

# **PERSONNEL POLICIES AND PROCEDURES**

## **Town of Colrain, Massachusetts**

*(Adopted by Select Board 7/25/2023)*

*(Revised by Select Board 8/8/2023)*

*(Revised by Select Board 9/26/2023)*

### **SEVERABILITY CLAUSE**

Each provision of these policies shall be construed as separate to the end, that if any part of it shall be held invalid for any reason, the remainder shall continue in full force and effect.

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# PERSONNEL POLICIES AND PROCEDURES

## Town of Colrain, Massachusetts

*(revised 2023)*

These policies apply to all employees, whether exempt or non-exempt. In any instance where these policies conflict with federal or state laws or agreements, such laws or agreements shall be deemed to prevail. At all times, including after successful completion of the probationary period, employment with the Town is considered “at will”, meaning the employment relationship may be terminated at any time, for any lawful reason(s), by any party with the exception of those employees who have a work contract with the town, are elected, or are appointed annually.

The Town may establish, rescind, or amend such administrative procedures it considers necessary for the implementation of these rules.

Massachusetts Department of Employment and Training notices shall be prominently posted in these Town workplaces: Town Office, Highway Department, Library, Transfer Station, and Fire Department.

### **DEFINITIONS**

**SUPERVISOR** - The individual who is an administrative officer in charge.

**FULL-TIME EMPLOYMENT** - The regular workweek of full-time employees is 40 hours. The specifics of the schedule are to be arranged between the employee and the employee's supervisor. Hours worked as an elected official may not be combined with hours worked in an appointed capacity in determining an employee's status.

**PART-TIME EMPLOYMENT** - A regular part-time employee works less than 40 hours in the regular workweek.

**PERMANENT EMPLOYEE** - A person who is employed in a position without restriction as to the duration of employment.

**TEMPORARY EMPLOYEE** - A person who is employed for a specified period of time or for the duration of a temporary vacancy. Continuous temporary employment that later becomes permanent shall be counted as service for purposes of calculating benefits. Seasonal employees and employees hired for a specific project on a short-term basis are considered temporary employees.

**EXEMPT EMPLOYEE** - An employee in an executive, administrative, or professional capacity, who is not generally entitled to overtime pay if he or she meets one of the criteria defined by the Fair Labor Standards Act 29, USC Sections 201-216).

**NON-EXEMPT EMPLOYEE** - An employee, whether paid a salary or an hourly wage, whose primary duty is not executive, administrative, or professional in nature. A non-exempt employee is entitled to overtime pay.

PROTECTED STATUS - Massachusetts employers are prohibited from discriminating against prospective employees based on race, color, religious creed, national origin, ancestry, sex, gender identity, age, criminal record, handicap (disability), mental illness, retaliation, sexual harassment, sexual orientation, active military personnel, and genetics.

### **PERSONNEL COMMITTEE**

A standing committee as defined in Town By-Laws, consisting of five members appointed by the Selectboard. No member of the Personnel Committee may be an employee of the Town or hold elected Town office. The Personnel Committee will act in an advisory capacity to the Selectboard regarding the recruitment and selection of personnel; update and maintain job descriptions; review performance evaluation methods; and update personnel policies. The Personnel Committee will be included in the hiring process for Town positions requiring an Interview Committee by having at least one member of the Personnel Committee on the Interview Committee, and will be available for consultation for other employee hires.

### **PROBATIONARY PERIOD**

The first ninety (90) days of employment for all new employees of the Town will be considered a probationary period. Nothing shall prevent the supervisor or the Selectboard from recommending an earlier termination date during the probationary period.

At least ten (10) days in advance of completion of the Probationary Period, the Treasurer will send a reminder notice to the Town Administrator or Department Head to notify the employee at the end of their probationary period that:

1. The employee's performance meets satisfactory standards and that the individual will be retained in the position; or
2. The employee's performance requires additional observation and that the probationary period will be extended for a time not to exceed three additional months; or
3. The employees performance, attitude, or conduct was unsatisfactory, resulting in termination of employment.

An employee may be terminated at any time by the appointing authority if it is revealed that the employee intentionally falsified information relating to the application for employment, was unable or unwilling to perform the required duties, or displayed conduct, habits, or dependability which did not merit continuing the employee in the position. The employee shall be notified in writing of the reasons for the termination and the effective date of the action. A copy of this letter will be placed in the employee's personnel file.

All new employees shall be furnished with a copy of: their job description; the Town's Personnel Policy; the Conflict of Interest law; and the Massachusetts Open Meeting law. Immediate supervisors are responsible for ensuring that adequate orientation and training is provided to new employees.

## **ANTI FRAUD POLICY**

The Town of Colrain recognizes the importance of protecting the Town, its operations, its citizens, its taxpayers, its employees and its assets against financial risks and unethical activities. It is the policy of the Town to institute and clearly communicate a fraud prevention policy in an effort to prevent and deter all forms of fraud that could threaten the security of our assets and our reputation.

The Town has a **Zero Tolerance** policy with regard to fraud and is committed to undertake the following steps as part of its anti-fraud policy:

1. Education
2. Prevention
3. Detection
4. Investigation
5. Corrective Action

### **I. EDUCATION**

The most effective way to reach most employees is through education. Actively fighting fraud means implementing policies and procedures that prevent and detect fraud. The Town's goal is to establish and maintain an environment of fairness, ethics and honesty. To maintain such an environment requires the active assistance of every employee, every day.

### **II. DEFINITION OF FRAUD**

Fraud is defined as a deception deliberately practiced to secure unfair or unlawful gain. The term includes such acts as: bribery, deception, embezzlement, extortion, false representation, forgery, the concealment of material facts, the misappropriation of money or assets and collusion or conspiracy to commit any or all of the above acts. Acts of fraud may include:

- Breach of fiduciary duty
- Bribery
- Concealment of material facts
- Theft of money or physical property
- Theft of secrets or intellectual property
- Other statutory offenses

### **III. FRAUD**

Fraud, as defined by this policy, includes any misuse or attempt to misuse a Town asset for personal gain or purposes unrelated to Town business. It may include, but is not limited to:

### **IV. MISAPPROPRIATION OF ASSETS**

- Forgery, alteration or misappropriation of cash, checks, bank drafts, promissory notes, securities, or any other financial document.
- Unauthorized use or disposition of funds or property.
- Falsifying travel expenses and /or utilizing Town funds to pay for personal expenses or for personal benefit.

- Falsifying timesheets or payroll records.
- Theft
- Embezzlement
- Fictitious reporting of receipt of funds.
- Falsification of expenses and invoices.

## **V. PROFITEERING**

Offering, giving, soliciting and/or accepting an inducement or reward that may improperly influence the action of an employee of the Town.

## **VI. RELATED POLICIES**

This is a Town-wide policy that is designed to augment M.G.L. Chap. 268A (The Conflict of Interest Law). It is not intended to replace or preclude it in any way.

## **VII. INTERNAL CONTROLS / INVESTIGATIONS**

The Town Administrator and Town Accountant, or designee, shall be responsible for developing internal controls to aid in preventing and detecting fraud or financial impropriety or irregularity. Reports of suspected fraudulent activities shall be investigated in a manner that protects the confidentiality of the parties and avoid unfounded accusations. Employees involved in the investigation shall be advised to keep information about the investigation confidential.

If a preliminary investigation substantiates occurrence of a fraudulent activity, the department head or designee shall issue a report to the Town Administrator. Final disposition of the matter and any decision to file a criminal complaint or refer the matter to the appropriate law enforcement and/or regulatory agency for independent investigation shall be made in consultation with legal counsel. Results of the investigation shall not be disclosed to or discussed with anyone other than those individuals with a legitimate need to know, or in accordance with a requirement to disclose under the provisions of the Public Records Law.

## **VIII. GENERAL POLICIES AND RESPONSIBILITIES**

The Town Administrator, or his/her designee, is responsible for investigating any suspected acts of fraud or misappropriation of property. An objective investigation will be conducted of any person, group or organization reasonably believed to have committed fraud, regardless of position, job title, and length of service or relationship with the Town. Department heads are responsible for instituting and maintaining programs and controls to prevent, deter, and detect fraud.

All Town employees, upon discovery of any violation of this policy, must notify his/her supervisor of the violation. If reporting to their supervisor presents a problem, then reporting should be to the Town Administrator, the Selectboard, or, finally, the state District Attorney.

The Town Administrator or his/her designee has the primary responsibility for overseeing the investigation of all suspected fraudulent acts as defined in this policy. The Town Administrator will involve such individuals as, but not limited to, the Town Accountant, Town Treasurer, Town Law Enforcement, Legal Counsel, the Selectboard, and others deemed appropriate.

Upon conclusion of the investigation, the results will be reported to the Selectboard. If there are reasonable grounds to believe that a fraud may have occurred, the Town Administrator may report the incident(s) to the appropriate authorities, including the Selectboard. In cases where the Town Administrator may be involved in fraudulent activity, the investigation will be conducted by the Selectboard or their designee.

Whatever action is taken by such appropriate authorities will not preclude the Town from taking disciplinary action where it believes discipline is warranted. Every reasonable effort will be pursued to recover Town assets.

#### **IX. SECURITY OF EVIDENCE**

Once a suspected fraud is reported, immediate action to prevent the theft, alteration, or destruction of relevant records shall be initiated. The records will be adequately secured until the investigation is complete.

#### **X. CONFIDENTIALITY**

All participants and all persons questioned in a fraud investigation will keep the details and results of the investigation confidential so as not to violate an individual's expectation of privacy.

#### **XI. PERSONNEL ACTIONS**

If a suspicion of fraud is substantiated by the investigation, the Selectboard shall take disciplinary action, up to and including dismissal and appropriate legal action. Such disciplinary action may be taken independent of any findings and conclusions reached by any appropriate authority to which the fraud allegations are reported.

If an allegation is made in good faith, but it is not confirmed by the investigation, no action will be taken against the originator. If, however, the allegation was made in bad faith or without a justifiable basis, appropriate disciplinary action may be taken against the individual making the erroneous allegation up to and including termination.

## **CONSOLIDATED OMNIBUS BUDGET RECONCILIATION ACT** **(COBRA) POLICY**

The Consolidated Omnibus Budget Reconciliation Act (COBRA) gives workers and their families who lose their health benefits the right to choose to continue group health benefits provided by their group health plan for limited periods of time under certain circumstances such as voluntary or involuntary job loss, reduction in the hours worked, transition between jobs, death, divorce, and other life events. Qualified individuals may be required to pay the entire premium for coverage up to 102% of the cost to the plan.

The Town will comply with the Consolidated Omnibus Budget Reconciliation Act (COBRA) which requires employer-sponsored group medical plans to allow covered employees and their dependents to elect to have their current medical coverage continued at the employee and dependents' expense, at group rates, following a qualifying loss of coverage up to 38 weeks. For more information, contact the Town Treasurer or go to <https://www.mass.gov/service-details/cobra-coverage>

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## **CONFLICT OF INTEREST POLICY**

The purpose of this policy is to ensure that Town employees and officials comply with the requirements of M.G.L. Chap. 268A, which governs conduct as a public official or public employee.

### **I. PROHIBITED CONDUCT**

It is the Town's policy to require compliance with the provisions of this law, as outlined below. Town employees and officials may not:

- A. Ask for or accept anything (regardless of its value) if it is offered in exchange for you agreeing to perform or not perform an official act.
- B. Ask for or accept anything worth \$50 or more from anyone with whom you have official dealings. Examples of regulated gifts include: sports tickets, costs of drinks and meals, travel expenses, conference fees, gifts of appreciation, entertainment expenses, free use of vacation homes, and complimentary tickets to charitable events. If a prohibited gift is offered: you may refuse or return it; you may donate it to a non-profit organization provided you do not take the tax write-off; you may pay the giver the full value of the gift; or, in the case of certain types of gifts, it may be considered "a gift to your public employer," provided it remains in the office and

does not ever go home with you. You may not accept honoraria for a speech that is in any way related to your official duties, unless you are a state legislator. If you have questions about what constitutes a gift, please contact the Town Administrator or the state's Ethics Commission at 617-371-9500.

- C. Hire, promote, supervise or otherwise participate in the employment of your immediate family or your spouse's immediate family.
- D. Take any type of official action which will affect the financial interests of your immediate family or your spouse's immediate family. For instance, you may not participate in licensing or inspection processes involving a family member's business.
- E. Take any official action affecting your own financial interest, or the financial interest of a business partner, private employer, or any organization for which you serve as an officer, director, or trustee. For instance: you may not take any official action regarding an "after hours" employer, or its geographic competitors; you may not participate in licensing, inspection, zoning, or other issues that affect a company you own, or its competitors; if you serve on the Board of a non-profit organization, you may not take any official action which would impact that organization or its competitors.
- F. Have more than one job with the same municipality or county or more than one job with the state, unless you qualify for an exemption.
- G. Have a financial interest in a contract with your public employer except under special circumstances. For instance: if you are a Town employee, a company you own may not be a vendor to the Town unless you meet specific criteria, the contract is awarded by a bid process, and you publicly disclose your financial interest.
- H. Represent anyone but your public employer in any matter in which your public employer has an interest. For instance, you may not contact other government agencies on behalf of a company, an association, a friend, or even a charitable organization.
- I. Ever disclose confidential information, data, or material which you gained or learned as a public employee.
- J. Take any action that could create an appearance of impropriety or could cause an impartial observer to believe your official actions are tainted with bias or favoritism, unless you make a proper, public disclosure.
- K. Use your official position to obtain unwarranted privileges, or any type of special treatment, for yourself or anyone else. For instance, you may not approach your subordinates, vendors whose contracts you oversee, or people who are subject to you officially to propose private business dealings.

- L. Use public resources for political or private purposes. Examples of “public resources” include: computers, phones, fax machines, postage machines, copiers, cars, staff time, sick time, uniforms, chain saws, ladders, mowers, tools, and official seals. This shall not apply to publicly available resources, such as library computers, which are intended for the personal use of the general public during the employee’s non-work time.
- M. After leaving public service, take a job involving public contractors or any other particular matter in which the Town was a party or had a direct and substantial interest and in which you participated as a public employee, within one year after employment with the Town has ceased.

## **II. MANDATORY TRAINING**

All employees and officials shall participate and comply with the required training provisions of M.G.L. Chap. 268A.

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## **CRIMINAL & SEXUAL OFFENDER RECORDS INFORMATION**

The Town will adhere to laws regarding Criminal and Sexual Offender Record Information checks.

The Criminal Offender Record Information (CORI) system is administered by the Massachusetts Criminal History Systems Board (Board). The Board adopts general grants for organizations when a number of applicants fit squarely into specific categories that are appropriate to receive CORI. General grants allow agencies to run CORIs in batches without separate applications for histories. General grants for CORI access are generally granted to employers that have a majority of employees that would otherwise be subject to CORI checks, such as those with unmonitored access to children, the disabled, or the elderly. In addition, the Town can apply to the Board for CORI authorization for any position it deems appropriate. The Town will only request CORI information after a conditional offer is made to a candidate. The Town performs CORI checks of all new employees and any board members, including library Trustees, who work with children or other vulnerable populations.

## **CONDUCT AND DISCIPLINE POLICY**

The purpose of this policy is to ensure that:

- Employees meet the Town's legitimate expectations in the areas of performance, behavior and adherence to all Town policies;
- Employees whose performance or behavior is deficient are provided with the necessary assistance and motivation to meet the Town's expectations; and
- Disciplinary action initiated against an employee is fair and appropriate.

### **I. EMPLOYEE CONDUCT**

All Town employees are expected to conduct themselves in a manner which credits the Town, public officials and fellow employees and promotes the public's trust in local government. Employees maintain the highest standards of personal integrity, truthfulness, honesty and fairness in carrying out their public duties and may not engage in any conduct which could reflect unfavorably upon the service to the Town and each other. Expectations of Employee Conduct have both legal and ethical implications as described.

The following are examples of conduct that may result in disciplinary action by the Town, up to and including dismissal:

- Any breach of acceptable conduct of any of the policies contained in the Town's Personnel Policy or any other statement of Town policy;
- Unethical, deceitful, or illegal conduct, whether or not the results of the behavior benefit the employee or employer;
- Behavior that infringes on the well being of others;
- Any other conduct or failure to perform that does not meet the expectations for employees of the Town;
- Criminal or felonious acts that occur off Town premises or outside working hours.

If an employee experiences or witnesses harassment based on any protected status, the employee may file a complaint with the Town Administrator or the Selectboard. The Town Administrator will then conduct an inquiry and will address the complaint within twenty-one (21) business days from the date the complaint was filed.

### **II. CUSTOMER SERVICE**

The Town is committed to providing excellent and efficient customer service. Excellent customer service results in a municipal organization meeting the needs of its residents and citizens in a consistent and professional manner. All employees of the Town are to be made aware of the importance of customer service within the Town's operation. Employees must, at all times, be professional, courteous, and understanding when dealing with residents, businesses and other customers whether in person, by telephone or video, or in writing.

Employees should be aware that customer service abilities, in all levels of their work, will impact future employment evaluations and possible advancement opportunities.

Leadership by example is a key component to excellence in customer service. Town management must continually promote in their actions, speech, and writing the paramount importance of customer service standards.

### **III. GENERAL DISCIPLINE POLICY**

The Town's disciplinary policy is one of progressive discipline. However, nothing herein shall be construed to limit the Town's right to impose discipline of any degree, up to and including termination, in a particular case without regard to the existence or non-existence of prior disciplinary action.

Employees who have not been appointed to a specific term of office are on an indefinite appointment and, as such, are considered at-will employees who may be terminated at any time for any reason, so long as it is not unlawful.

Verbal and written reprimands shall be brought to the attention of the Town Administrator by the department head, who will proceed as needed. Suspension without pay, other disciplinary action and termination are within the discretion of the Selectboard.

### **IV. DISCIPLINE POLICY PROCEDURES**

During the course of performing their duties, all Town employees are prohibited from engaging in any conduct that could reflect unfavorably upon the Town. Town employees shall avoid any action that might result in, or create the impression of, using public office for private gain, giving preferential treatment to any person, or showing favoritism in the conduct of Town business. Employees are expected to keep in mind that they are public employees and are to conduct themselves accordingly in a manner which in no way discredits the Town, public officials, or other employees.

The Town expects its employees to perform their jobs and conduct themselves in a manner consistent with Town standards and policies. However, when violations or problems occur, disciplinary action will result. Commission of any of the following acts by an employee while performing Town duties may result in disciplinary action up to and including termination.

- Violation of any Town policy.
- Misrepresentation, falsification or omission on the employment application or resume or other information on which hiring decisions were based.
- Falsification of records, including signing in or out for another employee or allowing another employee to sign in or out for you.
- Engaging in fraud.
- Failure to perform job assignments satisfactorily and efficiently.
- Engaging in unprofessional conduct, including comments.
- Failure to follow safety rules or to report unsafe actions or conditions.
- Unexcused absences.
- Excessive or patterned absenteeism or lateness. Some examples are using sick time consistently on the first and last day of the work week, or coming in consistently late more than once a week.
- Revealing or making available any information of a confidential nature to any person not authorized or entitled to receive it.

- Stealing, theft, misappropriation, misuse, destruction, or damage of citizen, employee or Town property.
- Malingering, loitering or sleeping on the job.
- Reporting for duty impaired by alcohol or drugs, including prescription drugs.
- Engaging in behavior that could violate the Sexual Harassment policy.
- Gambling while on duty or on Town premises.
- Possession of a weapon not required by duties.
- Provoking or instigation of a fight with another person during working hours or on Town property.
- Insubordination.

### **Disciplinary Measures**

**Oral reprimand:** A department head or the Selectboard, upon observing an action, may issue an oral warning to the employee. The oral warning shall be presented with regard to avoiding embarrassment to the employee and shall include a statement concerning the purpose of the warning. An oral reprimand shall be noted in the employee's personnel file.

**Written reprimand:** If an oral warning fails to correct an action warranting disciplinary action, the department head or the Selectboard may issue a written warning which includes the reason(s) for the warning and may include an offer of assistance by the part of the department head or the Selectboard in correcting the problem. A written reprimand may also be issued without an oral reprimand if the seriousness of the action warrants it. A copy of the written warning signed by the department head or the Selectboard and the employee shall be placed in the employee's personnel file and carry a specified period during which the behavior shall be improved. The employee may include a written response to the reprimand in their file.

In the event that disciplinary action is discussed in open meeting and executive session is invoked, the requirements of M.G.L. Chap. 39, Sec. 23B will be adhered to.

**Suspension:** At the discretion of the Selectboard, an employee may be suspended for cause without pay for a period or periods determined by the Selectboard. Suspension may be in lieu of oral reprimand, written reprimand, or disciplinary probation and may be effective immediately. Within forty-eight hours of the effective date of the suspension, the employee will be given a written notice stating the reason(s) for and the length of suspension. A copy of this written notice will be placed in the employee's personnel file. The employee may include a written response to the suspension in their file.

**Discharge:** An employee may be discharged for cause. The Selectboard shall provide the employee with a written notice stating the reason(s) for the discharge and the effective date of the discharge. A copy of this written notice will be placed in the employee's personnel file.

For any adverse employment action, other than termination, the employee may follow the grievance procedure outlined in this manual. Employees who are terminated are eligible to receive vacation pay accrued until the time of termination. No other accrued leave shall be paid, as specified in Employee Leave Time policies. Individuals may have the right to continue insurance coverage (COBRA) by paying their own premium for a period not exceeding 18 months.

## **DOMESTIC VIOLENCE LEAVE POLICY (DVLA)**

Per the provisions of M.G.L. Chap. 149 Section 52E, which provides leave for victims and family members of domestic violence, employees may take up to 15 days of leave from work in any 12 month period if:

- the employee, or a family member of the employee, is a victim of abusive behavior;
- the employee is using the leave from work to: seek or obtain medical attention, counseling, victim services or legal assistance; secure housing; obtain a protective order from a court; appear in court or before a grand jury; meet with a district attorney or other law enforcement official; or attend child custody proceedings or address other issues directly related to the abusive behavior against the employee or family member of the employee; and
- the employee is not the perpetrator of the abusive behavior against such employee's family member.

Employees may use any accumulated benefit time, including sick time, for this leave. If the employee has no accumulated leave time, time taken will be unpaid.

For purposes of this type of leave, **both employers and employees** should be aware that:

Abusive behavior is:

- Domestic violence
- Sexual assault
- Stalking
- Kidnapping

A family member is:

- Parent, step-parent, child, step-child, sibling, grandparent, or grandchild.
- Married spouse.
- Persons in a substantive dating or engagement relationship and who reside together.
- Persons having a child in common regardless of whether they have ever married or resided together.
- Persons in a guardian relationship.

A qualifying purpose is:

- To seek or obtain medical attention, counseling, victim services or legal assistance;
- To secure housing;
- To obtain a protective order from a court, appear in court or before a grand jury, meet with a district attorney or other law enforcement official;
- To attend child custody proceedings; or
- To address any other issues directly related to the abusive behavior against the employee or family member of the employee.

A qualifying document is any of the following:

- A protective order, order of equitable relief or other documentation issued by a court of competent jurisdiction as a result of abusive behavior against you or your family member.
- A document under the letterhead of the court, provider or public agency which you attended for the purposes of acquiring assistance as it relates to the abusive behavior against you or your family member.
- A police report or statement of a victim or witness provided to police, including a police incident report, documenting the abusive behavior complained of by you or your family member.
- Documentation that the perpetrator of the abusive behavior against you or your family member has: admitted to sufficient facts to support a finding of guilt of abusive behavior; or has been convicted of, or has been adjudicated a juvenile delinquent by reason of, any offense constituting abusive behavior and which is related to the abusive behavior that necessitated the leave under this section.
- Medical documentation of treatment as a result of the abusive behavior complained of by you or your family member.
- A sworn statement, signed under the penalties of perjury, provided by a counselor, social worker, health care worker, member of the clergy, shelter worker, legal advocate or other professional who has assisted you or your family member in addressing the effects of the abusive behavior.
- A sworn statement signed by you under the penalties of perjury attesting that you have been or a family member has been the victim of abusive behavior.

For the full notice from the Massachusetts Office of the Attorney General, go to <https://www.mass.gov/files/documents/2016/08/mg/employment-leave-for-abusive-situations.pdf>

## **DRUG AND ALCOHOL-FREE WORKPLACE POLICY**

This policy outlines prohibited conduct with respect to controlled substances, marijuana, and alcohol. This Policy complies with the Town's obligations under the Federal Drug-Free Workplace Act, 41 U.S.C. § 8101, et seq and applies to all Town employees.

It is the Town's policy to provide employees with a working environment that is free of the problems associated with the abuse of alcohol, marijuana, and controlled substances. Illegal or irresponsible use of alcohol, marijuana, or controlled substances is inconsistent with the behavior expected of Town employees, particularly where it may increase the risk of workplace accidents or other failures that would undermine the Town's ability to operate effectively and efficiently, or erode public trust. Please note that although medical and recreational use of marijuana has been legalized in the Commonwealth of Massachusetts, this policy and the following procedures still apply to its use.

### **I. PROCEDURES**

The following is prohibited:

1. Off-Duty: Any unprescribed use, sale, possession, distribution, dispensation, manufacture, or transfer of controlled substances or marijuana, except, in the case of marijuana, where authorized by Massachusetts law.
2. On Duty: Any consumption of controlled substances, marijuana (with or without prescription) or alcohol, whether on or off Town property, or at any other worksite where employees may be assigned, or elsewhere during work hours, or within a period of time prior to work hours that would leave a reasonable likelihood of an adverse residual effect on employee safety or performance.
3. The use of controlled substances or marijuana (with or without a prescription), or any use of alcohol on non-working time, to the extent that such use: (i) impairs an employee's ability to perform the employee's job; or (ii) adversely impacts the safety of the employee or others while on the job.

Employees who are convicted of substance-related violations under state or federal law in the workplace, including alcohol or marijuana related violations, or who plead guilty or nolo contendere to such charges, must inform their department head or appointing authority within five (5) days of such conviction or plea. Department heads or appointing authorities shall immediately notify the Selectboard and the Town Administrator.

Employees who are convicted or who plead guilty or nolo contendere to such drug-related violations, or are found to have consumed or be impaired by controlled substances, marijuana or alcohol while on-duty, may be required to successfully complete a substance abuse or similar program as a condition of continued employment or re-employment with the Town.

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

## **II. EMPLOYEE ASSISTANCE PROGRAM**

The Town recognizes drug and alcohol dependency as an illness and a major public health problem. To that end, the Town encourages affected individuals to voluntarily seek medical help. Employees who wish to obtain help in dealing with such problems may contact the Town's Employee Assistance Program by dialing 800-451-1834. This service is available 24 hours a day, 7 days a week and is available to employees, their dependents, and household. Further information can also be accessed at <https://allonehealth.com/MIIAEAP/>. If contact information is ever found to be out of date, updated info can be obtained through the Town Office.

Note that the Town may independently refer an employee to the Employee Assistance Program or other substance use/abuse counseling agency or program for help, particularly where there is a pattern of deteriorating job performance or excessive absenteeism of the employee associated with substance use/abuse. In such an instance, the employee's engagement with this resource would remain a confidential matter.

## **III. SANCTIONS**

Substance use/abuse issues do not relieve an employee of job performance standards and obligations. Violations of any and all provisions of this policy may result in disciplinary action, up to and including termination from employment.

## **EMPLOYEE LEAVE POLICIES**

These policies apply to all appointed Town employees. Vacation, sick, personal leave time begin to accrue from the date of employment. Employees are encouraged to use leave time in the year in which it is accrued. While the Town makes every effort to grant reasonable vacation requests, the effective operation of Town government is paramount and vacation requests may be denied if it would have a detrimental effect on efficient Town operations.

### **I. VACATION LEAVE**

Annual vacations with pay will be granted to employees in accordance with the following:

- 0-4 years of employment-80 hours/year (2 weeks)
- 5-9 years of employment-120 hours/year (3 weeks)
- 10-19 years of employment-160 hours/year (4 weeks)
- 20 + years of employment- 200 hours/year (5 weeks)

Upon termination of employment, employees will be paid for any unused vacation time.

Vacations may be taken only at times approved by the department head. Requests for vacation leave shall be granted at such time as will cause the least interference with the performance of work of the Town. Requests will be granted on a first come, first served basis except in the case of two employees simultaneously requesting the same vacation period and then the employee with the most seniority will prevail. A minimum of seventy-two hours notice shall be given to the employee's supervisor prior to scheduling one week or more of vacation leave.

Vacation leave accrues monthly based on the schedule above, is awarded on the first day of the following month and may be used as accrued. Vacation leave may be accrued up to a maximum of 160 hours. Any vacation leave earned beyond 160 hours will not be rolled over into the next calendar year unless approval to take vacation time is denied. Vacation leave does not accrue during periods of unpaid leave.

Part-time employees working at least twenty hours per week are entitled to vacation leave according to the above schedule, with their vacation pay prorated to their weekly schedule.

Temporary employees or employees working fewer than twenty hours per week averaged over a period of 6 months are not entitled to vacation pay.

Paid vacation leave must be accrued before it is used.

Vacation leave may be taken in hourly increments only with sufficient advance notice and permission of the employee's supervisor.

### **II. SICK LEAVE**

Sick leave accrues at the rate of .0384615 hour per regular hours worked (not to include overtime hours), based on a 40-hour workweek, amounting to 80 hours per year. Sick leave may be used in hourly increments and can be accrued up to a maximum of 240 hours for full-

time employees, with the pro-rated equivalent for employees that work more than twenty but less than forty hours per week. Sick leave accrues at the end of each pay period.

Part-time employees working at least twenty hours per week accrue sick leave at a rate prorated according to their weekly schedule.

Sick leave does not accrue during periods of unpaid absence. Unused sick leave will not be compensated upon termination of employment or retirement.

Sick leave is generally for protection of employees against loss of pay due to personal illness. An employee may also use sick leave to care for a dependent child, spouse, or parent during illness.

Sick leave of more than three consecutive days may require a doctor's written verification.

Temporary employees or employees working fewer than twenty hours per week are not entitled to sick leave.

### **III. PERSONAL LEAVE**

Accrual of Personal Leave begins on the date of hire for the equivalent of sixteen (16) hours of personal leave each fiscal year for full-time employees and prorated for part time employees.

Personal leave may be taken at any time in coordination with the employee's supervisor. Personal leave may not be carried over from one fiscal year to the next. Employees who leave the employment of the town are not eligible to receive payment for unused personal leave.

Part-time employees who work more than twenty hours per week receive a prorated accrual of personal time. The same requirements, procedures, and restrictions as applied to full-time employees pertain to part-time employees.

Temporary employees or employees working fewer than twenty (20) hours per week are not entitled to personal leave.

### **IV. BEREAVEMENT LEAVE**

Every full-time and part-time employee shall be entitled to a maximum of three days absence without loss of pay per fiscal year in case of death of a member of his or her immediate family. "Immediate family" is defined as follows: spouse, domestic partner, child, step-child, parent, parent of spouse or domestic partner, brother, sister, brother-in-law, sister-in-law, grandparent, or grandchild.

### **V. JURY DUTY**

The Town will comply with all laws regarding Jury Duty compensation and leave. An employee will be granted regular pay less any jury pay received for jury duty. If the employee is excused from jury duty prior to 12 noon, he or she will be required to report for regular afternoon scheduled work. Proper evidence of jury pay received must be submitted to the Treasurer. Any benefits that accrue will continue to accrue while on jury duty.

### **VI. MILITARY LEAVE**

Any employee called to active duty in the Armed Forces of the government has rights to

military leave of absence under the Uniformed Services Employment and Reemployment Rights Act (USERRA). Additional Information on USERRA rights can be found online at the Federal Department of Labor. Employees of the Town are entitled to a leave of absence during the time of the employees' compulsory services in the armed forces of the United States, or during compulsory annual tours of duty not exceeding seventeen calendar days as provided in M.G.L. Chap. 33, Section 59 as members of reserve components of the armed forces of the United States. The employee shall receive their ordinary remuneration while on annual tour of duty per Federal fiscal year. Employees shall not lose any seniority or previously accrued vacation leave, sick leave, personal leave, compensation time or earned overtime.

Employees must provide a copy of their military orders to the Town Administrator. Employees returning to Town service within ninety (90) days after military discharge shall not lose seniority standing.

## **VII. UNPAID LEAVES OF ABSENCE**

Leave without pay may be granted to employees with extended illnesses, military leave in excess of two weeks, and other reasons approved by the Selectboard. Failure of an employee on leave to report for duty at the date designated and approved initially or upon renewal shall constitute resignation.

### *Criteria for Granting Leave*

Leave without pay is intended to promote the mutual benefit and interests of the employee and the Town.

The Selectboard may approve or disapprove such a request on the basis of the operational requirements of the department, availability of temporary substitute employees, the performance and attendance record of the individual, and the reason for the request.

### *Procedure in Requesting Leave of Absence*

An employee requesting a leave of absence for any reason must present the request in writing to the department head or the Town Administrator, who shall forward the request for review by the Selectboard. Requests other than for sick leave shall be made in advance to allow for the department to re-assign or reorganize the work of the department.

No benefits accrue while an employee is on an unpaid leave of absence.

### *Fringe Benefits During Leave*

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

### **VIII. SMALL NECESSITIES LEAVE ACT (SNLA) POLICY**

The Town will comply with the provisions of the Small Necessities Leave Act which mandates that employers permit eligible employees to take up to a total of 24 hours of unpaid leave within a rolling 12-month period

The SNLA permits an employee leave for the following purposes:

- To participate in school activities directly related to the educational advancement of a son or daughter of the employee, such as a parent-teacher conference or interviewing for a new school.
- To accompany a son or daughter of the employee to routine medical or dental appointments, such as check-ups or vaccinations.
- To accompany an elderly relative of the employee to routine medical or dental appointments or appointments for other professional services relating to the elder's care, such as interviewing at nursing or group homes.

### **IX. PARENTAL LEAVE POLICY**

According to M.G.L. Chap. 149 sec. 105D, an employee who has completed three (3) months of employment shall be entitled to eight (8) weeks of unpaid parental leave for the purpose of giving birth or for the placement of a child under the age of 18 (under 23 if the child is mentally or physically disabled) with the employee who is adopting or intending to adopt the child.

Where two (2) employees are requesting leave for the birth or adoption of the same child, they shall only be entitled to eight (8) weeks of parental leave in the aggregate.

The employee shall give at least two (2) weeks' notice to their Department Head or Supervisor of the anticipated date of departure and the employee's intention to return, or provide notice as soon as practicable if the delay is for reasons beyond the individual's control.

The eight (8) weeks of parental leave shall be included in the employee's annual twelve (12) weeks of FMLA entitlement to the extent that the employee is eligible and has not previously exhausted their FMLA leave for the year. At the conclusion of the parental leave period, the employee shall be restored to their previous position or a similar position with the same status, pay, length of service credit, and seniority.

**X. HOLIDAYS:**

The following are paid holidays:

New Year's Day	January 1
Martin Luther King Day	3 <sup>rd</sup> Monday in January
Presidents' Day	3 <sup>rd</sup> Monday in February
Patriots' Day	3 <sup>rd</sup> Monday in April
Memorial Day	last Monday in May
Juneteenth	June 19
Independence Day	July 4
Labor Day	1 <sup>st</sup> Monday in September
Columbus Day / Indigenous Peoples' Day	2 <sup>nd</sup> Monday in October
Veterans' Day	November 11
Thanksgiving Day	4 <sup>th</sup> Thursday in November
Christmas Day	December 25

Holidays falling on a Saturday or Sunday are taken the following Monday. If a non-exempt employee is required to work on a designated holiday, they will be compensated at time and one-half for all hours worked. Full-time and part-time exempt employees who work at least twenty hours per week and who are not normally scheduled to work on the holiday shall be entitled to compensatory time off at the rate-equivalent of one day during a normal work week if they so choose.

To receive holiday pay, employees must work the days of their regular schedule, which both immediately precede and follow a holiday. Vacation time without loss of holiday pay may be used on the day before or after a holiday with the approval of the employee's supervisor. Supervisors also have discretion regarding use of vacation time in combination with holiday time due to any other unusual circumstances.

Temporary employees and part-time employees working fewer than twenty hours per week are not eligible for holiday pay.

## **EQUAL EMPLOYMENT OPPORTUNITY, ANTI-DISCRIMINATION AND HARASSMENT POLICY (including SEXUAL HARASSMENT)**

This policy describes the Town's prohibition of unlawful discrimination and harassment in the workplace in order to ensure compliance with all applicable federal laws and state statutes and regulations.

The policy applies to all Town employees.

It is the policy of the Town to promote a professional and productive workplace in which all employees are treated with dignity and respect. Employees are expected to act in a positive manner and contribute to a productive work environment that is free from harassing or disruptive activity. Discrimination, including harassment, whether based upon race, color, gender, gender identity, national origin, religion, ancestry, age, sexual orientation, disability, pregnancy or pregnancy-related condition, genetic information, military service, or other basis prohibited under state or federal anti-discrimination statutes, will not be tolerated. To achieve the goal of providing a workplace free from discrimination, the Town will implement the procedure described below to address any potential inappropriate conduct.

### Coverage

This policy applies to all employment practices and employment programs sponsored by the Town. This policy shall apply, but not be limited, to the areas of:

- Recruitment
- Selection
- Compensation and benefits
- Professional development and training
- Reasonable accommodation for disabilities or religious practices
- Promotion
- Transfer
- Termination
- Layoff, and
- Other terms and conditions of employment.

This policy may apply to discrimination (including harassment) that occurs between co-workers that takes place outside the workplace (including, but not limited to, online conduct or conduct utilizing the internet or other electronic media). When the conduct complained of occurs outside of the workplace, the Town may consider the following and other factors in assessing whether the conduct constitutes conduct in violation of this policy:

- whether the event at which the conduct occurred is linked to the workplace in any way, such as at a Town sponsored function;
- whether the conduct occurred during work hours;
- the severity of the alleged outside-of-work conduct;

- the work relationship of the complainant and alleged harasser, which includes whether the alleged harasser is a supervisor and whether the alleged harasser and complainant come into contact with one another on the job;
- whether the conduct adversely affected the terms and conditions of the complainant's employment or impacted the complainant's work environment.

Because the Town takes allegations of unlawful discrimination and harassment seriously, officials will respond promptly to complaints and, where it is determined that such inappropriate conduct has occurred, will act promptly to eliminate the conduct and impose such corrective action as is necessary, including disciplinary action where appropriate. Please note that while this policy sets forth the Town's goals of promoting a workplace that is free of discrimination and harassment, the policy is not designed or intended to limit the Town's authority to discipline or take remedial action for workplace conduct which is deemed unacceptable, regardless of whether that conduct satisfies the legal definitions of discrimination or harassment.

#### Examples of Prohibited Discriminatory Behavior

It is not possible to list all the circumstances that may constitute discrimination in violation of this policy. Discrimination may take many forms, including both verbal and nonverbal behaviors. Prohibited behavior includes, but is not limited to, the following behaviors connected to someone's membership in one or more groups protected by law as noted in the first paragraph above: slurs or other derogatory comments; sharing demeaning pictures, cartoons, or jokes; demeaning gestures; and any conduct constituting sexual harassment.

#### Definitions Related to Sexual Harassment

*Sexual Harassment* – That conduct, including unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, which may constitute sexual harassment when:

- 1) submission to such conduct is made explicitly or implicitly a term or condition of an individual's employment;
- 2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
- 3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

*Hostile Work Environment* – A form of sexual harassment, where pervasive and sexually hostile working conditions unreasonably interfere with an employee's ability to do his or her job.

*Quid Pro Quo* – Another form of sexual harassment, where tangible job benefits are offered or withheld in exchange for sexual favors.

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

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

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

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

The legal definition of sexual harassment is broad and in addition to the above examples, other sexually-oriented conduct, whether it is intended or not, that is unwelcome and has the effect of creating a work place environment that is hostile, offensive, intimidating, or humiliating to male or female workers may also constitute sexual harassment. This can include conduct that is aimed at a person's sexual orientation or gender identity.

## **I. PROCEDURES**

### Complaints of Sexual Harassment

If an employee believes that he/she has been subjected to sexual harassment, it is the Town's policy to provide the employee with the right to file an internal complaint. This may be done orally or in writing. An employee may file a complaint of sexual harassment by contacting the Town Administrator or their designee. Alternatively, an employee may file a complaint directly with their department head or Selectboard, or their designee. These persons will remain available to discuss any concerns employees may have and to provide information about the Town's Policy on sexual harassment and the complaint process.

### Sexual Harassment Investigation

When a complaint of sexual harassment is received, the Town will act promptly if necessary to protect the safety of the employee and investigate the allegation in a fair and expeditious manner. The investigation will be conducted in such a way as to maintain confidentiality to the extent practicable under the circumstances. The Town's investigation will include a private interview with the person filing the complaint and with any witnesses. The Town will also interview the person alleged to have committed sexual harassment. When the investigation has concluded, within 10 business days the Town will, to the extent appropriate, inform the person filing the complaint and the person alleged to have committed the conduct of the results of that investigation.

If it is determined that inappropriate conduct has occurred, the Town will act promptly to eliminate the offending conduct, and where appropriate, impose disciplinary action.

#### Complaints Concerning Other Forms of Discrimination and/or Harassment

Complaints alleging forms of discrimination and/or harassment, other than sexual harassment, will be processed using the steps outlined under Procedures above, whenever appropriate.

#### Confidentiality

Given the sensitive nature of complaints of discrimination and/or harassment, all parties and witnesses involved in a complaint, as well as department heads, supervisors, etc. who are aware of a complaint or investigation thereof, are strongly encouraged to maintain this information as confidential, so as not to negatively impact an investigation. The investigation will be conducted in such a way as to maintain confidentiality to the extent practicable under the circumstances.

All employees are reminded of the provisions of the Conflict of Interest Law, particularly M.G.L. Chap. 268A, § 23(2), which prohibit a municipal employee or official from improperly disclosing information that is protected from disclosure under the Public Records Law, and acquired by an employee or official in the course of official duties. M.G.L. Chap. 268A, §23 also prohibits a municipal employee or official from using such information to further the employee's/official's personal interest. Violations of this statute may lead to disciplinary action, up to and including termination.

#### Retaliation

Any retaliation against an individual who has formally or informally complained about discrimination, including harassment, or has cooperated with an investigation of a discrimination complaint, is prohibited.

Retaliation can be overt or subtle. Retaliation may include, but is not limited to, treating a complainant or witness differently, more harshly or in a hostile manner; physical interference with movement such as blocking a path; derogatory comments or action which would tend to have a chilling effect on other complainants; sudden investigations of the complainant's private life; or sudden strict enforcement of work rules. Retaliation in any form will not be tolerated.

## **II. SANCTIONS**

If it is determined that inappropriate conduct has been committed by an employee, the Town will take such action as is appropriate under the circumstances. Such actions may include: referral to counseling, informal or formal reprimands, written or verbal warnings, suspension, and other formal sanctions, including termination from employment.

## **III. STATE AND FEDERAL REMEDIES**

In addition to the above, if an employee believes that the employee has been subjected to sexual harassment, the employee may file a formal complaint with either or both of the government agencies listed below. Using the Town's complaint process does not prohibit an

employee from filing a complaint with either of these agencies. Please note that both agencies have a limited time period for filing a claim of 300 days.

1. The United States Equal Employment Opportunity Commission (EEOC)

John F. Kennedy Federal Building  
475 Government Center  
Boston, MA 02203  
Phone: (800) 669-4000  
TTY: (800) 669-6820

2. The Massachusetts Commission Against Discrimination (MCAD)

Boston Office  
1 Ashburton Place 6<sup>th</sup> Fl, Rm 601  
Boston, MA 02108  
Phone: 617-994-6000  
TTY: 617-994-6196

Springfield Office  
436 Dwight Street 2<sup>nd</sup> Fl, Rm 220  
Springfield, MA 01103  
(413) 739-2145

#### **IV. REASONABLE ACCOMMODATIONS**

The Town will not discriminate against people with disabilities in any employment practices or in terms, conditions or privileges of employment, including, but not limited to: application, testing, hiring, assignment, evaluation, disciplinary action, training, promotion, medical examination, layoff/recall, termination, compensation, leaves or benefits. The Town will make reasonable accommodation to the known physical or mental limitations of a qualified applicant or employee with a disability, unless such action would cause an undue hardship to the operations of the Town.

In addition, the Town complies with the provisions of M.G.L.Chap. 151B, §1E, requiring certain reasonable accommodations for an employee's pregnancy or pregnancy-related condition.

Employees seeking reasonable accommodations may submit their request in writing to the ADA Coordinator appointed by the Selectboard and Town Administrator, by phone at (413) 624-6303, or in person at the Town Office at 55 Main Road, Colrain MA 01340.

#### **V. PREGNANT WORKERS FAIRNESS ACT**

##### Reasonable Accommodations

An employee working for the Town has a right to reasonable accommodation with respect to pregnancy and/or any condition resulting from pregnancy, so that the employee may perform the essential functions of the job, unless the requested accommodation will cause an undue hardship on the Town. These accommodations can include, for example: frequent or longer paid or unpaid breaks; time off to recover from childbirth or complications from pregnancy, with or without pay; acquisition or modification of equipment or seating; temporary transfer to a less strenuous or hazardous position; job restructuring and/or modified work schedule; light duty and/or assistance with manual labor; and private non-bathroom space for expressing breast milk. The Town may request documentation from the employee's health care provider(s)

about the need for a reasonable accommodation, except in the cases of requests for: more frequent restroom, food or water breaks; seating; limits on lifting more than 20 pounds; and private non-bathroom space for expressing breast milk.

Contact the Town Administrator, with questions about, or requests for reasonable accommodation under, the Pregnant Workers Fairness Act.

#### **VI. EQUAL EMPLOYMENT OPPORTUNITY STATEMENT**

The Town will not discriminate in its employment practices, on the basis of race, color, gender, gender identity, national origin, religion, ancestry, age, sexual orientation, disability, pregnancy or pregnancy-related condition, genetic information, military service, or another basis prohibited under state or federal antidiscrimination statutes. This shall include such areas as recruitment, selection, compensation and benefits, professional development and training, reasonable accommodation for disabilities or religious practices, promotion, transfer, termination, layoff, and other terms and conditions of employment.

## **FAMILY MEDICAL LEAVE POLICY (FMLA)**

This policy defines the circumstances under which eligible Town employees may be granted a leave of absence under the Family and Medical Leave Act (FMLA).

This policy applies to employees who have been employed for a minimum of 12 months, have worked a minimum of 1250 hours (excluding non-working hours such as holiday, sick, vacation, and personal) in the 12 months preceding a request and have not used all of the available FMLA covered leave during the current calendar year. The Town uses a rolling period for calculation of FMLA entitlement.

### **FMLA ELIGIBILITY**

An employee is eligible for up to 12 weeks of unpaid leave per 12-month period because of:

1. the birth of the employee's child or to care for the child within 12 months after the birth,
2. the employee's adoption of a child or the initiation of foster care,
3. the need to care for the employee's spouse, child, or parent with a serious medical condition,
4. a serious health condition that makes the employee unable to perform the functions of the job,
5. a qualifying exigency (ie. an urgent need or demand) arising out of the fact that the employee's family member is on covered active duty in a foreign country (or has been notified of an impending call or order to covered active duty in a foreign country by the regular Armed Forces Reserves or National Guard).
6. a qualifying parental care exigency to care for the parent of a military member or someone who stood in loco parentis to the military member, when the parent is incapable of self-care and the need for care arises out of the military member's covered active duty or call to covered active duty status.

For complete employee information, contact the Town Treasurer or go to

<https://www.mass.gov/info-details/paid-family-and-medical-leave-pfml-overview-and-benefits>

# GENERAL POLICIES GOVERNING EMPLOYMENT

## **I. OVERTIME/COMPENSATORY TIME**

Payment for overtime shall be in accordance with the terms of the Fair Labor Standards Act of 1938, as amended. For non-exempt employees, if an assignment requires work in excess of forty hours per week, overtime work must be authorized in advance by the employee's supervisor. Time taken as vacation, sick, personal, bereavement, and other types of leave are not counted as regular work hours and so are not included as hours worked when calculating overtime (*see the Fair Labor Standards Act*).

Certain supervisory, professional and administrative employees are exempt employees and are not eligible for overtime pay.

## **II. PAYROLL PERIOD**

Most Employees are paid bi-weekly (see below). The payroll period begins on Sunday at 12:00 AM and ends on the second Saturday at 11:59 PM, with paydays on the following Friday. The town provides a Direct Deposit option only.

- **Exempt or Non-Exempt employees** – are paid bi-weekly and must submit a time sheet to the Treasurer for the purpose of personnel record keeping. Supervised employees' time sheets require approval by their direct supervisor. This time sheet shall specify the number of hours worked during each bi-weekly pay period. The Treasurer shall be responsible for maintaining a permanent record of time worked. No paycheck will be issued to any employee for any pay period unless an approved time sheet has been submitted.
- **Stipend Exempt employees** – The Building Inspector and Fire Chief are paid bi-weekly. The Animal Inspector and Emergency Management Director are paid quarterly. The Franklin County Technical Regional School District representatives are paid annually.
- **Non-Exempt On-Call Firefighters** - are paid quarterly; a timesheet is required (see Exempt or Non-Exempt employees' procedure).
- **Elected Officials** – The Town Clerk is paid bi-weekly; Selectboard members and Assessors are paid quarterly; Mohawk Trail Regional School District Committee members and the Moderator are paid annually.

Employees are entitled to, as well as encouraged to take, a thirty (30) minute meal break if working more than six hours in any given day. Employees on extended shifts over a twenty-four (24) hour period may take a thirty (30) minute meal break every six (6) hours worked.

Time spent traveling to and returning from work-related errands, meetings and training is considered to be work time. This is in addition to any travel-related expenses that may be submitted for reimbursement, as well as time spent performing the errand or attending the meeting or training.

Payment for overtime shall be in accordance with the terms of the Fair Labor Standards Act of 1938, as amended. If an assignment requires work in excess of forty hours per week, such overtime work must be authorized in advance by the department head or the Selectboard if the request comes from a department head.

Non-exempt employees shall be paid one and one-half times their regular hourly rate for the hours worked beyond forty in one 7-day payroll period.

Supervisory, professional and managerial employees are exempt employees and are not eligible for overtime.

### **III. CALL BACK PAY**

If full-time non-exempt employees are recalled to work from off-duty hours, they will receive a minimum of two hours pay.

### **IV. FAILURE TO REPORT TO WORK**

This policy applies to all paid appointive positions in Town service. This policy does not apply to management employees who do not work regularly scheduled hours and who are required to work as many hours per week as may be required by the appointing authority.

It is the policy of the Town that all employees assume their assigned duties at the start of the regularly scheduled workday except for those cases where a flexible schedule for the employee has been agreed upon either with the employee's supervisor or the Selectboard. Failure to report to work is viewed as unacceptable job performance and may be grounds for progressive disciplinary action.

If an employee does not report for his/her scheduled work hours and fails to notify the work location of the absence within two (2) hours after the start of their regularly scheduled shift, the employee shall be considered on unauthorized leave without pay for the day and may be subject to disciplinary action, unless the absence resulted from an emergency. The employee may be required to provide documentation of the emergency. Further incidents of this nature may result in subsequent disciplinary action up to and including termination of employment. Failure by an employee to report to work without permission and without notice for three (3) or more consecutive days may result in the employee being considered to have voluntarily and permanently separated him/herself from Town service.

### **V. VOLUNTARY TERMINATION OF SERVICE**

If an employee decides to resign his/her position with the Town, the employee is requested to give at least two weeks written notice, unless the employee is in a supervisory capacity, in which case the employee is requested to give at least one month written notice. If an employee resigns, he/she will be paid for accrued but unused vacation time. An employee will not be paid for any unused accrued sick or personal time.

### **VI. DRESS CODE**

Town employees are required to dress in an appropriate manner that is consistent with their work environment and not distracting to other employees or customers. Employees should look

neat and clean at all times, to the extent the requirements of their job allow each day, keeping in mind that their role with the Town requires an acceptable appearance.

## **VII. DRIVER'S LICENSE, RECORD AND ACCIDENTS**

The Town may perform driving-record history checks for positions or employees whose work requires operation of a motor vehicle. Any employee whose work for the Town entails the operation of a Town motor vehicle must present and maintain a valid and active driver's license and a driving record acceptable to the Town. Any driver about whom the Town has concerns, regardless of driving history, may be denied the privilege of operating a Town vehicle. Changes in your driving record must be reported by you to your supervisor.

Any accident involving a Town vehicle must be reported to the Town Administrator.

The Town may check license and driving records for employees who regularly operate Town vehicles.

## **VIII. EMPLOYMENT PRACTICES**

### Qualifications/Requirements

For each staff position in the Town, there shall be established minimum requirements and a position description as to the experience, education, licensing or other abilities, and/or qualifications considered necessary for satisfactory performance of the essential duties of the position.

For positions in public safety or those requiring a CDL, prospective employees who receive an employment offer may be required to undergo a physical and drug testing at a town designated location.

### Pre-employment Checks

New employees are selected through a process that may include, but is not limited to, written application, personal interviews, and professional reference checks. Prior to employment, job-related background checks or health examinations will be conducted for designated jobs, as determined by the Town, to ensure the well-being and safety of the community.

Pre-employment checks may include:

- Verification of prior employment, education, or credentials
- Criminal and/or driving record history checks
- A health exam, which may be required if appropriate (this will take place after the offer of employment but prior to start of work)
- Drug screening
- Alcohol screening
- Credit check

The Town shall conduct some or all of these background checks for applicants selected for designated positions. Information acquired as a result of a background check may or may not be held confidential. Safety sensitive positions include, but are not limited to:

- Police
- Highway
- Building Maintenance
- Grounds Maintenance

#### **IX. MAIL, TELEPHONE AND TOWN-OWNED CELL PHONE USE**

Employees should not excessively use Town telephones for personal communications or use them in such a fashion as to incur additional costs to the Town (such as long distance calling). Town employees are expected to use their residence addresses to receive personal mail. Use of Town stationary or postage for personal use is prohibited.

Cell phones issued for use for town business may not be used to view, download, access or transmit material that is considered to be pornographic, abusive, discriminatory, unsuitable to the Town and work environment, or in violation of the confidentiality policy.

The Town has established policies that govern the use of its computers, computer networks, and technical resources, and all employees are expected to use the Town's technology resources in accordance with these policies. For more information, see the section on Technology Use.

#### **X. OUTSIDE OR CONFLICTING EMPLOYMENT**

No employee of the Town may engage in any type of activity or employment which conflicts with the best interests of the Town. The Town requires that employees' activities and conduct away from the job not compete with, conflict with, or compromise the Town's best interests.

Outside activity or employment should not adversely impact an employee's job performance or their ability to fulfill all responsibilities to the Town. This requirement, for example, prohibits employees from performing any services for customers on non-working time that are normally performed by Town personnel. This prohibition extends to the unauthorized use of Town tools or equipment, and the unauthorized use or application of any confidential information or techniques. In addition, employees are not to solicit or conduct outside business during paid working time.

#### **XI. PERSONNEL RECORDS**

The Treasurer shall maintain the official personnel files. Department heads may maintain files supporting departmental personnel actions. Upon reasonable notice, employees may review their personnel files; may, on request, receive a copy of the records; and may request, in writing, that material be removed from the file and, if denied, a written rebuttal from the employee may be included in the permanent files.

It is the responsibility of employees to inform their departments of changes in their name, address, telephone number, marital status, and person(s) to be notified in an emergency and to notify the Town and the Retirement Board of changes in their personal status to insure proper coverage in the health benefit, life insurance and retirement plans.

## **XII. POLITICAL ACTIVITY**

The Federal Hatch Act as well as the Massachusetts Office of Campaign and Political Finance (OCPF) restricts political activities of public employees. During work hours, employees may not work, or be assigned to work for or on behalf of a political candidate or activity, or participate in other political activity that benefits a political candidate such as lobbying, collecting funds, making speeches, assisting at meetings or distributing political pamphlets. Under no circumstances may an employee participate in any form of fundraising for a political candidate or activity. All employees shall comply with the Hatch Act and OCPF requirements. Furthermore, no employee shall use Town property or equipment for political activities at any time.

## **XIII. REFERENCES**

Town employees shall not provide employment, vendor or contractor references over the telephone or in writing without the express written permission of the party seeking the reference, including a statement holding the Town harmless from any liability resulting from such recommendation. Any employee who has been asked to provide a reference shall inform the Town Administrator of such request prior to responding to the reference request.

## **XIV. EXIT INTERVIEWS**

Employees may be requested to participate in an “exit interview” with the Town Administrator or their designee, which is designed to elicit information about their work experience and the reason(s) for leaving employment with the Town. Compliance with this request is encouraged, but not required. See appendix for the exit survey form.

## **XV. SMOKING POLICY**

Smoking is prohibited in all public buildings and Town vehicles.

## **XVI. SOLICITATION**

Solicitation of employees in working areas during working time is prohibited.

## **XVII. TOWN PROPERTY**

The use of Town property and personnel for any personal gain is prohibited.

## **GRIEVANCE PROCEDURE**

The grievance procedure shall be available to employees of the Town to permit the prompt and equitable disposition of any grievances. Grievances, for the purpose of this section, shall mean any dispute between an employee and his/her supervisor(s) arising out of an exercise of administrative discretion by such supervisor(s).

### **I. EXCLUSIONS**

Examples of non-grievable issues include:

- Establishment or revision of wage and salary tables, position classifications, and general benefits accorded to employees.
- Work activity accepted by the employee as a condition of employment.
- Statutes or established personnel policies, procedures, rules, and regulations.
- Failure to promote, except where the employee can show that established promotional policies or procedures were not followed or applied fairly.
- The methods, means, scheduling, and staffing by which work activities are to be carried out.
- Discharge, demotion, layoff or suspension from duties because of lack of work, reduction in the work force or job elimination.
- Voluntary resignation, demotion or transfer.

### **II. MANAGEMENT RIGHTS**

Nothing in this procedure is intended to circumscribe or modify the existing rights of the Town to do the following:

- Direct the work of its employees.
- Hire, promote, transfer non-punitively, assign, and retain employees in positions within the department.
- Demote or dismiss employees for proper cause.
- Maintain the efficiency of governmental operations.
- Relieve employees from duties because of lack of work or for other legitimate reasons.
- Take actions as may be necessary to carry out the duties of an agency in emergencies.
- Determine the methods, means, and staffing by which operations are to be carried on.

### **III. EXCLUDED EMPLOYEES**

Employees with probationary, temporary, and part-time without-benefits appointments are not deemed to have vested employment rights and may not use the grievance procedure to appeal suspension, demotions, dismissals, or other disciplinary actions or decisions regarding the continuation of their employment status there is evidence that such action was the result of discrimination on the basis of race, sex, color, disability, religion, national origin, sexual orientation, age, or any other protected status.

#### **IV. GRIEVANCE PROCEDURE**

In order to avoid the necessity of filing a grievance, employees are encouraged to explore the use of mediation when possible. The grievance procedure shall consist of the following steps:

##### **Step 1.**

The aggrieved employee shall meet and take up the grievance or dispute in writing with the department head within five (5) Town Office business days of the date of the grievance or the employee's knowledge of its occurrence. The department head shall attempt to address the matter and shall respond to the employee, in writing, within five (5) Town Office business days. (In the event that the aggrieved employee is a department head, the matter will be presented to the Town Administrator directly as per Step 2.)

##### **Step 2.**

If the grievance remains unsettled, the employee may present it to the Town Administrator. The appeal shall be submitted, in writing, to the Town Administrator within five (5) Town Office business days after the response of the department head is received. The Town Administrator shall meet with the aggrieved and/or their representative. The Town Administrator shall respond, in writing, within seven (7) Town Office business days of the presentation of the grievance. In the event that the aggrieved employee is the Town Administrator, then the matter will be presented directly to the Selectboard as described in Step 3.

##### **Step 3**

If the employee disagrees with the decision of the Town Administrator, the employee may appeal to the Selectboard within five (5) Town Office business days of receipt of the Town Administrator's decision. The Selectboard will have ten (10) Town Office business days to issue a written decision. The decision of the Selectboard will be final.

If the grievance is against the Town Administrator, the employee will present their grievance to the Selectboard. At the discretion of the Selectboard, the Personnel Committee may act as mediator or grievance board as needed.

#### **V. DISCRIMINATION GRIEVANCE PROCEDURE**

The purpose of this procedure is to encourage local resolution of grievances concerning employment. However, individuals grieved are not required to exhaust the Town's procedures prior to filing a state or federal complaint or taking court action.

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

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

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

Within 14 calendar days after receipt of the grievance, the Town Administrator and/or the Selectboard will meet with the grievant to discuss the grievance and possible resolutions. Within 14 calendar days after the meeting, the Town Administrator or the Selectboard will respond to the grievant in writing, or, where appropriate, in a format accessible to the grievant such as audiotape. The response will explain the position of the Town and may offer options for substantive resolution of the grievance.

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

This grievance procedure is meant to be informal and cannot be legally binding on either party. No retaliatory action will be taken against those persons who file complaints of discrimination on the basis of race, sex, color, disability, religion, national origin, sexual orientation, age, any other protected status, or against individuals who cooperate in such investigations.

## **HEALTH INSURANCE PORTABILITY & ACCOUNTABILITY ACT (HIPAA)**

The Town will comply with the Privacy Regulations of the federal Health Insurance Portability and Accountability Act (HIPAA) of 1996. The Town shall limit the use of and access to Protected Health Information which is held by the Town or its lawful agents. Protected Health Information is any written, oral or electronic form of information relating to a person's past, present or future health condition, delivery or payment of health services that identifies an individual, or where there is a reasonable basis to believe the information could be used to identify an individual. Administrative, technical and physical safeguards established to limit use and access to protected health information are an integral part of this policy, established as part of daily operating procedures and will be maintained by all responsible staff and representatives of lawful agents and business associates of the Town. For more information, see the Town Treasurer.

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## **INSURANCE BENEFITS**

### **I. BASIC LIFE INSURANCE**

The Town offers a basic life insurance policy for all eligible employees at the time of initial employment.

### **II. HEALTH INSURANCE**

Permanent employees working a minimum of twenty hours per week on a year-round basis are entitled to join the Town's group insurance program, with the Town and the employee or official sharing the cost of the health insurance premium. The Town pays 75% of the premium, the employee or official pays the remaining 25%. The employee or official's share of the premium payment is deducted from his/her paycheck on a pre-tax basis.

New employees have 30 days to enroll in the health care plans offered, or wait until the annual enrollment period in April/May. See Treasurer for open enrollment details.

The Town and employees shall share equally in the cost of life insurance benefits.

The Town offers dental insurance with the employee paying 100% of the premium.

The Town offers eye care insurance with the employee paying 100% of the premium.

In order to retain insurance benefits, an employee who is granted an approved leave of absence must arrange to pay their employee contributions during any period of unpaid absence. In the event that an employee elects not to return to work upon completion of a

leave, the Town may recover from the employee the cost of any payments made to maintain the employee's benefit coverage unless failure to return to work was beyond the employee's control.

Employees who are involuntarily terminated due to lack of funds, lack of work, or abolition of the position may continue in the group plan for up to thirty-nine weeks under COBRA or until insured under another group plan (MGL, Chap. 32B, Sec. 17). The involuntarily terminated employee will be responsible for 100% payment of all insurance premiums.

A surviving spouse may continue coverage for her/himself and dependents until the death or remarriage of the spouse, provided that he/she pays the entire premium (MGL, Chap. 32B, Sec. 9B).

Any employee or compensated elected official who retires from the Town is entitled to have the Town pay 50% of the retiree's (no dependents) health and life insurance benefit.

### **III. WORKERS' COMPENSATION**

Despite the careful efforts of supervisors and employees to maintain safe working conditions and practices, accidents do happen. The Town provides protection against loss of income and medical expenses incurred for job-related injuries or illness through Workers' Compensation insurance. For all employees:

1. Seek medical attention, if needed. Be sure to tell the treating physician that the injury is work related. The injured employee or the treating physician will forward a copy of the initial occupational health report to the Town Administrator.
2. Notify employee's department head or the Town Administrator. The employee must complete the IOD (injury on duty) form approved by the Town and submit it to their respective Chief or supervisor within 24 hours of illness or injury, except in emergency situations. The employee requesting benefits under this section must also provide the medical prognosis for further treatment and expected return to work.
3. Submit a workers compensation claim if needed. The employee is responsible for obtaining all reports and bills related to the injury, submitting them to the town, and keeping notes on what happened

The Town's Workers' Compensation Plan provides coverage of medical and related expenses as well as salary protection for employees as a result of qualifying work-related injuries or illnesses. Police and fire personnel are provided similar protection pursuant to Massachusetts law. For police officers and firefighters, please refer to Injuries to Police Officers and Firefighters below.

Whether or not medical attention is sought, each employee who suffers an alleged work-related illness or injury must complete the IOD form approved by the Town and submit it to their respective Chief or supervisor within 24 hours of illness or injury, except in emergency situations. Employees injured at work and who require medical treatment must make sure to tell the treating physician that the injury was work related.

It is very important that all Workers' Compensation claims be filed immediately when such incidents occur, even if an employee does not seek medical attention immediately and does not miss work right away. All injuries and illnesses, regardless of how minor, should be immediately reported to the direct supervisor, or in their absence, the department head. Failure to properly report an incident covered by Workers' Compensation may result in denial of coverage.

The supervisor will ensure that the following forms are completed:

- Supervisor's Report of Incident – Intake Form
- Medical Authorization Form

Forms will be kept in a file separate from the employee's personnel file. If an employee is unable to work due to a work related illness or injury, they must use accrued leave time to cover the first 5 calendar days of missed work.

If an employee is out for 6 or more full or partial days (the days don't have to be consecutive), they may be eligible to be paid directly by the Workers' Compensation carrier. Workers' Compensation benefits start on the 6th calendar day of disability. An employee will not be paid for the first 5 days unless they are unable to work for 21 calendar days or more. If an employee is out for 21 calendar days or more, Workers' Compensation will compensate the employee for the first 5 days.

If this Workers' Compensation payment is made, the employee shall work with the Treasurer to forward this payment to the Town so that the employee is not paid twice. Workers' Compensation benefits are based on 60% of the employee's gross (pre-tax, prebenefits) average weekly wage. The average weekly wage is based on total gross wages for the 52 weeks immediately preceding the injury or illness. If an employee chooses, they may use accrued leave balances for the remaining 40% of pay. If this is the case, the employee must notify the Treasurer requesting to supplement the Workers' Comp.

Example: If an employee works 8 hours per day, 5 days per week, Workers Comp will essentially pay the employee for 3 days (24 hours) of this time. The employee may then indicate to the Treasurer that they would like to use accrued leave to get paid for the remaining 2 days (16 hours). Please note, once an employee starts being paid by Workers Comp, they will not be paid by the Town. Therefore, an employee may not be able to fund payroll deductions, such as health insurance and other benefits.

The employee must work with the Treasurer to set up direct billing if necessary. Helpful Resources:

- Department of Industrial Accidents  
<https://www.mass.gov/orgs/departments-of-industrial-accidents>
- Massachusetts Injured Worker's Guide to Workers' Compensation  
<https://www.mass.gov/service-details/injured-workers-guide-to-workers-compensation>

#### **IV. INJURIES TO POLICE OFFICERS AND FIREFIGHTERS**

Injuries incurred by police officers and firefighters in the performance of their duties are governed by M.G.L. Chap. 41, Section 100 and Chap. 41, Section 111F, rather than the workers' compensation laws. Any time lost by the employee as a result of an injury on duty shall not be charged against the employee's sick leave. Eligible employees are entitled to 100% of their compensation on a tax free basis.

If a police officer or firefighter is injured on duty, they must report this injury to their supervisor immediately and complete an injury report. The Police or Fire Chief as well as the Town Administrator will sign off on this report and attest that the injury was work related.

Employees who are able to perform light duty within reasonable medical restrictions, as certified by a health care provider, may be required to do so at the discretion of the Town Administrator in consultation with the department head. This policy does not supersede the provisions of any applicable collective bargaining agreement.

#### **V. McNAMARA LAW**

The surviving spouse of call and volunteer police and firefighters killed in the line of duty may apply for death benefits under M.G.L. Chap. 32 Section 89E (McNamara Law) by contacting the Town Administrator.

#### **VI. PENSION**

Permanent employees who work at least 20 hours per week or who are already a member of the Franklin Regional Retirement System (FRRS) through another entity are required to join the Franklin Regional Retirement System, with payroll deductions made in accordance with state law and date of hire. Employees who are not eligible to join the FRRS, elected officials and stipend board members, with the exception of election workers, are required to join a 457 Deferred Compensation Plan. Further, employees and compensated elected officials who are members of the FRRS are also eligible to open a Deferred Compensation Plan.

#### **VII. EMPLOYEE ASSISTANCE PROGRAM (EAP)**

An employee who is experiencing difficulties in his/her personal life to the extent that job performance, workplace atmosphere, or general well-being is affected is encouraged to seek help through the Employee Assistance Program (EAP). The EAP is designed to help employees and their family members by providing crisis intervention, assessment, referral and short-term counseling services in order to help identify and resolve personal issues around stress, illness, alcohol or other drug abuse, legal issues, financial or marital difficulties, as well as any other distresses. The EAP program is completely confidential and information cannot be released without the employee's permission except as required by law. Information on the EAP shall be posted prominently in the various town workplaces.

## **SOCIAL MEDIA POLICY**

The Town recognizes the importance of online social media networks as a communication tool. The use of social media presents certain risks and carries with it certain responsibilities. Social Media, while a relatively new form of activity, does not change the law or expectations around public service. The Town recognizes that employees and officials have the right to participate as citizens in public forums and discussions (including social media platforms) on matters of public concern. However, that right is balanced against the legitimate interests of the Town in promoting accountability, responsible and mature judgment, and the efficiency of the public services it performs through its employees and officials.

The goal is to ensure that use of social media advances, rather than impedes, the operation of government. To that end, this policy establishes guidelines for employees' personal use of social media (Section I), as well as for the official use of social media by Town employees and officials for government-related purposes (Section II).

This policy applies to all employees, officers, and officials (elected and appointed) of the Town. Employees whose employment is governed by law are subject only to those provisions of this policy not specifically regulated by law or contract.

This policy is to be read in conjunction with all other applicable policies and rules of the Town, including but not limited to the Town's other Personnel Policies and Procedures. It may be amended from time to time, and may be supplemented with additional administrative procedures and rules as may be issued.

Nothing in this policy is designed to interfere with, restrain or prevent employee communications that are otherwise protected under law (i.e., First Amendment, whistleblower).

### Definitions

The following definitions apply for purposes of this policy.

1. "Social media" includes all means of communicating or posting information or content of any sort on the Internet, including to your own or someone else's blog, journal or diary, personal website; social networking or affinity website; web bulletin board; or chat room, whether or not associated or affiliated with the Town, as well as any other form of electronic communication.
2. "Social media sites" and "social networking sites" refer to websites that facilitate user participation, networking, and collaboration through the submission of user generated content, including but not limited to tools such as: blogs; wikis; microblogging sites, such as Twitter; social networking sites, such as Facebook and LinkedIn; video sharing sites, such as YouTube; messaging applications such as Snapchat and Instagram; and bookmarking sites such as Pinterest.

3. A “social media identity” is a specific user identity or account that has been registered on a third party social media site.
4. A “blog” (an abridgement of the term web log) is a website with regular entries of commentary, descriptions of events, or other material such as graphics or video.
5. A “moderator” is an authorized Town official (appointed or elected) or employee, who reviews, authorizes and allows content submitted by Town officials, employees and public commentators to be posted to a Town social media site or sites.
6. “Town Systems” are any electronic communication and information equipment and systems. Such Systems include, but are not limited to: computer workstations, hardware and software, electronic mail (e-mail), telephones, cell phones, “smartphone”/PDA-style devices, tablets, pagers, fax machines, and the Internet.
7. “Town social media site” is any official social media site established by or for a Town department or program, with the authorization of the Town Administrator or relevant appointing authority.

#### **I. GUIDELINES FOR PERSONAL USE OF SOCIAL MEDIA**

All employees and officials are responsible for what they post online. Through this policy, the Town is not intending to act as “thought police” or otherwise unnecessarily intrude upon the personal associations and relationships of employees and officials. However, the impact of social media participation by employees and officials upon the ability of Town government to function efficiently and effectively cannot be ignored. Any conduct that exposes the Town to legal liability may result in disciplinary action up to and including termination.

##### Required Conduct

1. Whenever the topic is one related to the functioning or operations of Town government, including any matter pending or reasonably anticipated to be pending before any Town board, committee, commission, or Town Meeting, all personal posts on any social media site shall contain an express statement that “The postings on this site are my own and do not represent the views, positions or opinions of the Town” or similar disclaimer. Employees and officials should not, except as authorized by their supervisor or board, represent themselves as a spokesperson for the Town.
2. Employees and officials should be mindful that social media activity that violates any of the Town’s policies may result in disciplinary action, up to and including termination. Such policies include, but are not limited to, the Town’s Information Technology Resources Use Policy and Anti-Harassment and Discrimination Policy, as well as the Personnel Policies and Procedures.

3. Department heads and other employees or officials with policy-making authority must be mindful that there is greater risk that their comments or conduct while participating in social media may have a direct and negative impact upon the reputation or integrity of their board/committee or department, and upon the public's perception of Town government as a whole. Furthermore, there is a greater likelihood that the public will view their conduct/comments as representative of an official position or policy of the Town, even when personal disclaimers are made. See also the section on Technology Use, paragraph VI.

### Prohibited Conduct

1. No Town Systems are to be used to make personal posts on any social media site or platform.
2. No personal posts shall be made during work time.
3. Town e-mail addresses may not be used to register on social networks, blogs, or other online tools utilized for personal use, and may not be used when setting up or establishing social media sites for personal use.
4. Per M.G.L. Chap. 268, §35, no employee or official shall post the Town Seal on any Internet site [i.e., social media network, website, blog site] or in any other Internet and/or social media communication or posting, with intent to give to such site or posting an official character which it does not possess, or unless authorized in writing in advance by the Town Administrator.
5. Inappropriate postings that include, for example, discriminatory comments/remarks, harassment, bullying, and/or threats of violence or similar inappropriate or unlawful conduct, will not be tolerated and may lead to discipline up to and including dismissal.
6. Do not post internal reports, draft policies, procedures, or other internal confidential communications or documents. Employees shall maintain the confidentiality of the Town's procedures for the development of policy and other such data exempt from the Public Records Law. The state's Conflict of Interest Law [M.G.L. Chap. 268A, §23(c)(2)] expressly prohibits an employee or official from improperly disclosing materials or data obtained in the course of official duties, that is otherwise exempt from disclosure under the Public Records Law, and further prohibits the use of such information to further "personal interest." If an employee or official has a question about whether information is appropriately considered public or not, he/she should contact the Town Clerk.
7. Do not post information about others that is protected from public disclosure by law, such as: Criminal Offender Record Information, HIPAA-protected information and any other personal medical information, information concerning allegations of

domestic violence and abuse, information protected under student privacy statutes, and the like.

8. Employees and officials operating personal social media sites are subject to the same guidelines as above for the operation and administration of sites under their control, when focusing on topics relating to the functioning or operations of Town government. In order to avoid the appearance of being an official Town social media site, the site must clearly indicate their participation and carry a disclaimer that “The operation and administration of this site are my own and do not represent the views, positions or opinions of the Town”.
9. Members of multi-member boards, committees and commissions must be mindful of the requirements of the Open Meeting Law, when participating in social media, in both personal and (where authorized) official capacities. A quorum of a board/committee/ commission should avoid posting on social media sites discussing topics relating to the functioning or operations of Town government, or on topics relating to matters under that board/committee/commission’s jurisdiction, as doing so may violate the Open Meeting Law. Additionally, a series of individual postings on a social media site by members of a public body cumulatively may convey the position of a quorum regarding a subject within its jurisdiction, and may constitute improper deliberation among the members of a board or committee.

#### Permitted Conduct

1. Employees and officials may include, in their social media personal profiles, their job titles, as well as information about their personal participation in Town sponsored-events, including volunteer activities. Employees shall not include their official titles when posting personal statements as per Sections I and II of this policy.

#### **II. USE OF SOCIAL MEDIA SITES FOR OFFICIAL PURPOSES**

The Town permits departments to utilize social media sites and social networking sites (collectively “social media sites”) to further enhance communications with its residents and various stakeholders in support of the departments’ goals and objectives. Town officials and departments have the ability to publish articles, facilitate discussions and communicate information through such media to conduct official Town business. Social media sites facilitate further discussion of Town government business, operations and services by providing members of the public the opportunity to participate in many ways using the Internet.

The Town has the ability to place limitations and restrictions upon the content of its website and social media sites. This section of the policy sets forth requirements that must be adhered to with respect to utilization of social media sites for official Town purposes, as well as explanatory guidance.

## General Requirements for Establishment and Maintenance of Official Town Social Media Sites

1. The Town Administrator shall be made aware of any new and existing official Town department social media sites.
2. Departments have the option of allowing employees to participate in existing social media sites as part of their job duties, or allowing employees to create social media sites as part of their job duties. Department heads may allow or prohibit employee participation in any social media activities in their departments.
3. All Town social media sites shall adhere to applicable state and federal laws, regulations and policies, including, but not limited to, the Open Meeting Law, Public Records Law, Conflict of Interest Law, Copyright Law, Campaign and Political Finance laws and rules, and other applicable Town policies.
4. Because the Public Records Law applies to social media content, all posts, once made, may not be deleted or amended, except to correct typographical errors, and a record shall be kept of any such modifications.
5. Each Town social media site should include an introductory statement which clearly specifies the purpose and topical scope of the blog and/or social media/network site. Where possible, social media sites should link back to the official Town Internet site for forms, documents and other information.
6. All Town social media sites shall clearly indicate that they are maintained by the particular Town department with the Town contact information prominently displayed, and, if possible, the Town seal.
7. Town social media content shall not contain the following:
  - a) Profane, obscene, or vulgar language or content;
  - b) Comments or content that is denigrating, threatening, insulting, bullying, or harassing;
  - c) Content that promotes, fosters, or perpetuates discrimination on the basis of race, color, gender, gender identity, national origin, religion, ancestry, age, sexual orientation, gender identity, disability, pregnancy or pregnancy-related conditions, genetic information, active military status, or any other status protected by state or federal law;
  - d) Sexual content or links to sexual content;
  - e) Illegal activity or encouragement of illegal activity;
  - f) Information that may tend to compromise the safety or security of the public or public systems;
  - g) Content that violates a copyright;
  - h) Protected health information;
  - i) Personnel data;
  - j) Other information that is not public record or is otherwise privileged from public disclosure.

9. All Town social media moderators shall be provided with a copy of this policy, including their responsibilities to review content submitted for posting to ensure compliance with this policy.
10. To the extent applicable, the Town's IT security policies shall apply to all social media sites and articles.
11. Officials (elected or appointed) and employees representing the Town via social media sites must conduct themselves at all times as a representative of the Town and in accordance with all applicable rules, regulations, and policies (including the Personnel Policies and Procedures) of the Town. Town employees, officials, board members and committee members shall not use a title unless they are posting in an official capacity or on an official Town social media site, with authority to do so.
12. No Town or department social media site may endorse or otherwise cite (either with approval or disapproval) vendors, suppliers, clients, citizens, co-workers or other stakeholders. Employees may not engage in political activity during working hours. This includes, but is not limited to, the endorsement of candidates for elective office, via a Town social media site.
13. Employees found in violation of this policy may be subject to disciplinary action, up to and including termination of employment.

#### Employee Use of Official Town Social Media Sites

The following provides further explanation of the requirements for Town media social media site, as set forth.

1. **Information Technology Resources Use Policy.** All employees are responsible for understanding and complying with the Town's Technology Use Policy.
2. **First-Amendment Protected Speech.** Although the Town can moderate the social media sites that accept comments from the public (such as blogs and wikis) to restrict speech that is obscene, threatening, discriminatory, or harassing, the Town cannot use the moderation function to restrict speech with which the Town merely disagrees (i.e. subject matter restrictions). Users have First Amendment rights in posting content to public social media sites hosted by municipalities. Moderators must respect those rights by posting all comments other than those removed for specific legitimate reasons, as referenced above.
3. **Copyright Law.** Employees and officials must abide by laws governing copyright and fair use of copyrighted material owned by others, including written material, photography, videography and digital media. Never reprint whole articles or publications without first receiving written permission from the publication owner. Never quote someone else's work without acknowledging the source and, if possible, providing a link to the original.

4. **Conflict of Interest.** Employees are prohibited from using social media to engage in any activity that constitutes a conflict of interest in violation of the provisions of M.G.L. Chap 268A.
5. **Protected Confidential Information.** Employees are prohibited from posting legally protected personal information that has been obtained during the course of performing official duties (e.g., information that is not public record under the Public Records Law, M.G.L. Chap. 6, §10 and M.G.L. Chap. 4, §7(26), or whose dissemination is restricted under applicable Federal or State privacy laws or regulations). Conversations that occur amongst Town officials/employees outside public forums should not be published or reported on, unless authorized by the Town Administrator. Information about policies, rules, or plans that have not been finalized or officially adopted by the Town should not be posted unless explicitly approved in advance by the Town Administrator or relevant department head, for instance, where public comment or input is being solicited.
6. **Carefully Consider Content.** Town social media sites are not an appropriate forum for commentary about rumors, political disputes, and such comments are not permitted. As informal as social media sites are meant to be, if they are on a government domain or a government identity, they still constitute official government communications. Social media sites will be sought out by mainstream media, and therefore, consideration needs to be exercised to use social media in a way that benefits both the Town and the public.
7. **Handling Negative Comments.** Town employees and officials shall only post factual information as it relates to a Town related matter. Because the purpose of many social media sites, particularly department blogs and wikis, is to get feedback from the public, it is anticipated that some of the feedback received will be negative. Some effective ways to respond to negative comments include:
  - a. Provide accurate information in the spirit of being helpful.
  - b. Remain respectful.
  - c. Notify the web site's moderator to address the matter prior to any escalation.
8. **Respect the audience, Town employees and officials.** Ethnic slurs, personal insults, obscenity, or any conduct that would not be acceptable in the workplace, are similarly prohibited on the Town's social media sites. This includes not only the obvious (no ethnic slurs, personal insults, obscenity, threats of violence, etc.) but also proper consideration of privacy and of topics that may be considered objectionable or inflammatory, such as party politics and religion. The Town's social media presence shall not be used to communicate among Town employees for work purposes.

9. **Use Social Media Sites or Identities ONLY to contribute to the Town or Department's mission.** All postings should provide useful information and perspective that contributes to the Town's and/or Department's mission of serving the public. What is published on Town social media sites reflects on the Town and town government. Social media sites and identities should be used in a way that contributes to the Town's mission by:

- a. Helping Town employees and officials perform their jobs better;
- b. Informing citizens about government services and how to access them;
- c. Making government operations transparent and accessible to the public;
- d. Creating a forum for the receipt of candid comments from residents about how government can be improved; and
- e. Encouraging civic engagement.

10. **Mistakes.** The Town's policy is that once something is posted on a Town social media site, it should remain posted. Only spelling or grammar errors may be corrected without making the change evident to users. If the decision is made to modify an earlier post, make it clear that this has been done - do not remove or delete the incorrect content; provide the correct information and where appropriate, apologize for the error. Ways to accomplish this include:

- a. Strike through the error and correct.
- b. Create a new post with the correct information, and link to it from the post that is being corrected or clarified.

Either method is acceptable. In order for the social media identity or site to achieve transparency, the Town cannot change content that has already been published without making the changes clearly evident to users.

11. **Defamation.** Under Massachusetts law, defamation is established by showing that an individual published a false statement about another party that either caused the individual economic loss or was of the type that is actionable without proof of economic loss. Some statements, like imputation of a crime, are defamatory per se. Employees must avoid statements that may be interpreted as defamatory.

12. **Records Retention.** Social media sites will contain communications sent to or received by Town officials and employees, and therefore constitute Public Records. Officials must ensure that the Town or department retains a copy of the social media content in accordance with applicable Public Records Retention Schedules and in accordance with the Public Records Law.

### **III. RETALIATION PROHIBITED**

The Town expressly prohibits the taking of any action against any employee for reporting a possible deviation from, or violation of, this policy, or for cooperating in an investigation of same.

### **IV. ADDITIONAL INFORMATION**

If you have questions or need further guidance regarding the Town's Social Media Policy, please contact the Town Administrator.

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## **TECHNOLOGY USE POLICY**

The Town's Technology Use Policy is intended to ensure that the Town's technology resources are available and utilized in an appropriate and responsible manner, in accordance with local, state and federal laws, and the Town's own various policies and procedures. The policies contained in this section are intended to work together comprehensively as a single Town Technology Policy.

This policy applies to all users. Users include, but are not limited to, all Town employees, contractors, visitors, volunteers, committee or board members, interns or any other personnel using, accessing, or otherwise interacting with the Town's hardware, software, and other technology resources and systems ("Resources"). Resources include, but are not limited to: all electronic hardware, software, landline phones, cell phones, smartphones, voicemail, tablet computers, desktop computers, laptop computers, fax/copy machines, printers, peripherals, door access and alarm systems, camera systems, electronic databases, local and wide area networks, email and collaboration systems, internet hardware and data, all media and the facilities containing them, all host or remote technology systems (e.g., workstations/PCs, mobile and handheld devices, telecommunication/radio devices, system software, application software, and data), and communications networks or systems which may be directly, indirectly, or remotely controlled, administered, accessed or otherwise interact with other Town resources.

All Town employees are required to continue observing and abiding by these updated policies, which replace any and all previous Technology Use Policies

### **I. PRIVACY STATEMENT**

Users should not expect any right of privacy in the use of Town resources, including electronic communications and information created or stored on the Town's systems. The Town retains the right to inspect its resources, including any Town-owned or leased computer or electronic communications equipment, any data contained in such equipment, and any data sent or received by that equipment. Users should be aware that appropriately-authorized network

administrators may monitor network traffic, and/or access all files, including e-mail files and Internet use history, stored on any equipment.

Massachusetts statute broadly defines the term "public record" to include all documentary materials or data, regardless of its physical form or characteristics, created or received by any official or employee of any governmental unit, unless falling within a strictly defined set of exemptions (M.G.L. Chap. 4 section 7(26)). E-mail is therefore considered a public record and as such is subject to the requirements of the Public Records Law (M.G.L. Chap. 66). Additionally, Federal courts have also held that electronic mail is considered a record for purposes of the Federal Freedom of Information Act.

All e-mail sent and received as the principal addressee at a Town-issued address, or any address when in an official capacity, as well as faxes and Internet postings should be considered a public record subject to legal discovery and record retention policies.

Employees, committees, and commission members acting in their official capacity should have no expectation of privacy in their own use of these telecommunications systems. The Town Administrator, or the designee of the Town Administrator, reserves the right to monitor e-mail messages, Internet postings, and faxes and to access all such messages residing on Town equipment or property. All messages sent or received by email or the Internet are stored automatically on the Town's computer system and deleting such messages does not guarantee that they cannot be retrieved.

Notwithstanding the Town's right to retrieve and read any e-mail messages, faxes, or Internet postings generated from or sent to a Town issued address, employees shall not retrieve or read any messages that are not sent to them specifically unless express permission is given by the intended recipient.

No employee shall send e-mail under another employee's name nor shall any employee change any portion of a previously sent e-mail message without prior authorization.

## **II. GENERAL USE**

The Town's resources are owned, operated, administered, and managed by the Town. They are provided as a business tool to users to facilitate timely and efficient town business use, and are to be used for town business-purposes only. The appropriate use and protection of all Town resources is expected from all users. Appropriate use of these resources is defined as use which is Town business-related. Any other use is inappropriate.

## **III. SECURITY**

All usernames and passwords are for the exclusive use of the individual to whom they are assigned. The user is personally responsible and accountable for all activities carried out under his/her username and should take all reasonable precautions to protect his/her password. The password associated with a particular username must not be given or divulged to another

person (with the exception of the Systems administrator). No one may use, or attempt to use, a username or password assigned to another person, or pose as another user.

#### **IV. USE**

Use of Town resources is subject to the following:

- All Town resources are the property of the Town. The Town retains ownership of all resources and materials, as well as documents and files stored, maintained, deleted, modified, received, sent, or otherwise accessible via the Town's resources unless otherwise copyrighted, trademarked, or agreed to by the Town Administrator.
- The Town may, without notice, limit, restrict, monitor, block, access, search, review, modify, or disclose the use of any Town resources.
- The Town may determine what applications are installed or configured on Town Resources assigned to users. Applications may be installed, modified, updated or removed without notice. The term "personal computer" does not suggest that users have a choice of what is made available to them.
- Any materials sent to or from Town resources must comply with federal and state laws regarding the protection of Personally Identifiable Information (PII) (e.g., date of birth, social security number, name, and address, and where applicable, financial account information) and applicable Record Retention Laws. All data should be encrypted whenever possible.
- All Town resources are subject to discovery; even if a user believes they have deleted materials, they may be retained in other systems. Users should NOT delete materials unless they are clearly considered trivial or irrelevant (e.g., an email about coffee/pizza being served somewhere), as they may be subject to Public Records Retention Laws.
- Town resources may be configured with remote management tools to assist with loading additional applications and software. Users shall not remove, disable, or otherwise modify any applications or software installed by the Town's IT provider.
- Users who synchronize or store Town information on a portable device such as a smartphone, tablet, or laptop, owned personally or by the Town, shall set the device to require a passcode or fingerprint prior to each use. In the event such a device is lost or stolen, the user shall report the device lost or stolen to the Town Administrator immediately. Users acknowledge by setting up synchronization with Town information, such as Exchange which includes email, contacts, calendars and reminders, the IT provider has the ability to remotely wipe such a device.

- The Town reserves the right, but not the responsibility, to monitor any and all aspects of Town Resources and materials; the Town is not responsible for material viewed, downloaded, or forwarded by users.
- Technology Resources shall be used only for work-related professional or civic purposes.

## **V. EXPECTATIONS AND GUIDELINES**

E-mail and related on-line services are the property of the Town and are to be used for business matters directly related to the operational activities of the Town and as a means to further the Town's objective to provide efficient, complete, accurate, and timely services.

Users shall act in a professional manner, properly identifying themselves, and shall ensure that they do not misrepresent themselves or the Town.

The telecommunications systems shall not be used for personal gain or to conduct personal business, political activity, including the endorsement of any candidate for elective office, fundraising activity, or charitable activity. The transmission of materials used for commercial promotion, product endorsement, or political lobbying is strictly prohibited.

The telecommunications systems shall not be used to promote discrimination on the basis of race, color, national origin, age, marital status, sex, political affiliation, religion, disability or sexual preference; to promote, result in, or contribute to sexual harassment; or to promote personal, political or religious business or beliefs.

The telecommunications systems shall not be used for any illegal activity, including but not limited to: the transmission of copyrighted or trade secret material; the transmission of obscene, defamatory, or threatening material; or the commission, or aiding in the commission of, any type of criminal activity.

No user shall violate the computer security systems implemented by the Town or other institutions, organizations, companies, or individuals.

No user shall pirate software or download and transfer software for which the user does not have the proper licensing.

All users are expected to undertake precautions to prevent infection of Town computers by computer viruses. Executable programs imported from other sites to Town computers may not be used unless they have been authorized by the Town Administrator, or their designee, and have been subjected to the virus detection procedures approved by the Town Administrator, or their designee. Additional restrictions or regulations on the importing of remote files may from time to time be imposed and such restrictions or regulations shall be considered part of this policy.

For security purposes, employees should either log off or revert back to a password screen saver when leaving their computer for an extended period of time. When leaving for the day,

employees should log off. All electronic media should be kept away from magnets including those found in telephone receivers and paper clip holders.

## **VI. TECHNOLOGY ETHICS**

When using Town resources and materials, all users will:

- Conduct business in a truthful and accurate manner. Users should never misrepresent themselves in order to gain access to any other Town Resources or materials, or in order to deceive anyone interacting with Town Resources or materials.
- Keep communications and correspondence professional and appropriately personable. Email, the internal network, and the Internet should not be used for communications that express anger or criticism.
- Apply the same grammatical quality and professional letter writing standards that are applicable to paper-based correspondence. Email correspondence should reflect the Town's commitment to quality, performance and professionalism at all levels.
- Be aware that all laws and Town policies related to sexual harassment and unlawful harassment apply to the use of Town technology systems.
- Make every prudent and reasonable effort to protect against their theft, loss, or damage.
- Access only what is authorized, making no attempt to bypass security or firewall restrictions, and users must not disable, render inoperable, or otherwise tamper with Town Resources or materials.
- Not authorize anyone to use their Town accounts for any reason.
- Be responsible for properly locking down access to systems when they are away from them, and be responsible for any materials transmitted, accessed, or otherwise entered or modified from systems or accounts the user is logged into.
- Abide by copyright law and intellectual property rights. Downloading non business-related materials (e.g., games, music files, videos, etc.) is prohibited.

When using Town resources, all users will refrain from:

- Interfering with the work of others, impacting other Town resources, causing offense to others, or wasting Town Resources.
- Using Town Resources for any private, personal, unlawful, unethical, commercial, religious, political campaigning, monetary gain, or legally questionable activity.
- Accessing inappropriate sites including adult content, online gambling, or dating sites.

- Using encryption technology that has not been approved for use by the Town's IT provider.
- Accessing hacking sites or using security hacking tools to attempt to elevate user privileges or to otherwise obtain unauthorized access.
- Intentionally intercepting, accessing, altering, copying, distributing, moving, or removing Town resources or materials without permission.
- Accessing Town resources related to other users, constituents, businesses, or anyone else without a Town-related business purpose requiring you to do so.
- Creating unnecessary network traffic, load, disruption, or disablement of resources, or establishing any remote control, remote access, or remote monitoring services without the permission of the Town Administrator.
- Loading software or data from untrustworthy sources (e.g., freeware, or shareware) or without ensuring that all files are properly scanned for viruses or other malicious software code prior to introduction to Town resources.
- Connecting, installing, introducing, or otherwise initiating unauthorized technology into the Town.
- Transmitting, viewing, accessing, or making accessible offensive, fraudulent, sexually explicit, profane, obscene, harassing, intimidating, threatening, or defamatory materials.
- Using online shopping sites, social network sites, or media sites for personal use.
- Using Town Resources in a manner which may subject the Town to any liability claim.
- Using personally-owned technology for conducting Town business, since documents created are official Town records and must be transferred to Town owned equipment to be maintained and archived, including emails.

Users who participate in non-Town sponsored social media are encouraged to make it clear they are speaking for themselves when doing so. Users who participate in non-Town sponsored social media may not use the Town's seal, tagline, or other marketing related material in order to avoid confusing visitors, or suggesting the appearance that the social media posts are representative of the Town's position, opinion, or view.

Department heads and other employees or officials with policy-making authority must be mindful that there is greater risk that their comments or conduct while participating in social media may have a direct and negative impact upon the reputation or integrity of their board/committee or department, and upon the public's perception of Town government as a whole. Furthermore, there is a greater likelihood that the public will view their

conduct/comments as representative of an official position or policy of the Town, even when personal disclaimers are made.

## **VII. OPEN MEETING LAW COMPLIANCE**

The District Attorney's Office has established guidelines for the use of e-mail by members of governmental bodies. These guidelines emphasize compliance with the Open Meeting Law (M.G.L. Chap. 39 sections 23A-23B) by reaffirming that no substantive discussion by a quorum of members of a governmental body about public business within the jurisdiction of the governmental body is permissible except at a meeting held in compliance with the provisions of the Open Meeting Law. Despite the convenience and speed of communication by e-mail, its use by members of a governmental body carries a high risk of violating the Open Meeting Law. As with private conversations held in person or over the telephone, e-mail conversations among a quorum of members of a governmental body that relate to public business violate the Open Meeting Law, as the public is deprived of the opportunity to attend and monitor the e-mail "meeting". Because the very nature of e-mail makes it possible for private, serial conversations to reach a quorum of members without the knowledge of all participants, members of governmental bodies should exercise caution when communicating via e-mail on an individual basis.

Matters of a purely housekeeping or administrative nature, such as scheduling or canceling meetings, announcements, requests to place items on the agenda, or communications by members of a governmental body to department heads or staff may be communicated outside of a meeting, but care should be taken not to use e-mail for the purposes of deliberations.

## **VIII. FILING AND RETENTION**

As public records, the retention and disposition of e-mail communications are stipulated by retention schedules issued by the Secretary of the Commonwealth. In addition to retaining the actual text of a message and any attachments, transmission data contained in an e-mail communication (full header information including the sender, addressee, date and time of transmission and receipt, routing instructions) shall also be retained as part of the record, whether the record is printed out or stored electronically.

Only when e-mail messages are clearly conversational and do not add in any way to the operational records of the department may be discarded without adhering to retention schedules.

## **IX. TOWN ISSUED MOBILE DEVICES**

The Town may issue mobile devices such as laptops and tablets to users to assist them with conducting Town business-related activities. Use of Town issued mobile devices is subject to the following:

- Town mobile devices must be properly inventoried by the Town Administrator.

- User assumes responsibility to ensure maintaining devices in a safe, functioning, and reasonable condition. Equipment is to remain free of any writing, stickers, or labels that are not the property of the Town. Users are encouraged to contact the Town Administrator with any questions about how to maintain or use Town issued devices.
- Except in emergencies, personal use of Town owned and issued mobile devices is prohibited.
- User agrees to perform regular and routine recommended data backups.
- Town Devices should not be left unattended in public places, or in places where they may be subject to harsh environmental conditions
- Town mobile devices which are damaged, lost, or stolen must be reported to the Town Administrator as soon as possible. The Town may, at its own discretion, choose to electronically locate and remotely wipe or reset lost or stolen devices.
- Town owned mobile devices must be returned to the department head or Town Administrator upon separation of employment or completion of assignment.

#### **X. COMPLIANCE**

Violations of this policy may result in disciplinary actions as deemed applicable by the town's Personnel Policies and Procedures, the Town Administrator, and/or the Selectboard. If violations of this policy are discovered that consist of illegal activities, the Town may notify the appropriate authorities. The Town reserves the right to pursue appropriate legal actions to recover any financial losses suffered as a result of violations of this policy.

## **VEHICLE USE AND REIMBURSEMENT POLICY**

The purpose of this policy is to set forth the guidelines for reimbursement or compensation for employee use of personal vehicles; the guidelines under which Town vehicles will be authorized to Town personnel; and the guidelines under which Town vehicles may be used.

The provisions of this policy which relate to expense reimbursement apply to all employees in Town service.

### **I. DEFINITIONS**

Expense Reimbursement – that payment for approved expenses relating to personal automobile use upon receipt of written documentation. Expense reimbursement is not considered to be a salary item.

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

Personal Automobile – that automobile owned or available for private use by employees.

### **II. POLICY**

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

Expense Reimbursement. It is the policy of the Town to reimburse employees for reasonable expenses which they incur as a result of personal automobile use on behalf of the Town. Receipts and a personal automobile travel expense report must be submitted in order for an employee to be reimbursed for such expenses.

Selectboard policy determines the rate of reimbursement per mile as the current IRS rate.

### **III. PROCEDURES**

#### Expense Reimbursement – Personal Vehicles

When an employee is authorized to use a personal automobile for work-related travel, she/he shall be reimbursed at the IRS rate in effect at the time of travel.

1. In addition to the mileage rate, the Town will reimburse employees authorized to travel for tolls and reasonable parking expenses, when receipts are provided. Employees will not be reimbursed for tolls or mileage which would normally be paid by the employee during his/her normal commute to work.

2. An employee who uses his/her personal automobile to travel from home to a temporary assignment, rather than his/her regularly assigned work location, shall be allowed personal automobile expense between home and the temporary assignment, or between the temporary assignment and the regular work location, whichever is less.

#### Assignment of Municipal Vehicles

The assignment of municipal vehicles during work time use is based upon job description. Appointing authorities that have municipal vehicles available for this purpose may assign such vehicles in a manner consistent with departmental workload and employee function. The Town Administrator or appointing authority/department head may rescind the assignment of vehicles at any time.

#### **IV. GENERAL RULES GOVERNING MUNICIPAL VEHICLE USE**

Municipal vehicles may only be used for legitimate municipal business.

Municipal vehicles will not be used to transport any individual who is not directly or indirectly related to municipal business. Passengers shall be limited to Town employees and individuals who are directly associated with Town work activity (committee members, consultants, contractors). Family members shall not be transported in Town vehicles.

Vehicles should contain only those items for which the vehicle is designed. The Town shall not be liable for the loss or damage of any personal property transported in the vehicle.

Employees are expected to keep municipal vehicles clean and to report any malfunction or damage to their department head or Town Administrator immediately.

Employees must wear seatbelts in vehicles so equipped during operation of the vehicle.

Employees may not operate municipal vehicles under the influence of alcohol, drugs, or medications which may interfere with effective and safe operation.

Employees who operate municipal vehicles must have a valid Massachusetts motor vehicle license for the class of vehicle being operated and may be required to provide proof of valid motor vehicle license once every six (6) months.

Employees driving municipal vehicles shall obey all applicable traffic and parking regulations, ordinances and laws.

1. Employees who incur parking or other fines in municipal vehicles will generally be personally responsible for payment of such fines unless the Town Administrator approves the payment of such fines by the Town.

2. Employees who are issued citations for any offense while using a municipal vehicle must notify his/her supervisor immediately when practicable, but in no case later than 24 hours. Failure to provide such notice will be grounds for disciplinary action.

An employee who is assigned a municipal vehicle and who is arrested for or charged with a motor vehicle offense for which the punishment includes suspension or revocation of the motor vehicle license, whether in his/her personal vehicle or in a municipal vehicle, must notify his/her supervisor immediately when practicable, but in no case later than 24 hours. Conviction for such an offense may be grounds for loss of vehicle privileges and/or further disciplinary action.

No employee may use a municipal vehicle for out of state use without advance approval of their department head or the Town Administrator.

Special Circumstances - This policy is intended to provide a basic framework governing the use of personal and municipal vehicles in the Town and as such, cannot contain procedures governing every situation that might arise. Employees seeking clarification of or exemption from the provisions of this policy should contact the Town Administrator who will provide such clarification and may authorize exceptions to the policy under mitigating circumstances.

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

## **WHISTLEBLOWER PROTECTION**

Town employees who make a good-faith attempt to follow this policy in reporting improper governmental action shall receive the protections provided under this policy or the Whistleblower Protection Act. Employees who make false reports may be subject to disciplinary action, up to and including termination, and shall not receive the protections provided under this policy or the Act.

This policy is adopted pursuant to and in accordance with the Massachusetts Whistleblower Protection Act, 1992, M.G.L. Chap. 149 (the "Act") and is designed specifically to protect such conduct and provide such remedies as are set forth in the Act. It is the policy of the Town:

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

### **I. REPORTING PROCEDURE**

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

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

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

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

1. Is reasonably certain that the activity, policy, or practice is known to one or more supervisors of the Town or the situation is emergency in nature; or
2. Reasonably fears physical harm as a result of the disclosure provided; or

3. Makes the disclosure to a public body for the purpose of providing evidence of what the employee reasonably believes to be a crime.

## **II. INVESTIGATION**

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

## **III. RETALIATION**

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

Employees who believe that they have been retaliated against for reporting an improper governmental action should advise their department head, the Selectboard, or the Town Administrator. In cases where the employee does not feel safe reporting to these town officials, alternatively they may report to the appropriate State or Federal governmental agency responsible for investigating such action.

Town officials, administrators, and department heads shall take appropriate action to investigate and address complaints of retaliation. If the department head, Selectboard, or the Town Administrator does not satisfactorily resolve an employee's complaint that he or she has been retaliated against in violation of this policy, the employee, in accordance with the Act, may, within two years, institute a civil action in the superior court. Any party to said action shall be entitled to claim a jury trial. All remedies available in common law tort actions shall be made available to prevailing plaintiffs. These remedies are in addition to any legal or equitable relief provided herein.

## **IV. ENFORCEMENT**

The Town Administrator is responsible for implementing the Town's policies and procedures: (1) for reporting improper governmental actions, and (2) for protecting employees against retaliatory actions. Town officials and department heads are responsible for insuring that this policy is fully implemented within their areas of responsibility. Violations of this policy may result in appropriate disciplinary action, up to and including termination.

## **WORKPLACE SAFETY**

The Town shall endeavor to provide and maintain safe working conditions. As appropriate, employees shall be provided with necessary safety equipment, including vehicle seat belts. Employees shall be required to wear and use safety equipment at all times while undertaking the work for which the equipment is furnished. There shall be no exceptions. Employees shall immediately notify their department head if required safety equipment is found to be unavailable or is inadequate due to damage or obsolescence.

### **I. SAFETY BELTS**

All municipal personnel are required to wear safety belts when operating or riding in municipally owned or leased vehicles or in other vehicles, including personal vehicles, while engaged in Town-related business. Town Management insists that all municipal employees comply with this policy, including the Police department.

### **II. SMOKING PROHIBITION**

Smoking is not allowed in any publicly owned or leased building or vehicle.

### **III. CELL PHONE USE & TEXTING**

Employees shall comply with all federal and state laws regarding the usage of cell phones, texting and other electronic and/or telecommunicating equipment while operating a vehicle. Texting while operating a municipal vehicle is prohibited and cell phone use of any kind must be hands free. Employees or other officials of the Town may not engage in nonessential, non-work related cell phone or tablet use when on-the-job monitoring, supervising, or supporting physical work activity or traffic.

### **IV. RESPONSIBILITIES OF DEPARTMENT HEADS AND EMPLOYEES**

Department heads and supervisors shall: be responsible for safe working areas; recommend correction of deficiencies noted in work procedures, facilities, safety clothing or equipment, or conduct; ensure the availability and utilization of appropriate protective clothing and equipment; observe working conditions and field procedures to prevent possible safety hazards; and investigate and report all accidents promptly.

Each employee shall: observe all safety rules, operating procedures, and safety practices; use personal protective equipment; report unsafe areas, conditions, or other safety problems; and report all accidents promptly to the appropriate supervisor.

### **V. DISCIPLINARY ACTION**

Employees violating safety rules, practices, and policies may be subject to disciplinary action, up to and including termination.

## **WORKPLACE VIOLENCE PREVENTION**

The purpose of this policy is to establish a Town standard that will encourage and foster a work environment that is characterized by respect and healthy conflict resolution; to reduce the potential for violence in and around the workplace; to mitigate the negative consequences for employees who experience or encounter violence in their work lives; and to ensure that appropriate resources are available to employees who may be victims of workplace violence or who may be perpetrators of workplace violence.

It is the Town's policy to promote a safe environment for its employees. The Town is committed to working with its employees to maintain a work environment free from violence, threats of violence, harassment, intimidation, and other disruptive behavior.

Violence, threats, harassment, intimidation, and other disruptive behavior in the workplace will not be tolerated. All reported incidents will be taken seriously and will be dealt with appropriately. Such behavior can include not only acts of physical violence, but also oral or written statements, gestures, or expressions that communicate a direct or indirect threat of physical harm.

The Town is committed to providing a safe environment for working and conducting business, in so far as is reasonably possible given available resources. The Town will not tolerate acts of violence committed by or against Town employees or members of the public on Town property, or during the performance of Town business, regardless of location.

Individuals who commit such acts may be removed from the premises and may be subject to criminal prosecution. Employees may also be subject to disciplinary action, up to and including termination.

### **I. REPORTING**

The Town needs the cooperation of all employees to implement this policy effectively and to maintain a safe working environment. Employees should not ignore violent, threatening, harassing, intimidating, or other disruptive behavior. Employees who observe or experience such behavior by anyone on Town property should report the incident immediately to a supervisor or department head, whether or not the alleged offender is a Town employee. Supervisors and department heads who receive such reports should contact the Town Administrator immediately for response. Threats or assaults that are of an emergency nature and require immediate attention should first be reported to the Police Department via 911.

## **II. DEFINITION OF VIOLENCE**

For the purposes of this policy, the word violence shall mean an act or behavior that:

- is bullying, physically injurious, or abusive;
- a reasonable person would perceive as obsessively directed (e.g. an intensely focused grudge, grievance, or romantic interest in another person) and reasonably likely to result in harm or threats of harm to persons or property;
- consists of a communicated or reasonably perceived threat to harm another individual or in any other way endanger the safety of the individual;
- is a behavior or action that a reasonable person would perceive as menacing;
- involves carrying or displaying weapons, destroying property, or throwing objects in a manner reasonably perceived to be threatening; or
- consists of a communicated or reasonably perceived threat to destroy property.

## **III. WEAPONS**

Possession or use by employees of firearms or other items which may be considered dangerous and/or are designed to cause death or serious bodily injury are prohibited on Town property, in Town vehicles, or in any personal vehicle which is used for Town business, or during business hours, except for those employees who are engaged in official military or law enforcement activities. Possession or use of a firearm in such circumstances is prohibited whether or not the employee is licensed to carry a firearm, or has a Firearm Identification Card (FID). Use of other objects by employees, such as, but not limited to, pocketknives, razors, hammers, etc., in a dangerous or potentially dangerous manner is also prohibited.

## **IV. VIOLATION OF POLICY**

Violent actions on Town property or facilities, or while on Town business, will not be tolerated or ignored. Any unlawful violent or non-violent actions committed by employees or members of the public on Town property, or while using Town facilities, will be subject to prosecution, as appropriate. The Town intends to use all reasonable legal, managerial, administrative, and disciplinary procedures to secure the workplace from violence and to reasonably protect employees and members of the public.

## **V. ENFORCEMENT OF POLICY**

Department heads and supervisors are responsible for receiving reports of incidents of workplace violence, assessing situations, making judgments as to appropriate responses, responding to reports of workplace violence, and initiating the investigation process. Department heads shall submit all reports to the Town Administrator.

## **ACKNOWLEDGEMENT OF RECEIPT AND UNDERSTANDING**

I acknowledge that I am in receipt of the Town's Personnel Policies and Procedures and I had an opportunity to review and read the policies. I acknowledge my responsibility to seek guidance from my supervisor, the Town Administrator, the Town Treasurer, or the Selectboard if upon review of these policies I have any questions relative to their meaning or applicability.

I understand it is my responsibility to be familiar with and adhere to the provisions of these policies.

## **EMPLOYMENT OPPORTUNITY, DISCRIMINATION, AND SEXUAL HARASSMENT POLICY ACKNOWLEDGEMENT**

This acknowledges that I have received and reviewed the Town's Equal Employment Opportunity, Discrimination, and Sexual Harassment Policy ("Policy"). By signing this form, I agree to abide by the Policy and any Guidelines promulgated thereunder, and I agree to review periodically any changes or modifications. I recognize that the law and associated Policy regarding discrimination and harassment are continually evolving. Therefore, I understand that my regular review of this Policy, as it may be amended, is required.

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EMPLOYEE PRINTED NAME

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EMPLOYEE SIGNATURE

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DATE

Note: A copy of this acknowledgement form will be placed in the employee's personnel file.

## **APPENDIX A: FORMS**

- **REQUEST FOR FAMILY AND MEDICAL LEAVE OF ABSENCE FORM**
- **REQUEST FOR A LEAVE OF ABSENCE**
- **EXIT INTERVIEW FORM**

## REQUEST FOR FAMILY AND MEDICAL LEAVE OF ABSENCE FORM

Employee Name: \_\_\_\_\_

### I. INSTRUCTIONS

At least thirty (30) calendar days prior to beginning a leave, eligible employees must complete this *Family and Medical Leave Request Form* and submit it to their immediate supervisor, unless the event is unforeseeable and/or when leave is solely due to a serious medical condition of the employee. The immediate supervisor should verify information on this form (i.e. normal work schedule, paid time off available, etc.), date and sign the form, and submit it to the Town Treasurer, who will also sign and date and then forward a copy to the Town Administrator. If leave is for a serious medical condition of the employee or family member, please attach a completed *Certification of Physician or Practitioner Form*.

### II. NOTICE

You have requested a leave of absence under the Town of Colrain's Family and Medical Leave Policy (referred to as FMLA leave). This notice is provided to you in accordance with federal regulations and is intended to explain your rights and obligations under this policy. If you have questions after reviewing this notice, consult your supervisor, the Town Treasurer, or the Town Administrator.

The leave you requested will be counted against your annual FMLA leave entitlement.

All employees on FMLA leave shall be restored to the same or an equivalent job upon returning from leave.

You will be required to use any accrued paid leave during your FMLA leave.

If you fail to return to work upon completion of your FMLA leave, you will be liable for any health insurance premiums paid by the Town of Colrain on your behalf during your leave.

If your leave is due to a serious personal health condition or is necessary to care for a family member with such a condition, you are required to submit a *Medical Certificate* to the Treasurer prior to beginning your leave. If, due to emergency or unforeseen circumstances, you are unable to provide such notice before taking leave, notice as soon as possible and practical is acceptable. Updates every thirty (30) calendar days from your physician are also required. Failure to submit a Medical Certificate form will result in a denial of leave.

Prior to returning to work, you will be required to submit a *Fitness for Duty Certificate* signed by your physician to the Town Treasurer. The Town of Colrain reserves the right to obtain additional medical opinions regarding your fitness for duty at the completion of any medical leave.

**III. EMPLOYEE INFORMATION**

NAME: \_\_\_\_\_ DATE: \_\_\_\_\_

DEPARTMENT: \_\_\_\_\_ ( ) Regularly Scheduled ( ) Regularly Scheduled  
( ) Full-time ( ) Part-time

DATE OF HIRE: \_\_\_\_\_

NORMAL WORK SCHEDULE: \_\_\_\_\_ days per week \_\_\_\_\_ hours per day

REASON FOR LEAVE:

( ) Birth or Adoption of Child: Child's Date of Birth: \_\_\_\_\_

or

Date Adopted/Foster Child was placed in your care: \_\_\_\_\_

( ) Serious Medical Condition of Employee or Family Member

Name of Family Member: \_\_\_\_\_

Relationship to Employee: \_\_\_\_\_

( ) Other: (explain) \_\_\_\_\_

**Leave will be taken as:**

( ) Block of time

( ) Intermittent Leave

( ) Reduced Work Schedule

**Available paid time off:**

Sick Leave Hours: \_\_\_\_\_

Vacation Hours: \_\_\_\_\_

Personal Leave Hours: \_\_\_\_\_

(Estimated Dates) - Date leave to begin: \_\_\_\_\_

Return to work date: \_\_\_\_\_

Total length of leave: \_\_\_\_\_

***I have read and fully understand my rights and obligations under the Family and Medical Leave Act of 1993 as set forth on the required posting notice.***

\_\_\_\_\_  
(Employee's Signature) (Date)

\_\_\_\_\_  
(Immediate Supervisor's Signature) (Date)

\_\_\_\_\_  
(Town Treasurer's Signature) (Date)

*(Reminder: Town Treasurer, please forward a copy to the Town Administrator.)*

**IV. DISPOSITION**

Your request for family and medical leave has been: Granted: \_\_\_\_\_ Denied: \_\_\_\_\_

Inclusive Dates: \_\_\_\_\_ to \_\_\_\_\_

Reason:

## TOWN OF COLRAIN REQUEST FOR A LEAVE OF ABSENCE

<b>Directions for applying for a leave:</b> <ul style="list-style-type: none"> <li>Complete this form and return it to the designated person in your Department</li> <li>Health Care Provider completes: <b><i>Certification of Health Care Provider (return to the Town of Colrain Town Administrator.)</i></b></li> </ul>		
Employee's Name:	Complete Home Address:	
Department & Position held:	Day phone #:	Employee #:
<b>REASONS FOR LEAVE (CHECK ONE):</b>  <b>Family and Medical Leave (FMLA)</b> <ul style="list-style-type: none"> <li>Birth of child Due Date: _____ (Requires Certificate of Health Care Provider Form)</li> <li>Placement for Adoption/Foster Care (Requires placement documentation)</li> <li>Serious Health Condition of Employee (Requires Certification of Health Care Provider Form)</li> <li>Care for seriously ill family member (Requires Certification of Health Care Provider Form) (If checked, provide name of seriously ill family member and relationship)</li> </ul> <p style="margin-left: 40px;">Name: _____ Relationship: _____</p>		
<b>Leave of Absence</b> <ul style="list-style-type: none"> <li>Medical (employees not eligible for FMLA)</li> <li>Military</li> <li>Maternity (employees not eligible for FMLA)</li> <li>Personal</li> <li>Small Necessities Leave: I certify that I will take _____ hours for:  <div style="margin-left: 40px;">           Medical reason for _____ child/ _____ elderly relative             Education reason for _____         </div> </li> </ul>		
Provide a brief statement on the reason for the leave requested:		
Start Date:	End Date:	
Are you requesting intermittent leave? YES NO (circle one)		
Please explain:		
Are you requesting a reduced work schedule? YES NO (circle one)		
If so, please explain:		

I understand that if I fail to return to work as of the expiration date of my leave of absence, without an authorized extension from the Town Administrator, it will be understood that I have resigned employment from the Town of Colrain (subject to ADA regulations). I also acknowledge that I have received a notice regarding Family Medical Leave (FMLA) if applicable.

Employee Signature:	Date:
Department Head Signature:	<input type="checkbox"/> approved <input type="checkbox"/> denied Date:
Town Administrator:	<input type="checkbox"/> approved <input type="checkbox"/> denied Date:

**Please note this request is subject to the final Selectboard approval.**

# EXIT INTERVIEW FORM

Employees leaving Town employment are requested to participate in an “exit interview” with the Town Administrator or their designee to gain information about their work experience and the reason(s) for leaving employment with the Town.

Name of employee \_\_\_\_\_

Position held with the Town \_\_\_\_\_

Last date of employment with the Town \_\_\_\_\_

Reason for leaving

\_\_\_\_ Employee declined to participate in an exit interview

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## PERSON CONDUCTING THE EXIT INTERVIEW

\_\_\_\_\_  
Print name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date