absence was illness. Sick leave may be granted for any of the following reasons:

- Personal illness or injury of a nature sufficient to justify absence from work;
- Personal medical or dental appointments that cannot be scheduled other than during working hours.
- To reward good health and good attendance, an employee may use up to 16 hours of sick leave per year for personal time off for any reason the employee chooses with prior approval of the Town Administrator.
- An employee may utilize up to 40 hours of sick leave a year for an ill parent, spouse or child.

After three (3) consecutive days of sick time, the Town Administrator shall require a certificate from a qualified physician to justify continued absence and/or return to work. The municipality shall request a physician(s) letter(s) certifying "fitness for duty" prior to an employee's return to duty after an extended or serious medical/psychiatric leave or where a "safety" issue presents itself.

Upon initial hire, employees shall not be entitled to paid sick leave until they have completed ninety (90) days of employment, unless authorized by the Town Administrator. At the completion of ninety (90) days employment, probationary employees' cumulative sick leave days shall be computed from the original date of employment.

Sick leave shall not be considered as a right that an employee may use at his/her discretion, but shall be allowed only in case of actual sickness, disability or medical appointments, including dental. The only exception to this is the allowance for 16 hours of accrued sick time to be used as personal time off. False or fraudulent use of sick leave shall be cause for disciplinary action.

If an employee is absent from work, the appropriate accrued leave time shall be used. Employees may be allowed to take unpaid leave, when approved by the Town Administrator, in cases where accrued paid leave time has been exhausted.

In the event of death of an employee, the Town shall pay to the designated beneficiary one hundred percent (100%) of the employee's accumulated sick leave.

8.4 Insurance Benefits

A. Medical: The Town participates in the Maine Municipal Employees Health Trust or equal or better plans for all eligible employees requesting the coverage. The Town will provide a contribution per fiscal year per full time employee toward the cost of health and dental insurance. Only full time employees who work 32 hours or more per week continuously all year long are eligible for health insurance benefits or monthly reimbursement if covered by other health insurance. The Town reserves the right to change insurance carriers and/or benefit levels as deemed necessary. The Town offers employees the PPO 2500 plan effective January 1, 2018. For employees desiring family medical coverage after July 1, 2017, the Town will pay 50% of the monthly premium increase over the single employee premium cost.

B. Full time employees who voluntarily elect to withdraw from participation in the health insurance plan provided by the Town may do so and be reimbursed upon presentation of proof of other health insurance. Full time employees withdrawing from coverage will be compensated at the rate of 600 dollars per month. This will be paid each month for which a premium for the employees' health insurance is not paid by the Town for the employee.

C . Life and Disability Insurance: Life Insurance is provided at no extra cost only for employees who are covered by the Town's health insurance. The basic policy is a death benefit in the amount of the employee's annual salary. Short term disability insurance is available at the employee's cost through the Maine Municipal Association Policy (Income Protection Plan). That plan provides benefits for up to fifty-two (52) weeks in accordance with the provider's rules and in amount selected by the employee. Long term disability insurance and vision coverage are also available at the employee's cost.

D. Dental Insurance The Town shall pay for all full time employee's dental insurance if the employee meets the eligibility requirements of the plan. For employees desiring family dental coverage after July 1, 2017, the Town will pay 50% of the monthly premium increase over the single employee premium cost. All other employees are welcome to obtain dental insurance for themselves and their families but all premium costs will be paid by the employee.

E. Retiree Health Insurance. The Maine Municipal Employees Health Trust (MMEHT) permits employees who retire from the Town the right to his/her health insurance with the MMEHT provided the employee is either receiving benefits from the town sponsored retirement plan or is at least 55 years of age and worked for the Town at least the last 5 consecutive years immediately prior to retirement. The employee will be required to pay the full premium for retiree health insurance.

8.5 Retirement

The Town shall provide full time employees with retirement plan options consisting of the Maine Public Employees Retirement System's defined benefit plan or a 457 plan. The Town will only contribute to one of the above options. The Town and employee will both contribute a percentage of the employee's eligible wages as allowed by the chosen option. Since plan requirements vary, it is understood that the percentage of contribution may be significantly different between employee and town contributions.

8.6 Worker's Compensation

This program protects employees against income losses caused by job-related injuries and occupational disease. The Town provides workers compensation insurance in accordance with Maine law. Report filing, processing, and review are governed by State guidelines. Employees are required to immediately report any incident or accident to the Department Head, or in the absence of a Department Head, Town Administrator or Selectmen regardless of how minor the injury.

8.7 Unemployment Insurance

The Town provides unemployment compensation benefits to employees in accordance with state and federal law.

8.8 Social Security

The Town participates jointly with employees in making Social Security payments. Benefits provided include a retirement feature; survivor's benefits payment if death occurs before retirement, disability insurance and Medicare coverage.

8.9 Employee Assistance Program

The Town believes it is in the interest of employees, employees' families, and the Town to offer an Employee Assistance Program (EAP) to help employees deal with personal problems under strict confidentiality. We believe that the personal lives of employees are their own affair. However, when personal problems of an employee seriously affect job performance, sound business practices and an obligation rooted in personal concern for employees require that the problems be resolved. The basic purpose of our EAP is to offer employees assistance in such a way as to restore individual productivity and enable employees to lead meaningful lives. Employees who have problems that they feel may adversely affect job performance or personal well-being are encouraged to voluntarily seek confidential assistance in the EAP. Employees are assured that their jobs or promotional opportunities will not be jeopardized by utilizing the EAP, and that all contract and records will be confidential. Participation in the EAP is strictly voluntary. Supervisors should remind employees that the EAP is a benefit available at no cost, but should not require an employee to attend, or send an employee to the EAP. Agreeing or refusing to participate in the EAP should have no bearing on whether employees should keep their jobs.

8.10 Discretionary Benefits

Only full time employees (working 32 hours or more per week all year long) are entitled to the following longevity steps that become a part of the employee's pay after each year as indicated:

\$13.00 per week after 7 years of service
\$26.00 per week after 12 years of service
\$52.00 per week after 20 years of service

SECTION 9.0 Leaves of Absence

9.1 Bereavement

Eligible employees with a death in their immediate family are permitted time off with pay from scheduled work to attend to immediate family matters and deal with their loss. This section outlines the amount of time provided and under what circumstances payments will be made.

- An employee may be eligible to be paid for up to five (5) days in the event of the death of a spouse, domestic partner (as defined by the Maine Municipal Employee Health Trust), father, mother, brother, sister or child (including step children).
- An employee may be eligible to be paid for up to three (3) days in the event of the death of a grandparent, grand child, father-in-law, mother-in-law, brother-in-law, sister-in-law and step parents.
- For attendance at the funeral of an aunt, uncle, niece, nephew, an employee may be excused from work for one (1) day with full pay.

Additional time off may be granted, on a case by case basis, by the Town Administrator

- The Town recognizes that close family ties may exist with other than those defined above. Under these special circumstances the Town Administrator may, on a case by case basis, allow the employee to use paid leave other than sick time. Should no paid leave be available, the Town Administrator may grant time off without pay.
- Employees requesting pay under this policy may be required to submit a written statement to the Town Administrator indicating the name of the deceased and their relationship to the deceased. Additional documentation as needed (obituary or other documents), may be requested authenticating the death.

9.2 Family & Medical Leave (FMLA)

As provided by the Federal Family and Medical Leave Act (FMLA), all employees who have worked for the Town for at least one year and have worked more than 1,250 hours in the past 12 months are entitled for up to 12 weeks of job-protected leave during any 12 month period for specified family and medical reasons. Employees not eligible for leave under the Federal FMLA may be entitled to up to 10 weeks of leave in a two year period under the terms and conditions of Maine law.

A. Covered Family and Medical Reasons. An eligible employee shall be entitled to 12 weeks of Federal FMLA leave during a 12-month period for one or more of the following reasons:

- 1) The birth and care of a newborn child, provided the leave is completed within 12 months of the birth;
- 2) The placement of a child for adoption or foster care, provided the leave is completed within 12 months of the placement;
- 3) To care for an immediate family member (spouse, child, or parent) with a serious health condition if supported by medical certification from the family member's health care provider;
- 4) To take medical leave when the employee is unable to work because of the employee's own serious health condition that makes the employee unable to perform the essential functions of his/her job as supported by medical certification from the employee's health care provider.

- 5) For a “qualifying exigency” arising out of the fact that a spouse, son, daughter or parent of the employee is on active military duty or has been called to active military duty;
- 6) For the spouse, son, daughter, parent or next of kin of a covered military service member to care for the service member who is undergoing medical treatment, recuperation, therapy, is otherwise in an outpatient status or is otherwise on the temporary disability retired list for a serious illness or injury. The employee may take up to 26 work weeks of unpaid leave during a single 12 month period for this condition.
- 7) A serious health condition is a condition or illness affecting one’s health to the extent that inpatient care is required, or that absences are necessary on a recurring basis or for more than a few days for treatment or recovery. If inpatient care is not needed, an absence from work for more than three days must occur along with the continuous treatment of a health care provider.

Employees with questions about whether specific illnesses qualify for leave under this policy or under the Town’s sick leave policy are encouraged to meet with the Town Administrator.

B. Calculation of Leave. Employees eligible for Federal FMLA leave have up to 12 weeks of unpaid leave available during any 12-month period. The Town will use a rolling 12-month period measured backward from the date an employee uses any FMLA leave. Each time an employee uses leave, the Town computes the amount of leave the employee has taken under this policy, subtracts it from the 12 weeks, and the balance remaining is the amount the employee is entitled to take at that time.

C. Maintenance of Benefits. An employee shall be entitled to maintain group health insurance coverage on the same basis as if he/she had continued to work for the Town. If an employee currently pays a portion of their health insurance premium to maintain uninterrupted coverage, the employee will be required to continue to pay their share of insurance premium payments. This payment shall be made either in person or by mail to the Selectmen’s office by the 15th (fifteenth) day of each month.

D. If the employee informs the Town that he/she does not intend to return to work at the end of the leave period, the Town's obligation to provide health benefits ends.

E. The Town will continue making any relevant payroll deductions for the employee’s share of the health insurance premium while the employee is on paid leave. While the employee is on unpaid leave, the Town will request that the employee continue to make those payments, if payroll deductions exist for an employee’s chosen health insurance plan. If the employee does not continue making payments owed to the Town, the Town will be entitled to recover the payments at the end of the leave period, in a manner consistent with the law.

The use of family or medical leave will not be considered a break in service.

F. Job Restoration. An employee who utilizes family or medical leave under this policy will be restored to the same job or a job with equivalent status, pay, benefits and other employment terms.

G. Use of Paid Leave. An employee must use any accrued sick leave first and may elect to use accrued vacation leave after sick leave is exhausted. If the employee elects not to use vacation leave or has no accrued vacation leave after his/her sick leave is exhausted, the remainder of the leave will be unpaid.

H. Intermittent Leave and Reduced Work Schedules. .

Employees may use family or medical leave intermittently or as part of a reduced workweek whenever it is medically necessary. If the need to use leave is foreseeable and based on preplanned and prescheduled medical treatment, then the employee is responsible to schedule the treatment in a manner that does not unduly disrupt the Town's operations.

In some cases, the Town may temporarily transfer an employee using intermittent or a reduced workweek to a different job with equivalent pay and benefits if another position would better accommodate the intermittent or reduced schedule.

For the birth, adoption or foster care of a child, The Town and the employee must mutually agree to a schedule before the employee may take the leave intermittently or work a reduced schedule. Leave for the birth, adoption or foster care of a child must be taken within one year of the birth or placement of the child.

I. Notice

When an employee plans to take leave under this policy, the employee must give the Town thirty (30) days notice. If it is not possible to give thirty (30) days notice, the employee must give as much notice as is possible. An employee undergoing planned medical treatment is required to make a reasonable effort to schedule the treatment to minimize disruptions to the Town's operations. While on leave, employees will be requested to report periodically to the Town regarding the status of the medical condition, and their intent to return to work.

J. Procedure for Notice and Certification of Serious Health Condition. On occasion, the Town may require the employee to provide notice of the need to utilize leave (where it is possible to know beforehand) and/or may require the employee to provide certification of an employee's or immediate family member's serious health condition by a qualified healthcare provider. The employee should try to respond to such a request within fifteen (15) days of the request, or provide a reasonable explanation for the delay.

The Town has the right to contact the employee's health care provider, with the employee's permission, to clarify or authenticate the medical certification, but not to request additional information. The Town has the right to request a second opinion from a medical provider of its choice and at its cost.

K. Designation of FMLA Leave by the Town

The Town may designate leave as FMLA leave if the reason for the leave meets the requirement of the FMLA even if the employee does not request the FMLA leave. FMLA leave will run concurrently with other leaves, including but not limited to workers compensation leave.

9.3 Leave Without Pay

If an employee is absent from work, the appropriate accrued leave time shall be used. Employees may be allowed to take unpaid leave, when approved by the Town Administrator, in cases where paid leave time has been exhausted. A regular employee may be granted a leave of absence without pay, not to exceed ninety (90) days. The employee is expected to return to work at the end of this period. Employees may choose to continue insurance benefits during this leave by paying the full premium.

9.4 Jury Duty

Regular employees chosen for jury duty will be released from their job duties for the time period of service, as determined by the court. The leave is not a benefit and the employee must call work immediately following release from jury duty and will not be required to return to work if said employee has less than 2 hours remaining in their work day. Employees on jury leave who miss work shall receive their regularly scheduled base pay in exchange for transfer to the Town of any compensation (not including mileage) received for their attendance.

9.5 Military Leave

The Uniformed Services Employment and Reemployment Rights Act (USERRA) grants rights to civilian employees whose employment is interrupted for military service or training and the Town will comply with its obligations under the Act

Full-time employees who are members of the military reserves or in the National Guard, and who are required to undergo field training during normal work hours, shall be entitled to a leave of absence with differential pay for the period of such training. Differential pay is not to exceed two (2) weeks in any one (1) year. The Town will pay the difference between compensation for military activities as shown by a statement issued by military authorities giving his/her rank, pay and allowances and the amount of net straight time pay due as an employee of the Town. If the compensation for military service is equal to or greater than the net straight time salary or wages due as a town employee, then no payment will be made.

9.6 Victims of Family Violence

The Town recognizes that an employee may find it necessary to protect themselves or an immediate family member from domestic violence. In doing so, all reasonable efforts shall be made by the employee to preserve employment and the Town will comply with the laws and make a reasonable effort to work with an employee during the immediate crisis. Employees will be granted reasonable and necessary leave from work with pay to:

- a) Prepare for or attend court proceedings
- b) Receive medical treatment or to attend medical treatment for a victim if it is the employee's daughter, son, parent, spouse or in the same household
- c) To obtain necessary services resulting from domestic violence, sexual assault, stalking, or any act that would warrant an order of protection.

Unless to do so would:

- a) Result in the Town sustaining undue hardship from the employee's absence
- b) The request for leave is not communicated to the Town Administrator within a reasonable time under the circumstances
- c) The requested leave is impractical, unreasonable or unnecessary based on the facts that are made known to the Town Administrator.

The Department Head or the Town Administrator must be notified of possible risks of violence, intimidation, harassment, etc. by the perpetrator of family violence so that measures may be taken to protect the victimized employee, staff, customers and property.

9.7 Emergency Disaster Volunteer Leave

Under Maine law (*30-A M.R.S.A. § 2705*) a municipal employee who is a certified disaster service volunteer of the American Red Cross, upon the request of the American Red Cross in order to participate in specialized disaster relief services for the American Red Cross may, with the approval of the Board of Selectmen or Town Administrator:

- Be granted leave not to exceed 15 days in each year without loss of pay, vacation time, sick leave or earned overtime accumulation;
- Be granted a leave using that employee's compensated time off, with the employee's consent;
- Be granted a leave using a combination of paid leave and compensated time off.

It is important to note that the relief services contemplated by this statute must be related to a disaster declared by the governor or state or territory or by the President of the United States.