

# Town of Littleton



## Employee Handbook

*As of October 25, 2021, the policies, procedures and benefits contained in this Employee Handbook supersede all previous policies, procedures and benefits of the Town of Littleton, except as superseded by a collective bargaining agreement or individual contract. Collective Bargaining unit employees and employees covered under an individual contract should consult the terms of their applicable agreement.*

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## **INTRODUCTION & APPLICABILITY**

The purpose of this document is to provide an overview of the administrative/personnel policies and practices of the Town of Littleton (the “Town”). The Town is an Equal Opportunity Employer.

The Town Administrator, with the approval of the Select Board, may alter, amend, add or delete items within this document to maintain standards and practices with current employment practices or for any other reason at the discretion of the Town Administrator. Employees will be notified of all changes to the document. In this Employee Handbook, the Town Administrator may designate the Assistant Town Administrator to act on their behalf.

### **Personnel Administration**

The Human Resources Director shall manage and be responsible for the daily administration of the personnel system. The Human Resources Department (“HR Department”) handles personnel records and related personnel administration functions at the Town. Questions regarding insurance, wages, and interpretation of any policies in this Employee Handbook must be directed to HR Department and not to the employee’s supervisor.

### **Applicability**

This Employee Handbook shall apply to all Town of Littleton departments and to all positions of all employees in the service of the Town, whether benefit eligible, non-benefit eligible or seasonal, other than the School Department, Light and Water Departments, and other than those positions which are covered by separate agreement between any association of employees and the Town or any individual employee and the Town and developed through collective bargaining, except that all provisions of this Employee Handbook shall be applicable in so far as any collective bargaining agreement may refer to this chapter and to the extent applicable by statute or in the absence of any other provision. In the event of conflict, the applicable collective bargaining agreement or individual employee contract shall apply. This Employee Handbook shall only apply to elected officials where specified in a particular section.

The Town adheres to the policy of employment-at-will, which permits the Town or the employee to terminate the employment relationship at any time and for any reason or for no reason at all. Unless otherwise provided by written contract, Town employees are employees-at-will. Nothing in this Employee Handbook shall be deemed or construed to create any contractual rights or otherwise affect the employee-at-will status.

The rights afforded herein shall be construed to be in addition to those rights secured by state and federal laws and regulations.

The Town agrees that, in all personnel matters, it will continue its policy of not discriminating against any person on any legally recognized basis.

Employees covered by this Employee Handbook will not be able to benefit from other agreements that exist with the Town. Employees either benefit from this Employee Handbook or by a contract (union or personal) with the Town, not both, unless specifically referenced within contract language.

## POLICIES AND GUIDELINES

### I. HIRING POLICY & PROCEDURES

#### A. EQUAL EMPLOYMENT OPPORTUNITY

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 discriminatory behavior. Discrimination whether based upon race, color, gender, national origin, religion, ancestry, age, sexual orientation, gender identity, disability, maternity leave, genetics, active military or veteran status, or another basis prohibited under state or federal anti-discrimination statutes, will not be tolerated.

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.

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

Please note that while this policy sets forth our goals of promoting a workplace that is free of discrimination, **the policy is not designed or intended to limit our authority to discipline or take remedial action for workplace conduct which we deem unacceptable, regardless of whether that conduct satisfies the legal definitions of discrimination.**

#### B. PRE-EMPLOYMENT MEDICAL EXAMINATION

The Town may require a job-related medical examination as part of the selection process. The medical examination shall be related to the essential functions of the position. The examining physician shall advise as to whether or not the applicant is fit to perform with or without reasonable accommodations the essential functions and/or duties of the position for which appointment has been made. If the applicant is found unfit, the Appointing Authority shall withdraw the offer of employment. A report of the medical examination of any person hired shall be maintained as a permanent part of the town records. Police and Fire candidates will be subject to physical ability tests and any other required state examinations.

### C. PROFESSIONAL LICENSURE

Some positions with the Town may require professional licensure from the Massachusetts Department of Professional Licensure or another state agency. It is the employee's responsibility to maintain licensure if required by the employee's position.

#### 1. Documentation

- a. For positions that require professional licensure, evidence of licensure shall be submitted as part of the selection process.
- b. Employees shall provide all correspondence between the employee and the Division of Professional Licensure to the HR Department, including, but not limited to, license renewals, changes in licensure, and suspension or revocation of licenses.

Failure to maintain proper licensure or follow the requirements of this Section I.C may result in disciplinary action **up to and including termination of employment.**

### D. SEPARATION OF EMPLOYMENT POLICY

Nothing contained in this Separation of Employment policy is to be construed to create an employment agreement or promise of employment between the employee and the Town. Town employees are employees-at-will unless otherwise provided by written contract. The Town reserves the right to change, modify, or amend all or part of this Separation of Employment policy at any time, without prior notice.

#### 1. Introduction

This policy will identify the considerations and processes that are suggested to be followed at the time an employee separates from employment from the Town.

This policy applies to all employees except those in the School Department and Light and Water Departments, including full time, part time, seasonal and/or temporary employees but may need adaptation for specific requirements enumerated in collective bargaining agreements (CBA) or individual contracts.

Documenting all separation of employment is important for both the employee as well as the Town, creating a paper trail which will document the process and compliance with federal and state regulations as well as local policies. These records are often subsequently referred to for confirmation of employment for unemployment benefits, retirement creditable service inquiries, and wrongful discharge claims.

2. Procedures

When an employee is separated from employment, the supervisor has the responsibility to communicate the separation to the HR Department as soon as possible to ensure the employee is notified of important rights such as COBRA.

a. Notice Requirements

In general:

- i. Employees who voluntarily terminate their employment should give at least a two-week notice.
- ii. Every resignation should be submitted in writing to the employee's supervisor. Some resignations, such as from the positions of Treasurer/Collector and Town Clerk, must be filed with the Town Clerk. Once the resignation has been submitted, supervisors are not required to allow an employee to rescind a resignation, whether it was given verbally or in writing.
- iii. With notification to the HR Department, supervisors may choose to have the employee leave immediately rather than continue working through the two-week notice period. Typical reasons for immediate separation may be concern for safety of others, quality of work concerns, departmental morale, or the need to start the replacement process sooner rather than later. Sometimes the employee will be paid for that two-week period; however, it is not legally required and there may be circumstances in which it is unpaid, such as violation of Town policy once notice has been given. The HR Department must be consulted as unemployment benefits may be applicable for any discharges prior to the resignation date.

b. Separation Procedures and Paperwork

- i. Supervisor Acknowledgment: When an employee gives notice of termination of employment with the Town, the Supervisor is responsible for the following steps:
  - a. Immediately confirm the resignation in writing – The supervisor should write a short letter of acknowledgment of the resignation. If the resignation was verbal, the written confirmation should state the date the verbal resignation was received and the understood effective date. In addition, the letter should confirm any Town property that must be returned prior to departure.
  - b. Forward the employee's resignation to the HR Department (if in writing) and the confirming acknowledgement letter sent by the supervisor.
- ii. HR Department Acknowledgment: Upon notification from the Supervisor, the HR Department will prepare a separation of employment letter for the employee.

3. Exit Interview

An exit interview will be conducted by the HR Director within their discretion.

II. CLASSIFICATION AND COMPENSATION

A. CLASSIFICATION PLAN



No person shall be appointed, employed, or paid as a Town employee in any position under the Classification Plan and Compensation Plan under any title other than that of the class of which the position is allocated, unless authorized in conformance with §33-1.e. All positions are categorized in the Classification Table adopted by Town Meeting and amended from time to time. These categories will determine an employee's eligibility for benefits as specified by this Employee Handbook.

## 1. Hiring and Re-Classification

The filling of all open benefit eligible and non-benefit eligible positions covered by this Employee Handbook must follow the procedures detailed in the Town's Hiring Policy and Procedures manual including, but not limited to the following:

- a. A job description shall be drafted by the HR Director, with input from the Appointing Authority, for review by the Personnel Advisory Committee prior to approval by the Town Administrator. It shall be completed prior to the announcement of the job opening. The descriptions shall include the grade, professional licensures required (if applicable), definitions describing the essential nature of the work, distinguishing features of the work, and such illustrative examples of duties as may be deemed appropriate.
- b. The hiring grade and step for the job opening shall be in accordance with the Classification and Compensation Plan or be developed with and agreed to by the HR Director and Town Administrator, as approved by the Town Meeting, prior to the announcement of the job opening. The Personnel Advisory Committee may recommend, by a majority vote, to add or change a position or grade to the position listings at the bottom of Schedules A, B, B-1, C, C-1 and D.
- c. The Appointing Authority, in order to find the most qualified candidates, shall determine if the job opening should be posted (a) internally within the Town, or (b) internally and externally. Internal only openings shall be posted for a minimum of one (1) week and marked as "Internal Town Candidates Only". Internal/External postings must be posted for two (2) weeks and, if appropriate, shall be advertised externally. All postings shall be made on the Town Hall Bulletin Board.

## 2. Job Descriptions

The Human Resources Department shall maintain written descriptions of the jobs or positions in the Classification Plan. These descriptions shall be written by the Appointing Authority and recommended for approval by the Personnel Advisory Committee. The descriptions shall include the grade, definitions describing the essential elements of the work, distinguishing features of the work and such illustrative examples of duties as may be deemed appropriate. The Personnel Advisory Committee may, upon the request of an Appointing Authority or on their

own initiative, along with the Appointing Authority's input, recommend amendments to such job descriptions for approval from the Town Administrator.

The HR Department shall retain copies of the current job descriptions. They shall be responsible for drafting any revisions and submitting them to the appointing authority prior to submitting to the Personnel Advisory Committee for approval.

The description of any position shall be construed solely as a means of identification. It shall not limit the duties and responsibilities of any position, or modify, or in any way affect, the power of any Appointing Authority as otherwise existing, to assign duties to, or to direct and control the work of any employee under the jurisdiction of such authority.

## B. COMPENSATION

### 1. Classification Plan and Compensation Plan

The Compensation Plan adopted by Town Meeting shall consist of the minimum and maximum salaries by grade and step for the positions in the Classification Plan. The Compensation Plan shall be reviewed and updated periodically, voted on at the Annual Town Meeting, and be incorporated into the budget process.

### 2. Rate Above Maximum

Any rate which is above the maximum for a job as established by this plan shall be deemed to be a personal rate and apply only to the incumbent. The employee's rate shall be held and not be increased until such time at the employee's rate is consistent with the Compensation Plan.

### 3. Step Increases

Step increases will be awarded on an annual basis on July 1st provided the employee has completed at least one (1) year of employment and received at least a satisfactory performance evaluation or greater. At the recommendation of the department head or appointing authority, the Town Administrator may waive the requirement for one year of employment after taking into consideration the date of hire and the employees performance. When an employee reaches the top step of the grade, they will no longer be eligible for a step increase.

### 4. Annual Salary Schedule Review and Adjustment

Town Meeting will annually consider and vote to adjust the Classification and Compensation Schedule.

### 5. Movement and Re-Classification of Employees

- a. When a current employee is hired to a position with a higher-rated grade, they shall enter it at the step which provides an increase in salary. They may also receive a one-step rate increase at the time if the Appointing Authority recommends that qualifications and performance warrant it, and the Town Administrator approves.
  - b. If the employee is transferred to a job at the same grade, they shall remain at their current step.
  - c. If the employee is transferred to a lower grade job, they shall enter it at their own step or at the maximum step for the job, whichever is lower, provided that the HR Director approves. The employee shall have the right of appeal to the Town Administrator and to be heard thereon.
  - d. Employees who change positions as outlined in items a through c above may receive annual step increases in accordance with Section B(3), even though they have not completed one (1) year of service in the new position, so long as they have completed one (1) year of satisfactory service to the Town.
  - e. No employee may be reclassified to a position in another grade either higher or lower until the Town Administrator determines that such a reclassification will be consistent with the provisions of the Classification Plan and this Employee Handbook.
  - f. When an eligible employee is temporarily assigned to function in a position in a higher grade for a period of six (6) days or more, due to an absence or unavailability, and they assume the approved delegated duties and responsibilities of that position, they are entitled to an increase in compensation equal to the minimum of the assigned position's grade or to a step in that grade that results in an increase over their current rate of pay of at least 10%. Upon completion of the temporary assignment, the employee reverts to their original grade and step.
6. Pay Rate for New Personnel
- a. The hiring rate shall be the minimum step for the grade of the job for which the new employee is hired. An Appointing Authority may assign a new employee, only for the purposes of pay, to a rate higher than the minimum rate, up to Step 3 of the grade in any case where the employee's prior experience in the work warrants such action. Hiring an employee at a rate above Step 3 requires the advanced approval of the Select Board.
  - b. The appointing authority may negotiate benefits to permit competitive hiring, subject to appropriation and the approval of the Select Board.
7. Overtime and Compensatory Time

- a. Non-exempt employees begin to accrue overtime after they have worked 40 hours in a work week. Overtime must be pre-approved by the supervisor. The applicable budget must have funds available to cover the overtime pay.
  - b. Compensatory time may be utilized, on an exception basis, as an alternative to overtime pay, subject to the following restrictions. If overtime is authorized by the supervisor, the choice to accrue compensatory time in lieu of being paid overtime wages must be stated by the employee. As with overtime wages, compensatory time is earned at 1.5 hours for every hour worked. All compensatory hours should be logged on the standard compensatory time sheet and attached to the employee's regular time sheet each pay period. Employees should use accrued compensatory time within the next pay period unless the Town Administrator grants approval for use of accrued compensatory time beyond the next pay period. The use of accrued compensatory time must be pre-approved by the supervisor. In no case should the compensatory time accrual balance be allowed to exceed 24 hours. Compensatory time cannot be rolled over to the new fiscal year and therefore any accrued time must be paid out as overtime wages prior to June 30th of each year. Any unused compensatory time at time of separation of employment must be paid to the employee in their final paycheck.
  - c. Exempt employees are not eligible for overtime pay or compensatory time.
8. Department Pay Adjustment in Annual Budget

Each Appointing Authority shall include in the annual budget a pay adjustment section to provide funds for anticipated pay adjustments (step increases) during the ensuing year, expenditures to be made only in accordance with the plan with the approval of the Town Administrator.

9. Longevity Pay

- a. Each benefit eligible employee covered by the provisions of this Employee Handbook shall receive a longevity payment, to be paid in a lump sum as of July 1st of each year through regular payroll, such payment to be based on the number of consecutive full years of benefit-eligible employment by the Town as of July 1st, in accordance with the following:

Lump Sum Years of Service Payment	
5-9 Years	\$700.00
10-14 Years	\$750.00
15-19 Years	\$800.00
20+ Years	\$850.00

- b. For purposes of this section, consecutive full years of service shall mean the length of an employee's uninterrupted service in twelve (12) month increments in the employ of the Town and in a position included within the Town Classification Plan and Compensation Plan in a benefit-eligible position. Unpaid, approved leaves of absence shall not be considered as breaks in said consecutive years of service; however, only years, months, and days spent on paid leaves of absence shall be included in the computation of consecutive years of service.

### III. WORK HOURS

The Town Administrator will set basic uniform office hours (“core hours”) for all departments and offices at all locations with full-time employees that serve the public with the exception of departments that run on a 24/7/365 basis.

Part-time employees will work a schedule that is created by the Department Head, with final approval given by the Town Administrator.

If an employee is experiencing exceptional circumstances and wishes to work outside of the core hours, the employee must submit a request in writing to his or her supervisor with the beginning and end date for the request, the new start and end times requested, and the reason(s) for the change. The temporary change must be approved in writing by the supervisor and Town Administrator prior to the schedule change.

Specific job descriptions for certain positions may establish different working hours than the core hours.

If a Department Head, after approval from the Town Administrator, changes the department’s schedule, he or she will try to give employees as much notice as possible of the changes.

Employees shall not be permitted to perform work away from their designated locations or at home unless approved in advance in writing by the Department Head and the Town Administrator. See Section IV below.

### IV. WORKING FROM HOME

It is the goal of the Town to have Town Offices open to the public whenever possible. However, some positions afford flexibility for completion of job duties and responsibilities from home. It is at the discretion of an employee’s supervisor to allow an employee to telecommute. The employee’s supervisor must grant permission in writing for any exceptions to this policy.

In some circumstances, an employee who is absent from the office due to illness or injury may be able to telecommute instead of using sick leave if the nature of the illness or injury allows the employee to perform their duties and responsibilities. An employee who will be absent due to illness or injury must receive permission from their supervisor to telecommute. Employees who choose to telecommute in lieu of using sick leave must meet the performance expectations of their job duties and responsibilities. A supervisor may revoke telecommuting privileges if an ill

or injured employee is unable to meet these expectations, in which case the employee must use sick leave as provided in Section VII.B.

#### A. CLOSURES DUE TO WEATHER

Short-term telecommuting may be an appropriate option for staff members due to closure of Town offices and buildings due to weather conditions or weather-related declaration of a State of Emergency in the Commonwealth of Massachusetts. In the event of closure, it is the Town's expectation that services will be continued through remote work.

Employees whose duties could be done remotely but who are not able to work during the weather event must use vacation or personal time to be paid. Employees whose duties can only be performed on Town property that is unavailable due to the weather event shall be paid without loss of a vacation or personal day. The policy under this section will last only for the duration of the weather event that closed town offices or buildings, as defined and communicated by the Town Administrator.

#### B. EMERGENCY SITUATIONS

Short-term telecommuting may also be an appropriate option for staff members due to extraordinary circumstances (e.g., the declared National Emergency and State of Emergency in the Commonwealth of Massachusetts in 2020-21 in response to the COVID-19 pandemic). Short-term telecommuting under this section will last only for the duration of an emergency situation, as defined and communicated by the Town Administrator.

#### C. TELECOMMUTING EXPECTATIONS

Supervisors should communicate specific expectations to individual team members based on each person's needs and circumstances. To ensure that the telecommuting assignment is mutually beneficial to both the Town and employees, planning and communicating expectations in advance of the telecommuting is crucial.

Staff members must comply with Town rules, policies, practices, and instructions and understand that violation of same may result in termination of telecommuting privileges and/or discipline up to, and including, dismissal.

Telecommuting does not change the basic terms and conditions of employment. Telecommuting assignments do not change a staff member's classification, compensation, or benefits. The accrual and charging of leave time are subject to the same policies and procedures applicable to non-telecommuting staff members.

##### 1. Determining Positions Eligible for Telecommuting

Department Heads shall determine which positions must remain within their facilities and which positions can continue their job duties and responsibilities at another location, which is expected to be at their home.

Consideration will be taken of the positions and what their essential functions are and how they affect the core functions and operations of the Town. For example:

Vital to Town public safety, public health and maintaining core services and infrastructure.

Department Heads, support personnel, positions with specialized and technical skills necessary to support public safety, public health and essential employees that are necessary to continue primary Town functions, internally and externally.

Employees necessary for regular Town operations and services to the public.

Job responsibilities and duties not related to continuation of operations for the Town.

Employees shall consider working at another facility or from home as a normal workday. Employees must make themselves available to perform their job duties and responsibilities, respond timely to calls and emails, and not perform any other tasks that would conflict with their ability to perform their job duties and responsibilities. Employees must also remain available to come into their work facility if needed, unless arrangements have been made with the Department Head.

## V. HARASSMENT/SEXUAL HARASSMENT

The Town is committed to providing a work environment that is pleasant, healthful, comfortable, and free from intimidation, hostility or other offenses that might interfere with work performance. Harassment of any sort - verbal, physical, and visual - will not be tolerated. This is particularly true of sexual harassment. Sexual harassment of employees occurring in the workplace or in other settings in which employees may find themselves in connection with their employment is unlawful and will not be tolerated by the Town. Further, any retaliation against an individual who has complained about sexual harassment or retaliation against individuals for cooperating with an investigation of a sexual harassment complaint is similarly unlawful and will not be tolerated. To achieve our goal of providing a workplace free from sexual harassment, the conduct that is described in this policy will not be tolerated and we have provided a procedure by which inappropriate conduct will be dealt with, if encountered by employees.

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

### A. SEXUAL HARASSMENT DEFINED

In Massachusetts, pursuant to G.L. c. 151B, § 1(18), the legal definition for sexual harassment is this:

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

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

Discrimination on the basis of sex shall include, but not be limited to, sexual harassment.

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

The legal definition of sexual harassment is broad and in addition to the above examples, other sexually oriented conduct, whether it is intended or not, that is unwelcome and has the effect of creating a workplace environment that is hostile, offensive, intimidating, or humiliating to male or female workers may also constitute sexual harassment. The victim or complainant as well as the harasser may be male or female. The victim or complainant does not have to be of the opposite sex. The complainant does not have to be a person directly harassed but may be someone affected by the offensive conduct.

While it is not possible to list all those additional circumstances that may constitute sexual harassment, the following are some examples of conduct, which if unwelcome, may constitute sexual harassment depending upon the totality of the circumstances including the severity of the conduct and its pervasiveness:

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

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



## B. COMPLAINTS OF SEXUAL HARASSMENT

If any of our employees believes that they have been subjected to sexual harassment, it is our policy to provide the employee with the right to file a complaint with our organization. This may be done in writing or orally.

If you would like to file a complaint you may do so by contacting:

Town Administrator's Office  
Littleton Town Hall  
37 Shattuck Street  
P.O. Box 1305  
Littleton, MA 01460  
(978) 540-2461  
HR@littletonma.org

## C. SEXUAL HARASSMENT INVESTIGATION

When we receive the complaint, we will promptly 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. Our investigation will include a private interview with the person filing the complaint and with witnesses. We will also interview the person alleged to have committed sexual harassment. When we have completed our investigation, we 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, we will act promptly to eliminate the offending conduct, and where appropriate we will also impose disciplinary action.

Given the sensitive nature of complaints of harassment/sexual harassment, all parties and witnesses 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. All employees are reminded of the provisions of G.L. c. 268A, §23(c)(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. Section 23 also prohibits a municipal employee or official from using such information to further the employee's/official's personal interests. Violations of the prohibitions of Section 23 may lead to disciplinary action, up to and including termination.

## D. RETALIATION

Any retaliation against an individual who has formally or informally complained about

harassment or sexual harassment or has cooperated with an investigation of a harassment/sexual harassment 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.

**E. DISCIPLINARY ACTION**

If it is determined that harassment, sexual harassment, retaliation, or other inappropriate conduct has been committed by one of our employees, the Town will take such action as is appropriate under the circumstances. Such actions may include counseling, informal or formal reprimands, written or verbal warnings, suspension, reduction in pay, reduction in duties, transfers, and other formal sanctions, **up to and including termination of employment.**

**F. STATE AND FEDERAL REMEDIES**

In addition to the above, if you believe you have been subjected to unlawful harassment and/or sexual harassment, you may file a formal complaint with either or both of the government agencies set forth below. Using our complaint process does not prohibit you from filing a complaint with these agencies. Each of the agencies has a short time period for filing a claim (EEOC – 300 days; MCAD – 300 days).

**1. The United States Equal Employment Opportunity Commission**

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**

<b>Boston Office</b>  One Ashburton Place Sixth Floor, Room 601 Boston, MA 02108 Phone: 617-994-6000 TTY: 617-994-6196	<b>Springfield Office</b>  436 Dwight Street Second Floor, Room 220 Springfield, MA 01103 (413) 739-2145
	<b>New Bedford Office</b>

<b>Worcester Office</b>  Worcester City Hall 455 Main Street, Room 100 Worcester, MA 01608 (508) 799-8010 (508) 799-8490 – FAX	  800 Purchase St., Rm 501 New Bedford, MA 02740 (508) 990-2390 (508) 990-4260 - FAX
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## VI. CODE OF CONDUCT AND ETHICS

### A. PURPOSE STATEMENT

The intent of this policy is to establish a clear statement and guidelines to serve as the standard for achieving and maintaining a high level of public confidence, trust and professional respect with regard to how the Town, its officials, and its employees conduct business. This policy will define and create a centralized policy with regard to conduct and ethical standards.

### B. APPLICABILITY

This policy shall apply to all Town boards, officers, public officials, employees, commissions and committees and other representatives whether paid or unpaid.

### C. CODE OF CONDUCT

All persons shall:

1. Be well informed concerning the local and state duties of a board/committee member whenever applicable
2. Remember that they represents the Town at all times
3. Accept their position as a means of unselfish public service, not to benefit personally, professionally or financially from their board/committee position
4. Treat all members of the board/committee with respect despite differences of opinion, keeping in mind that professional respect does not preclude honest differences of opinion but requires respect of those differences
5. Recognize that the chief function of local government at all times is to serve the best interests of all of the people
6. Honor confidential information, seek no favor, and believe that personal aggrandizement or profit secured by holding these positions is dishonest
7. Conduct themselves so as to maintain public confidence in their local government and in their performance of the public trust
8. Conduct official business in such a manner as to give the clear impression that they cannot be improperly influenced in the performance of their official duties
9. Unless specifically exempted (e.g., Executive Session), conduct the business of the public in a manner that promotes open and transparent government and maintain full

compliance with the Open Meeting Law (G.L. Chapter 30A, Sections 18-25)

#### D. CODE OF ETHICS

##### 1. Purpose

This policy is issued for the purpose of ensuring that all persons defined in Section B above comply with the provisions of G.L. Chapter 268A, the Conflict of Interest Law, and **more stringent policies adopted herein.**

##### 2. Actual Conflict of Interest (G.L. Chapter 268A, Sections 1-29)

All persons defined in Section B above must understand that there may be times when actions they are asked to consider may be inconsistent with or appear to be inconsistent with the Conflict of Interest Law.

The official should be proactive in recognizing, disclosing and acting professionally with the public trust and compliance with the Law at the forefront of their actions. It is the responsibility of each official to determine for themselves whether or not to make disclosures prior to acting on a particular matter where a conflict exists or might exist.

##### 3. Procedure When Participation is Prohibited

- a. The official in question shall not participate in their official capacity in matters in which such participation is prohibited by the Conflict of Interest Law
- b. The official shall leave the room for the duration of the discussion unless advised otherwise by Town Counsel or the State Ethics Commission
- c. When a conflict or appearance of conflict exists, the chair or presiding officer shall state the reason (s) for the conflict of potential conflict and will ensure that the member does not participate in the matter
- d. The chair or presiding officer of the meeting shall ensure that the reasons for the conflict are clearly stated (as stated by the member in person) and this shall be recorded into the minutes of the meeting and made available for public view; if the member chooses to recuse themselves from the meeting and is not present to state the reasons for recusal, then the presiding officer shall verbally enter the member's statement which will be recorded into the minutes
- e. The member shall re-enter the room only after the discussion has concluded and the chair or presiding officer of the meeting will state, upon re-entering the meeting by the member in question, that the member has re-entered the meeting.
- f. This process shall be followed each time the subject in question is discussed
- g. All officials defined in the Applicability section should seek and adhere to advice from the State Ethics Commission or Town Counsel if necessary (Note: the State Ethics Commission offers free advice via phone or in writing)

#### 4. Participation After Disclosure

The Conflict of Interest Law provides circumstances under which an employee may participate if disclosure of the circumstance is disclosed in writing, filed with the appropriate official or appointing authority and in some instances approved prior to participation.

Irrespective of governing statute, the Town urges all members and officials to exercise due diligence with respect to preserving the public trust. At times, this may mean an official or member must not act or participate until the matter has been determined by Town Counsel, the State Ethics Commission or any other governing entity if applicable. That determination will also be made in writing and be made available for public view. Under those circumstances, the following procedure must be followed:

- a. The member in question must fill out the appropriate disclosure form, available from the State Ethics Commission ([www.mass.gov.ethics](http://www.mass.gov.ethics)) or from the Town Clerk
- b. This form must be submitted to the appointing authority or, in the case of an elected official, to the Town Clerk
- c. The member in question shall disclose all of the facts surrounding the potential conflict
- d. The member in question shall not participate in the particular matter until and unless the approving authority has approved participation when approval is required and has filed a copy of such approval with the Town Clerk
- e. The reason for the existence of the potential conflict, the approval and the compliance with this policy shall be stated by the employee before participation and shall be verbally disclosed at the meeting and recorded into the minutes of the meeting
- f. The member in question will remind all participants and attendees of the disclosed conflict each time the subject in question is discussed in subsequent meetings
- g. It is the responsibility of the chair or presiding officer to oversee the procedure after initiation by the member in question; the chair or presiding officer shall also be responsible for ensuring that these disclosures are entered into the minutes
- h. The Town Clerk shall maintain a separate file of disclosure statements which shall be kept available for public view

#### E. DISTRIBUTION AND EDUCATION

1. The Town Clerk shall provide a copy of this policy to all members as defined in the Applicability section upon its issuance and annually thereafter
2. The Town Clerk shall also maintain and distribute educational materials from the State Ethics Commission to members
3. Each official and employee is responsible for completing the training program required by law and filing the Certificate of Compliance with the Town Clerk
4. The Town Clerk shall have each member sign a statement that they have read these

policies and will comply with all requirements set forth in this policy; this form shall be available for public view.

## VII. VACATION AND LEAVE BENEFITS

### A. VACATION

The vacation year is from July 1 through June 30 inclusive. All benefit-eligible employees will accrue vacation time at a proportional rate. For each full calendar month of employment, employees will be credited with vacation pay as outlined below:

#### 1. Accrual

- a. After one (1) full month of employment, vacations shall be accrued at the rate of five-sixths ( $5/6$ ) of a day per month, equaling ten (10) days per year from the date of employment.
- b. After the fifth year of employment, employees will accrue vacation at the rate of one and twenty-five hundredths (1.25) days per month, or fifteen (15) days per year.
- c. After the 10th year of employment, employees will accrue vacation days at a rate of one and two-thirds ( $1\ 2/3$ ) days per month, or twenty (20) days per year.
- d. After the 20th year of employment, employees will accrue vacation days at a rate of 2.083 days per month, equaling twenty-five (25) days per year.
- e. Vacations will normally be accrued with the anniversary date of employment as the starting date for the year's accrual.

#### 2. Unused Vacation at Time of Termination

In the event of termination for any reason, the employee will be paid for the full amount of vacation pay accrued to the date of termination. If the employee has taken more vacation time than accrued at the time of termination, the time not accrued will be deducted from the final paycheck.

#### 3. Scheduling of Vacation

Vacation will be taken at the convenience of the department. Every effort will be made to arrange for the employee to have the vacation time as desired. However, all operations have to be covered at all times, and the employees with the greatest length of service will have the first choice of time.

#### 4. Carry-Over of Accrued Time

Employees may carry over any unused vacation time into the next fiscal year. In no case will the unused vacation time allowed to be carried into the next fiscal year be more than five (5) weeks.

5. Basis for Accrual

Vacations are based on a full-time employee working a regular 40-hour week or as designated within the specific department. Permanent part-time employees working twenty (20) hours or more a week will accrue at a proportional rate of vacation time. Permanent part-time employees working less than twenty (20) hours per week are not eligible for vacation.

6. Credit for Prior Employment

A permanent full-time or permanent part-time non-union employee who has left the service of the Town voluntarily and who is re-employed, within two (2) years, shall after one (1) year of service receive credit for prior employment service in the calculation of the vacation benefit.

The Town may offer vacation incentives in the recruitment and negotiation with potential new employees. No such incentive shall be greater than twenty (20) days of vacation. An Appointing Authority may not offer vacation incentives without prior approval of the Town Administrator. If granted, the employee then falls into the schedule adopted in Section 1 above.

B. SICK LEAVE

1. Regular Sick Leave

- a. Definition. Sick leave with pay means authorized absence from work granted to benefit eligible employees when they are unable to perform their duties because of illness, personal injury, quarantine by health authorities, medical appointments, or illness in immediate family or household to the extent provided in Section i of this Subpart.
- b. Monthly Leave Accrual. All permanent full-time employees shall accrue one and one quarter (1 1/4) days for each full calendar month worked. For employees hired after July 1, 2023, accrual begins on (1) the date of hire if such date occurs prior to the 15th day of the month or (2) the first day of the following calendar month if the date of hire occurs after the 15th day of the month. Effective July 1, 2023, all fiscal year 2023 sick leave balances shall be carried forward to fiscal year 2024. Sick leave shall be allowed to accumulate from fiscal year to fiscal year, up to a maximum of 600 hours.
- c. Permanent Part-Time Employees. Permanent part-time employees shall accrue monthly sick leave credit in proportion to the relationship of their annual work schedule to that of a full-time, 40 hour per week permanent employee.
- d. Former Employees. Former employees reemployed or reinstated more than two years after a termination of service shall not be allowed sick leave credit for prior employment unless said termination was the result of illness of the

employee, dismissal through no fault or delinquency of the employee or a work related injury.

- e. Transferees. No sick leave credit for prior employment will be allowed to employees transferred from the Commonwealth or other municipality. New employees, including those transferred from employment with the Commonwealth or another municipality, shall begin with a sick leave balance of zero days and accrue in accordance with Section b.
- f. Notification. When an employee finds it necessary to be absent because of injury or illness, the employee shall report the fact to the Department Head or Human Resources, as soon as practical. Sick leave will not be granted unless such a report is made. The Department Head or Town Administrator retains the right to permit use of sick time absent proper notification if the employee is incapacitated and unable to make such notification due to said accident or illness. An employee must identify if the request for use of leave is “personal sick” or “family sick.” The identification of use type shall be used to ensure proper procedure for return to work in cases of extended absence. Such notice must be given by employees not later than one hour before the starting time of the employee’s normal work day unless he/she provides reasonable excuse for failure to do so, and in any event, as soon as possible. For scheduled medical procedures or appointments, employees shall notify the Department Head as soon as possible after such appointment/procedure is scheduled.
- g. Abuse. If the Department Head or Human Resources has cause or a reasonable basis to suspect an employee’s absence constitutes an abuse of sick leave, they may require an employee to explain their absence in writing, including but not limited to a doctor’s certificate. Such request may constitute an investigation into the use of sick time. The results of the investigation may lead to the employee being denied use of sick time for the absence in question. If sick time is denied based upon the results of an investigation, the employee would be given the opportunity to utilize other available benefit time, or would be placed on unpaid leave for the period of the absence in question if other benefit time is not available. Employees found to have falsely utilized sick time, as determined by an investigation, may be subject to further discipline, up to and including discharge.
- h. Documentation. After three (3) consecutive days of sick leave use, the Department Head or Human Resources may require an employee to provide a note from a doctor or nurse practitioner verifying sickness and/or certifying the ability of the employee to return to work. The Department Head or Human Resources may require an employee that fails to provide this form due to no fault but his/her own to remain out of work and utilize other available benefit time, such as personal or vacation time, until s/he produces such form. If an employee has exhausted other benefit time, the employee may be allowed to utilize unpaid leave until the proper documentation is provided.



The Town retains the authority, at no expense to the employee and if deemed advisable, to send an employee to a doctor or nurse practitioner selected by the Town to evaluate any absence from work due to illness or injury for more than five (5) consecutive days. The employee shall be allowed to utilize sick time until such an evaluation is completed. The results of the evaluation may lead to the employee being denied use of further sick time for the injury or illness as the subject of the evaluation. If further sick time is denied based upon the results of an evaluation, the employee shall be given the opportunity to utilize other available benefit time. If other benefit time is not available, the employee may be allowed to utilize unpaid leave. Employees who falsely utilize sick time, as determined by an investigation, may be subject to further discipline, up to and including discharge. If a Town appointed medical professional and an employee's medical professional have conflicting opinions about an employee's incapacity and/or ability to return to work, an employee may, at the employee's expense, seek an additional evaluation. For purposes of this paragraph employees seeking to return to work but unable to do so due to waiting for an examination conducted in accordance with this paragraph will be placed on administrative leave and not required to utilize benefit time for the length of time necessary for them to undergo and receive the results of such exam.

- i. **Serious Illness in Immediate Family.** In case of serious illness of husband, wife, child, parent of either spouse, or person living in the immediate household of an employee, employees shall be allowed to utilize accrued sick time to care for the serious illness of an immediate family member. Sick leave used for family illness in excess of five (5) consecutive days will be granted only after an official written request by an employee to the Department Head and/or Human Resources stating the specific circumstances contributing to the requested leave.
- j. **Termination of Service.** Accumulated sick leave shall not be taken immediately prior to retirement unless properly chargeable to sick leave under the above rules and regulations. No payment will be made for unused sick time upon termination of the employee for any reason. If any sick leave has been taken, but not earned by the employee and employment terminates for any reason, the employee will be required to reimburse the town for any sick time that was used but not earned.
- k. At the end of the fiscal year, employees using four (4) or fewer sick leave days in the preceding fiscal year shall be awarded two (2) additional personal days as soon as practical in the new fiscal year, for use in that year. New employees hired within the first six (6) months of the fiscal year (July 1<sup>st</sup>-December 31<sup>st</sup>) and using four (4) or fewer sick leave days during that fiscal year, shall be awarded three (2) personal leave days to be added to the employee's personal accrual as soon as practical in the new fiscal year. New employees hired after December 31<sup>st</sup> of the fiscal year will not be eligible for additional personal days under this Section until the following fiscal year.

## 2. Short-Term Disability

- a. Short Term Disability benefits will be made available to benefit-eligible employees by the Town of Littleton. The Town will pay the cost of these benefits through June 30, 2023. Beginning July 1, 2023, these benefits will be made available at the employee's own expense.
- b. Employees shall not hold any type of employment during a period of Short-Term Disability. Violation will result in termination of sickness benefits and employment with the Town.
- c. While on Short-Term Disability, the employee will be required to report to their supervisor or HR Director at least once per week to provide a status update as to their condition and approximate date of return to work. During a period of Short-Term Disability, the employee will not accrue sick days, personal days, or vacation days but will continue to participate in other voluntary benefits such as health, life and dental insurances and flexible spending plans on the same basis as active employees as long as they continue to meet the provider's eligibility requirements and employment has not been terminated.
- d. When returning from Short-Term Disability that has crossed fiscal years, an employee will immediately earn sick and personal time on a pro-rated basis similar to new employees as described in Section b of this Subpart above. The difference between the pro-rated sick time award and the normal amount that would have been awarded on July 1<sup>st</sup> will be added to the employee's corresponding accrual.

## 3. Long-Term Disability

- a. Long Term Disability benefits will be made available to benefit-eligible employees by the Town of Littleton. The Town will pay the cost of these benefits through June 30, 2023. Beginning July 1, 2023, these benefits will be made available at the employee's own expense.
- b. Employees shall not hold any type of employment during a period of Long-Term Disability. Violation will result in termination of sickness benefits and employment with the Town.
- c. While on Long-Term Disability, the employee will be required to report to their supervisor or HR Director at least once per week to provide a status update as to their condition and approximate date of return to work. During a period of Long-Term Disability, the employee will not accrue sick days, personal days, or vacation days but will continue to participate in other benefits such as health, life and dental insurances and flexible spending plans on the same basis as active employees as long as they continue to meet the provider's eligibility requirements and employment has not been terminated.

- d. When returning from Long-Term Disability that has crossed fiscal years, an employee will immediately earn sick and personal time on a pro-rated basis similar to new employees as described in Section b of this Subpart above. The difference between the pro-rated sick time award and the normal amount that would have been awarded on July 1st will be added to the employee's corresponding accrual.

#### C. WORKER'S COMPENSATION

Employees injured while on duty will be covered by Worker's Compensation benefits. All work-related injuries that exceed three (3) days will also be covered by FMLA.

Worker's Compensation wages will be governed by G.L. Chapter 152. Employees may supplement any difference between Worker's Compensation wages and the regular straight time rate of pay by first using any accumulated sick time followed by any other accrued leave. During a period of Worker's Compensation leave, the employee will not be awarded sick or personal time or continue to accrue vacation time but will continue to participate in other voluntary benefits such as health, life and dental insurances and flexible spending plans on the same basis as active employees as long as they continue to meet the provider's eligibility requirements and employment has not been terminated. Prior to returning to work after a work-related injury, employees will be required to present a fitness-for-duty certificate addressing their ability to perform the essential functions of the position. When returning from Worker's Compensation leave that has crossed fiscal years, an employee will immediately earn sick and personal time on a pro-rated basis similar to new employees as described in Section (B)(1)(a). The difference between the pro-rated sick time award and the normal amount that would have been awarded on July 1st will be added to the employee's Short-Term Disability Bank.

#### D. PERSONAL LEAVE

##### 1. Personal Days

Personal days provide a means for employees to secure limited time off when such time is needed for important personal reasons. All benefit-eligible employees shall receive three (3) paid personal days on July 1st to use during the fiscal year.

A new employee hired after July 1st shall in that year receive paid personal days as follows:

- a. Three (3) personal days if hired prior to October 1st;
- b. Two (2) personal days if hired prior to January 1st; and
- c. One (1) personal day if hired prior to April 1st.

Personal days will be taken in hourly increments and cannot be carried over into the next fiscal year or paid out upon termination. An employee's request for personal time must be approved by the supervisor prior to use.

## 2. Personal Leave of Absence

A personal leave of absence not to exceed twelve (12) weeks may be granted by an Appointing Authority but shall be without compensation. A leave of absence of over twelve (12) weeks duration shall be considered a break in employment and on return to work the employee shall have the status of a new employee unless an extension of leave beyond twelve (12) weeks has been authorized by the Town Administrator in advance. Unless otherwise stated, personal leaves of absence without pay shall be considered inactive employment, where time spent on such leave does not count as service (time worked) for purposes of seniority, vacation, sick leave, longevity and other benefits. Those employees on an approved leave of absence who are removed from payroll are responsible for remitting their portion of the payment due for health and other insurance premiums to the Treasurer's office within the requested time frame.

## E. BEREAVEMENT LEAVE

Three (3) consecutive working days of bereavement leave with a straight day's pay shall be afforded to employees upon the death of immediate family members in the first degree of kindred to include spouse, parents, stepparents, siblings, stepsiblings, children, and stepchildren, grandparents, step-grandparents, step-grandchildren, and parents of spouse. One (1) day of leave with pay shall be given upon the death of the employee's aunt, uncle, niece, or nephew.

Vacation time will be granted for use as bereavement upon the death of family members not specifically mentioned above. Vacation time will also be granted to those employees who require additional bereavement leave.

## F. PARENTAL LEAVE

The provisions of Section 105D of Chapter 149 of the General Laws of Massachusetts shall govern. When available, this leave is unpaid, unless the employee has accrued paid leave time available. Paid leave must be used concurrently.

## G. FAMILY AND MEDICAL LEAVE ACT

In accordance with Federal law, the Town will grant up to twelve (12) weeks (or up to twenty-six (26) weeks of military caregiver leave to care for a covered service member with a serious injury or illness) during a 12-month period to eligible employees. The leave may be paid, unpaid or a combination of paid and unpaid leave, depending on the circumstances of the leave and as specified in this policy and policies regarding vacation time, sick time and personal time usage. The Town requires the use of accrued, available

paid leave concurrently with FMLA leave. A “Year” for purposes of leave requests is a 12-month period measured forward from the first FMLA usage. A summary of the employee’s rights under FMLA may be reviewed at [www.dol.gov/whd/fmla/employeeguide.pdf](http://www.dol.gov/whd/fmla/employeeguide.pdf).

#### H. SMALL NECESSITIES LEAVE

The Small Necessities Leave Act allows each employee eligible under the Family and Medical Leave Act a total of 24 hours of unpaid leave during any twelve-month period, in addition to leave available under the FMLA, to (1) participate in school activities directly related to the educational advancement of a son or daughter of the employee, such as parent-teacher conferences or interviewing for a new school; (2) accompany the son or daughter of the employee to routine medical or dental appointments, such as check-ups or vaccinations; and (3) accompany an elderly relative (an individual of at least 60 years of age who is related by blood or marriage to the employee) of the employee to routine medical or dental appointments or appointments for other professional services related to the elder's care, such as interviewing at nursing or group homes. If the necessity for leave is foreseeable, an employee must provide the department head with not less than seven days' notice of the need for leave. If the necessity for leave is not foreseeable, an employee shall provide such notice as is practicable. An employee taking leave for any of the aforementioned circumstances may substitute any accrued paid vacation and/or personal leave for any leave provided. The Town requires that the leave be supported by a certification signed by the employee stating the reason for the leave.

#### I. MILITARY LEAVE

A benefit eligible employee who has been granted a military leave of absence because the employee is a member of the Army National Guard, the Air National Guard or a reserve component of the Armed Forces of the United States shall be entitled to receive pay at their regular base salary as such an employee and shall not lose any seniority or any accrued vacation leave, sick leave, personal leave, compensation time or earned overtime. An employee eligible under this section shall be paid their regular base salary as such an employee for each pay period of such military leave of absence, reduced by any amount received from the United States as pay or allowance for military service performed during the same pay period, excluding overtime pay, shift differential pay, hazardous duty pay, or any other additional compensation. For the purposes of this section, the words “active service” shall not include active duty for training or temporary duty in the Army National Guard or Air National Guard or as a reservist in the Armed Forces of the United States.

#### J. DOMESTIC VIOLENCE LEAVE

##### 1. Introduction

The Town is committed to the health and safety of our employees and their families. The Town recognizes that victims of domestic violence, sexual assault, and stalking may suffer from physical, mental, emotional, and sexual

abuse. In an effort to afford victims of these abuses the ability to protect themselves and their families, to ensure the safety of all employees, and pursuant to G.L. c. 149, § 52E, the Town establishes this Domestic Violence Leave Policy. This policy, along with the efforts of our Employee Assistance Program, can be utilized if the need arises for employees to take needed time off to deal with a domestic violence issue.

2. Purpose and Scope

This policy outlines the Town's unpaid Domestic Violence Leave Policy (DVLP) with respect to eligibility, benefits, and use, and to ensure that leave benefits are implemented equitably and consistently.

The Town is committed to the safety of its employees from domestic violence by giving them the necessary tools to deal with domestic violence issues.

3. Applicability

This policy applies to all full and part-time compensated employees. Employees whose positions are covered by a collective bargaining agreement (CBA) or individual contract are subject only to those portions of the policy which are not separately regulated by the CBA agreement or contract.

This policy is intended to be consistent with any and all applicable laws, including specifically G.L. c. 149, § 52E. If any part of this policy is inconsistent with the law, the requirements of law shall apply.

Alleged perpetrators of domestic violence are not entitled to leave under the statute or this policy.

Nothing in this policy limits or prevents the Town from providing time off to employees to address situations of violence not specifically defined in this policy.

4. Definition of Domestic Violence

**Domestic violence** is abuse against the employee or the employee's family member by:

- a. a current or former spouse of the employee or the employee's family member;
- b. a person with whom the employee or the employee's family member shares a child in common;
- c. a person who is cohabitating with or has cohabitated with the employee or the employee's family member;
- d. a person who is related by blood or marriage to the employee; or
- e. a person with whom the employee or employee's family member has or had a dating or engagement relationship.

**Abuse** is defined as the occurrence of one or more of the following acts:

- a. attempting to cause or causing physical harm;
- b. placing another in fear of imminent serious physical harm;
- c. causing another to engage involuntarily in sexual relations by force, threat or duress;
- d. engaging in or threatening to engage in sexual activity with a dependent child;
- e. engaging in mental abuse, including threats, intimidation or acts designed to induce terror;
- f. depriving another of medical care, housing, food or other necessities of life; or
- g. restraining the liberty of another.

**Family members are persons who:**

- a. are married to one another;
- b. are in a substantive dating or engagement relationship and who reside together;
- c. have a child in common regardless of whether they have ever married or lived together;
- d. a parent, stepparent, child, stepchild, sibling, grandparent, grandchild; or
- e. in a guardianship relationship.

5. Notification

A victim of domestic violence, sexual assault, or stalking is strongly encouraged to notify the Town of the existence of a restraining order protecting the employee. Notification should be made to the Human Resources Department. Upon such notification, the Town shall make all reasonable efforts to enforce the restraining order in the workplace. Such efforts may include:

- a. Notifying police of the identity of the person against whom the order is issued (defendant);
- b. Providing security personnel with a photograph or other identifying information, such as motor vehicle information;
- c. After obtaining the employee's permission, having the employee's calls screened;
- d. Moving the employee's workstation away from an unsecured entrance;
- e. If possible, offer that employee a reassignment to a different work location.

Where the victim has requested reassignment, the Town shall respond in a timely manner.

6. Leave

An employee may take up to a maximum of fifteen (15) days of time off in a 12-month period, if either the employee or their family member is a victim of abuse and the employee is using leave from work for him or herself or for the family member to:

- a. Seek or obtain medical attention, counseling, victim services or legal services;
- b. Secure housing;
- c. Obtain a protective order from a court;
- d. Appear in court or before a grand jury;
- e. Meet with a district attorney or other law enforcement official;
- f. Attend child custody proceedings;
- g. Address other issues related to the abusive behavior against the employee or family member of the employee.

The employee must first exhaust all vacation, personal, and sick leave already available to the employee prior to requesting or taking leave under the Domestic Violence Leave Law and use of such leave will run concurrently with Family Medical Leave Act benefits, if applicable. If no accrued time is available, leave under this policy will be unpaid. Leave accruals and employee benefits shall be handled in the same way as is done for any other type of leave without pay. Upon the employee's return from leave,

the Town shall restore the employee to the same position or to an equivalent position, with equivalent employment benefits, pay, and other terms and conditions of employment, provided that the employee has not been displaced from their position in the interim due to a reduction in force.

7. Documentation

The Town requests that the employee provide appropriate advance notice of this leave, unless there is an imminent danger to your immediate health and safety or that of your family member (in which case - we must receive notification within three (3) work days that the leave was taken or is being taken for reasons covered by this policy). Notification may be communicated to the Town by the employee, a family member of the employee, or the employee's counselor, social worker, health care worker, member of the clergy, shelter worker, legal advocate, or other professional who has assisted the employee in addressing the effects of the abusive behavior on the employee or the employee's family member.

In the event that you take this leave, please provide documentation evidencing that you or your family member has been a victim of domestic violence or abusive behavior within thirty (30) days of the leave request. Such forms of documentation may include any one of the following:

- a. A court issued protective order or other documentation issued by a court of competent jurisdiction as a result of abusive behavior against the employee or the employee's family member;
- b. An official document from a court, provider or public agency which the employee attended for the purposes of acquiring assistance as it relates to the abusive behavior against the employee or the employee's family member;
- c. A police report or statement of a victim or witness provided to the police, including a police incident report, documenting the abusive behavior complained of by the employee or the employee's family member;
- d. Official legal documentation that the perpetrator of the abusive behavior against the employee or the employee's 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 policy;
- e. Medical documentation of treatment for the abusive behavior;
- f. A statement signed under the penalties of perjury from the employee attesting that the employee has been a victim of abusive behavior or is the family member of a victim of abusive behavior.
- g. A statement signed under the penalties of perjury from a counselor, a social worker, health care worker, a member of the clergy, shelter worker, legal advocate, or other professional who has assisted the employee or the employee's family member in addressing the effects of the abusive behavior.

All documentation provided to the Town under this policy may be maintained in the employee's personnel file but only for as long as required for the Town to make a determination as to whether the employee is eligible for leave.



The Town will not take negative action against an employee for an unscheduled absence, if, within thirty (30) days from the unauthorized absence or last unauthorized absence in cases of consecutive absences, the employee provides any of the indicated forms of documentation of the need for domestic violence leave.

All information related to the employee's leave shall be kept confidential by the Town and shall not be disclosed, except to the extent that disclosure is:

- a. Requested or consented to, in writing, by the employee;
- b. Ordered to be released by a court of competent jurisdiction;
- c. Otherwise required by applicable federal or state law;
- d. Required in the course of an investigation authorized by law enforcement, including, but not limited to, an investigation by the attorney general; or,
- e. Necessary to protect the safety of the employee or others employed at the workplace.

A form will be completed to document and keep track of the use of this leave. If you have questions at any time as to how this policy applies to you, please do not hesitate to contact the Human Resources Department.

## VIII. HOLIDAYS

- A. All benefit eligible employees shall receive holiday pay for the following 12 holidays:

New Year's Day.....Independence Day  
Martin Luther King, Jr. Day ..... Labor Day  
President's Day ..... Columbus Day  
Patriot's Day ..... Veterans Day  
Memorial Day ..... Thanksgiving Day  
Juneteenth .....Christmas Day

Holiday pay shall be computed based on an 8-hour day. Part-time employees are awarded holiday pay that is prorated by the fraction that the employee works during the week compared to a 40-hour work week (*e.g.*, a 20 hour a week worker is awarded 4 hours of holiday pay). In no event shall holiday pay exceed pay for 8 hours.

An employee whose prorated holiday time causes a shortfall in the total hours paid from the standard work week may use other available leave time to make up the lost pay. As an alternative to using other available leave time, upon the request of the employee and approval by the Department Head/Manager and subject to operational needs, the employee may work the extra hours in that same pay period.

- B. If such holiday falls on a Saturday, the preceding Friday will be observed as a holiday for those departments that are not staffed on Saturday. If the holiday falls on Sunday, the holiday will be observed on the following Monday for those departments not open on a Sunday.

- C. If an employee is on vacation and a holiday falls in that week, the employee will not be required to use a vacation day for the holiday. If an employee is not scheduled to work the day the department closes for the holiday, the employee will be entitled to one (1) floating holiday to be used on a regular scheduled workday and when possible during the same pay period, but not later than thirty (30) days from the holiday.

## IX. JURY DUTY

Employees required to report for jury duty shall submit their notice to their immediate supervisor. Employees will be paid the difference between their regular salary and their jury duty pay if selected for jury duty. Employees should notify their supervisor of their jury status on a daily basis.

## X. INSURANCE

The Town offers the following insurance coverages to its benefit-eligible active employees and certain retirees. The Town has adopted certain provisions of G.L. Chapter 32B which governs the benefit programs available to Town employees and retirees.

### A. HEALTH INSURANCE

#### 1. Active Employees

The Town of Littleton pays 70% and the employee pays 30% of health insurance premiums. The employee's obligation is taken automatically from the employee's paycheck. Health insurance is offered at time of employment or during open enrollment only or may be triggered by a qualifying event with proper documentation of the event supplied by the employee within 30 days of the event.

Any eligible employee not accepting health insurance from the Town must sign a waiver form; at the time of employment and/or annually during the open enrollment period.

Under the COBRA law, employees may be entitled to continued coverage in the Town's group health insurance plan effective upon termination of employment. The employee is responsible for 102% of the premium. Specific information is available at the Human Resources office and will be provided upon separation from employment.

Open enrollment is offered once a year, usually in April. During open enrollment, employees have the opportunity to change their current benefit plans and coverages to suit their personal needs. Employees will be notified by the Human Resources department of the dates of open enrollment and when any changes become effective.

If you are an active employee age 65 or over, you will remain on your current health insurance plan until you retire. At age 65, if you are Medicare eligible, you must apply for Medicare coverage through Social Security and defer your Part B coverage

until retirement. You are entitled to Medicare coverage even if you are not yet collecting Social Security benefits.

An employee who chooses not to retire immediately may apply for Deferred Retirement through the Town Treasurer's Office. All of the employee's plan assets must remain on deposit with the retirement system. The employee electing Deferred Retirement status must remain on the Town's group health insurance plan. The employee will be responsible for 100% of the total premium.

## 2. Retired Employees

Retired employees under age 65 will be covered by the Town's health plans until age 65, at which time they must carry Medicare as their primary insurance and can also be covered by the Town's Medigap insurance plans.

Retired employees not eligible for Medicare will be able to remain on their present coverage upon filing a Medicare health insurance information form available through the Human Resources office.

Employees are eligible for continued medical coverage after retirement if they have been employed by the Town for at least ten (10) years and have been a subscriber in the Town's group health insurance for at least five (5) years prior to retirement. The cost of coverage is 70% paid by the Town and 30% by the retiree.

Surviving spouses of eligible retired employees may continue health coverage after the death of the former employee. The surviving spouse will be responsible for 50% of the total premium with a Town contribution of 50%. All premium payments for retirees and/or surviving spouses will be collected either through a monthly check from the retirement system taken from the retiree's monthly pension benefit or through an automatic withdrawal from the retiree's bank account through ACH debit. Payments for deferred retirees must be made by an automatic withdrawal from their bank account through ACH debit.

## B. LIFE INSURANCE

### 1. Basic Life Insurance

The Basic Life Insurance is for \$10,000. The Town pays 70% and the employee pays 30% of the cost. The employee's obligation is taken automatically from the employee's paycheck. This is term insurance and expires with separation from employment. Retirees' coverage drops to \$5,000. Life insurance is offered to new hires at the time of their employment only. If you do not take this insurance, you must sign a waiver.

### 2. Optional Life Insurance

Employees can carry additional life insurance through Boston Mutual. Rates are based upon the amount of insurance and age. Premiums are fully paid by the employee. You must carry the basic insurance to qualify for the optional. If you should terminate you may continue to carry this policy.

### C. OTHER BENEFITS

Employees may select additional benefits as offered by the Town. The costs of these benefits will be paid entirely by the employee.

## XI. REDUCTION IN FORCE

In the event that it becomes necessary to reduce the number of employees or their hours, the Town, in determining which of its employees are to be terminated, will take into consideration the departmental needs, the qualifications of such employees and the quality of their past performance.

Where, in the opinion of the Appointing Authority, the qualifications and quality of performance of employees are equal, employees will be terminated in the order of reverse seniority as employees of the department.

The employee will be notified whenever possible four (4) weeks in advance of the layoff or reduction in schedule, insofar as practicable.

- A. An employee who has been laid off shall be entitled to recall rights to this same position for a period of two (2) years from the effective date of their layoff.
- B. An employee recalled within one (1) year of their 1st day of layoff will return with service accrued up to the time of the layoff.
- C. Recall notices shall be sent via certified or registered mail. Employees are required to keep the Town informed of their current mailing addresses.
- D. An employee who is recalled must report to work within fourteen (14) calendar days of the date of mailing the recall notice or some other mutually agreed upon time. Failure to do so will be deemed to be resignation from Town employment.

## XII. DISCIPLINARY ACTION

### A. DISCIPLINARY PROCEDURE

Standards of employment conduct are essential to efficient and effective operations. Employees are expected to exercise common sense and good judgment and conduct themselves in a manner that will be a credit to the Town. The Town recognizes that all of its employees have high standards, however, there are times when it may be necessary to discipline individual employees. Disciplinary action may be initiated for failure of an

employee to fulfill responsibilities as an employee or for violations of any provisions in this Employee Handbook. The standards as listed below are not intended to be exhaustive but are provided for illustrative purposes. The Town reserves the right to discipline employees for any conduct it deems inappropriate, whether or not it is enumerated in this handbook. Disciplinary action ranges from reprimand to immediate discharge. The Town is not required to provide progressive discipline.

The following is a non-exhaustive list of examples of conduct that may lead to discipline:

1. Incompetence or inefficiency in performing assigned duties
2. Refusal to perform a reasonable amount of work or violation of any reasonable official order or failure to carry out any lawful and reasonable directions made by a proper supervisor
3. Habitual tardiness or absence from duty
4. Violation of safety rules, practices and policies
5. Engaging in sexual or other harassment
6. Insubordination
7. Fighting on the job – Physical or verbal abuse
8. Theft of Town or another employee's property
9. Falsification of time records
10. Use of illegal substance or alcohol on the job
11. Intentional disclosure of confidential information
12. Misuse or unauthorized use of Town property
13. Fraud in securing an appointment
14. Conviction of a felony
15. Violation of safety rules, practices, policies (after appropriate training)
16. Unauthorized absences during work hours
17. Falsification of Town records

### XIII. COMPLAINT RESOLUTION

It is encouraged that employees who believe that they may have been treated unfairly under this Employee Handbook first discuss the issues with the HR Director. Differences in interpretation may offer a means to resolve issues prior to following the complaint resolution process listed below.

Step 1. Any employee who believes that they have in any manner been unfairly treated in accordance with this Employee Handbook may appeal for relief. An employee must discuss the complaint initially with their direct supervisor. Then, if the matter is not settled, the employee should submit said complaint in writing to the Department Head. The Department Head shall respond in writing, within seven (7) calendar days. If the employee's Department Head is also the immediate supervisor, they should proceed to Step 2.

Step 2. If the employee feels that their complaint is still unresolved, they may appeal to the HR Director within ten (10) calendar days after receiving the decision of the Department Head. The HR Director may require a written statement from the employee in such form and containing

such information as they may require. The HR Director, after consultation with the HR Director as deemed necessary, shall render a decision within seven (7) calendar days. Any decision of the HR Director shall, within seven (7) calendar days of their final decision, be transmitted to the Town Administrator.

#### XIV. INFORMATION TECHNOLOGY ACCEPTABLE USE POLICY

##### A. DEFINITION

The acceptable use of information technology is an important concern for all employees and elected and appointed officials of the Town. Information Technology (IT) Department is defined as:

1. Computers (including servers, desktops, laptops, and handheld devices)
2. Computer-related hardware (including printers, scanners, and other special devices)
3. Software (including networks and the Internet)
4. Telephones, Modems & Handheld devices

Town IT infrastructure includes, but is not limited to, all of the above.

##### B. SCOPE

This policy is an overall guideline for all technology use. Additional policies that address specific issues such as email use, software standards, hardware standards, equipment use, disaster recovery plans and technical support may be adopted.

##### C. PURPOSE

IT should be used primarily for official Town purposes related to the conduct of Town government. Other uses, such as commercial or political use, are expressly prohibited.

##### D. RESPONSIBILITY

###### 1. Incidental Use

Incidental personal use of technology such as email is permitted but subject to monitoring. Costs incurred in the personal use of technology (such as long-distance charges for telephone calls) may be periodically assessed and billed to the user. All data existing within the Town IT infrastructure is considered property of the Town and no assumption of privacy shall be made.

###### 2. Personal Time

Employees who use the Internet/intranet on personal time can enhance their knowledge of electronic information resources and sharpen information technology

skills. By allowing use on personal time, the Town builds a pool of computer literate employees who can guide and encourage other employees. Personal time includes breaks, lunchtime, and the time before and after scheduled work hours. Employees performing job-related use will always have priority over those desiring access to resources for personal use.

3. Appropriate Use

Examples of job-related use of the Internet/intranet include accessing external databases and files to obtain reference information or conduct research, corresponding with the Town's citizens and other town employees, disseminating documents to individuals or groups, and participating in discussion groups on job-related topics.

4. Inappropriate Use

Inappropriate use of technology includes any activity that is illegal, such as the creation or distribution of pornography, and activities such as political lobbying, or personal or business use to benefit those other than the Town.

Email does not have the same privacy safeguards afforded regular mail or telephone communications. A good standard to apply is: Do not send an email you would not want printed on the front page of the local newspaper.

Town IT shall not be used to infringe on the privacy of non-employees.

E. INFORMATION TECHNOLOGY SECURITY

1. System Access

Users are required to maintain the privacy of passwords and are prohibited from publishing or discussing passwords. Should a user suspect that their password or access has been observed or compromised, the user shall immediately notify the IT Department to request a new password.

2. Software Installation

In order to maintain compliance to licensing and copyright law, and to increase security and reliability of systems, software installation is allowed only within the following parameters:

- a. The software is licensed to the Town
- b. The software is included on the Software Standards list (to be supplied)
- c. The person installing the software is expressly authorized to do so by the IT Department

### 3. Hardware & Peripheral Installation

In order to maintain a secure, stable and operational network, hardware and peripheral installation is allowed only within the following parameters:

- a. The equipment is owned by the Town and has been inventoried and accepted for use by the IT Department
- b. The equipment falls within the Equipment Standards list (to be supplied)
- c. The person installing the equipment is expressly authorized to do so by the IT Department
- d. Since all data within the Town IT infrastructure is subject to monitoring and is considered public information, attaching personal equipment (such as laptops or mobile phones) to the Town IT Infrastructure is not permitted.

### 4. Sustainability

Computer users are expected to use hardware and software in a manner that enables its ongoing usage. If a piece of equipment malfunctions, the user is to notify the IT Department in a timely manner so that the equipment may be assessed for damage and replaced or repaired.

### 5. Data Security

All data received from sources outside the Town including the Internet, zip drives, and USB drives are to be scanned for viruses. If any source is questionable, the IT Department should be consulted prior to downloading or uploading data to Town computers.

## F. RULES GOVERNING THE PURCHASE OF INFORMATION TECHNOLOGY

All procurement of Information Technology (as defined in Section A) shall be made through the office of the IT Department. The Chief Procurement Officer for the Town will authorize major purchases.

To achieve some economies of scale and standardization, users are asked to first consult with the IT Department of the need for smaller purchases for such items as zip drives, USB drives, toner, and ink cartridges prior to making their own purchases. If bulk purchases may be made that represent a worthwhile cost saving to the Town, the IT Department will coordinate the purchase and distribution of such materials.

## XV. INFORMATION TECHNOLOGY USE OF EMAIL POLICY

### A. DEFINITION

Email is correspondence transmitted electronically to other computer users in a local, wide area or other network. Email communications often improve relationships between



different departments, facilitating the smooth operation of services.

## B. PURPOSE

It has become common for persons, both at work and at home, to communicate through email. This electronic method of communication has given rise to several issues regarding its proper use by town employees on the job and by town officials who are subject to the state's Open Meeting Law.

This policy directs town employees and elected and appointed officials on the proper and allowed uses of email to ensure town officials comply with the Open Meeting Law and the Public Records Law.

## C. SCOPE

### 1. Use of Email by Town Employees

Email usage through Town equipment or through a Town email address must comply with the following policy:

- a. Email shall be used primarily for matters directly related to the business activities of the Town and as a means to further the Town's mission by providing services that are efficient, complete, accurate and timely.
- b. Employees shall have no expectation of privacy in their use of email. Emails made or received in an individual's capacity as a Town Employee are public records.
- c. No employee shall send email under another employee's name without authorization and no employee shall change any portion of a previously sent email message.
- d. Email shall not be used for outside business activities, political activity, fundraising activity, or charitable activity not sponsored by the Town.
- e. Email shall not be used to promote discrimination on the basis of ethnicity, race, color, national origin, age, marital status, sex, gender identity, political affiliation, religion, disability, sexual orientation, active-duty military status, or veteran status; promote sexual harassment; or to promote personal, political or religious business or beliefs.
- f. Occasional, incidental personal use of email is permitted but subject to monitoring.
- g. Employees shall not permanently delete emails from electronic hardware.

### 2. Use of Email by Town Boards and Committees

The Open Meeting Law states that "all meetings of a public body shall be open to the public" except as provided section 21 of G.L. c. 30A. A meeting is defined as "a deliberation by a public body with respect to any matter within the body's jurisdiction," unless excepted by law.

Like private conversations held in person or over the telephone, email conversations among a quorum of members of a public body that relate to public business violate the Open Meeting Law, as the public is deprived of the opportunity to attend and monitor the email meeting. Private conversations should also be avoided as serial conversations may reach a quorum of members without the knowledge of all participants.

Certain “housekeeping” matters may be communicated outside of a meeting. Examples include meeting scheduling and cancellations, announcements and directions, requests to put items on an agenda and communications by members of a public body to department heads or staff. Care must be taken not to use such communications to conduct deliberations.

Despite the speed and convenience of email its use by members of a public body carries a high risk of violating the Open Meeting Law. For this reason, email messages among members of a public body are only to be used for matters of a purely housekeeping, reporting, or administrative nature.

Emails of public bodies are subject to the Public Records Law and emails made or received in an individual’s capacity as a member of a Town board or committee are public records. Further, emails sent from a private account are public records if the subject matter of the emails are under the jurisdiction of an individual as a member of a Town board or committee.

## D. RESPONSIBILITY

### 1. IT Department

It is the responsibility of the IT Department or designee to provide this policy to users of email when providing a Town email account.

The IT Department will provide licenses and updates to the email client programs as needed. The Systems Manager or designee will assure that email accounts are properly set up to archive email. Email to be archived includes only that material which, if in paper format, would be subject to record retention policies. Email of a housekeeping nature, such as scheduling a meeting or inquiring about office hours need not be retained.

The IT Department will provide access to training on the standard email software. The IT Department will also provide advice on the use of folders within the standard email software to facilitate archival and retrieval of email.

### 2. Department Heads

The Department Head is responsible for ensuring that any employee who will be

given access to Town IT infrastructure abides by this policy. The IT Department will not give access to an employee unless it receives a copy of the agreement signed by the employee and the Department Head.

## XVI. SOCIAL MEDIA POLICY

### A. PURPOSE AND APPLICABILITY

The way in which people communicate continues to evolve due to the rise of internet-based communication tools. The Town recognizes the many new opportunities for communication created by these tools to communicate official information to the public and wishes to encourage the responsible use of official Town social media channels of communication. Use of these tools creates new responsibilities for Town employees, boards, and commissions. The purpose of this policy is to provide guidance to clarify the boundaries between appropriate and inappropriate use of official Town-sponsored social media. It describes guidelines and requirements for Town employees and agents when using Town official social media as defined below.

### B. DEFINITIONS OF SOCIAL MEDIA

1. Any Town-related website
2. Social networking websites (e.g., Facebook, Twitter, Instagram, Snap Chat, Gather.com, Yahoo! Groups, LinkedIn etc.)
3. Multimedia sharing websites (e.g., Flickr, YouTube, Vimeo, Google, Pinterest)
4. Blogs (e.g., WordPress, Blogger, Medium, Moveable Type, Typepad.)
5. Wikis (e.g., Wikipedia, PBworks)
6. Forums and discussion boards (e.g., Google Groups, Yahoo! Groups)
7. Personally managed websites, blogs, etc.
8. Online polls and surveys (e.g. Doodle, Survey Monkey)
9. Any other Internet-accessible site on which an individual user can post text, media, etc.

### C. POLICY GUIDANCE

Before making any posting on any site, official or unofficial, that identifies you as an employee or agent of the Town, or that refers to the Town or any of its entities, consider whether you risk damaging the Town's reputation, legal obligations, contract negotiations or personnel issues, or that of any of its entities. Please be aware that the Conflict of Interest Law places limitations on your use of official information that confers unwarranted advantages upon you, your immediate family, or those who might benefit from "inside" information. Accordingly, your social media must not disclose any information that is confidential or proprietary, the subject of any active litigation, labor negotiations, or personnel issues. You must also adhere to the Open Meeting Law and the Public Records Retention Laws.

If you post, you must do so in a way that is not defamatory. Defamatory statements that you make are your own responsibility, and the Town will not defend you from the consequences of your personal actions. In addition, your posts or comments on social media even if on personal time and private sites may subject you to discipline or termination if in violation of a Town policy.

1. Official Use of Social Media: Access Restrictions

Access to social media sites is restricted to Town employees performing official Town business. The Town reserves the right to deny access to Town social media sites for any individual who violates the Town's Social Media Policy. Any person's comment(s) that violate the Town's Social Media Policy will not only be removed, but the person posting the comment may be blocked/banned from the social media site at the Town's discretion.

2. Content Management (right to remove content, correct method to reach out to report issues or file complaints)

The Town reserves the right to restrict or remove any content that is deemed in violation of this Social Media Policy. Comments and postings not relevant to official Town business may be removed at the discretion of the Town.

A social media account is not the appropriate channel to report issues or concerns or to file a complaint. The Town expects all conversations to follow the rules of polite discourse and asks that participants treat each other, as well as our employees, with respect.

Comments may be monitored and may be subject to removal at the discretion of the Town. Certain comments will not be permitted based on inappropriate comments containing, but not limited to, any of the following:

- a. Comments not related to the original topic
- b. Profane, obscene, violent, or pornographic content and/or language
- c. Content that promotes discrimination on the basis of race, creed, color, religion, age, gender, sexual orientation, or national origin
- a. Defamatory or personal attacks
- b. Threats
- c. Comments relative to political campaigns
- d. Solicitation
- e. Violations of any federal, state, or local law
- f. Illegal activity

3. Usage Restrictions (Example: no promoting private businesses & managing threatening comments)

The Town's social media sites will not be used to advertise or promote private

business, not-for-profit organizations, or other non-municipal entities unless the Town has a role in planning, permitting, licensing, project implementation, or activities related to the non-municipal entity.

Any comments deemed to be a threat to any Town officials, employees, board or committee members, citizens, local businesses, etc. are prohibited and may be subject for review by the public safety authorities. Representation of the Town or any of its employees, agents, board and committee members, or affiliates may only be initiated or authorized by the Town Administrator.

You may not misrepresent any site as a Town official social media site. Use of the Town name or Town Seal is prohibited unless approved by the Town Administrator or their designee. Misuse of the Town Seal is a criminal act punishable pursuant to G.L. c. 268, § 35. Any use where an appointed employee or agent of the Town speaks as a representative of the Town must be approved through the official chain of command, with prior permission granted.

#### 4. Sanctions

Failure to comply with this policy may lead to violations of law and disciplinary action where appropriate.

## XXVII. MUNICIPAL WIRELESS TELEPHONE USAGE POLICY

### A. PURPOSE

This policy is to provide efficient and consistent standards and procedures for the use and maintenance of cellular telephone technology by employees of the Town to whom a wireless telephone has been issued, and to provide effective organizational communication and cost management associated with acquiring and operating cellular telephones.

### B. ADMINISTRATION POLICY

The Town Administrator shall be responsible for determining who is eligible for a Town-issued cell phone or for reimbursement for the use of a personal cell phone for Town business. The Town Administrator will evaluate the service plan and determine the most appropriate and cost-effective plan. The Town Administrator will administer and oversee the cell phones and shall identify issues and concerns regarding cell phone usage to be addressed by employee supervisors, or the Town Administrator.

### C. PROCEDURE

1. Minimum Standards and Criteria for Issuance – To be assigned a Town issued cell phone or to be eligible for reimbursement, an employee must meet at least one of the following criteria:

- a. Department Heads may request the issuance of cellular phones for Town employees whose duties and responsibilities require they maintain constant, though intermittent, contact with private citizens, customers and colleagues and who spend a significant portion of their workday in or in immediate proximity to a motor vehicle. In general, Department Heads should be available via cellular device.
- b. Town employees who by title and responsibility routinely serve or are subject to serve in command or field coordinator roles for actual incidents or events, or rehearsals for such, where individual or public safety and wellbeing may be threatened.
- c. Town employees with whom immediate and direct telephonic communication is necessary in the performance of their professional responsibilities and organizational duties.
- d. Town employees for whom assigned duties and responsibilities require mobile communication access, and a cellular telephone provides economic or functional benefits over and above other means of communication, such as:
  - i. Employees with whom, in the performance of their job, it is necessary to be in 24 hour per day contact;
  - ii. Employees for whom for the purposes of confidentiality, use of other communication tools is deemed inappropriate;
  - iii. Employees for whom in the performance of their professional responsibilities the employee's personal safety or the safety of others is at risk;
  - iv. Employees who, in the performance of their professional responsibilities, are frequently required to supervise activities outside of the normal workplace at facilities and sites normally inaccessible; and
  - v. Employees who need to be in ready contact with Police and/or Fire personnel.
- e. Departmental 'pool' phones allocated for shared usage within a department are the responsibility of the department manager. Managers shall ensure phones are allocated as responsibilities warrant and are maintained for proper operation.

## 2. Justifying and Requesting a Cellular Telephone

Department Heads who request that an employee be allocated a cellular phone or for reimbursement shall make a written request to the Town Administrator for review and recommendation. The request shall include justification of need, function, and funding source.

3. Review and approval of Cellular Telephone Requests

The Town Administrator shall have final authority for determining that cellular technology is the most appropriate communication technology for the employee.

4. Acquisition and Replacement

- a. Acquisition and replacement will be in accordance with the Town's procurement policy.
- b. The Town Administrator shall make a recommendation on the most appropriate cell phone and plan based on an employee's job responsibilities.
- c. The Department Head shall contact The Town Administrator to have any phone repaired and replaced if necessary.

D. USE OF CELLULAR PHONES

All employees assigned a cell phone must sign the Acknowledgement of Receipt of Municipal Wireless Telephone Usage Policy before being allocated a phone. Cell phones are acquired with public funds and are so acquired to enable Town employees to transact the public's business in the most efficient and cost-effective method possible. Cell phone numbers are the property of the Town and are not transferable and shall be used in the same manner and with the same care and stewardship as all public resources.

The use of a Town-issued cell phone is to conduct official business. The use of cell phones should never interfere with an employee's attention to duty and should never be used when engaged in safety-sensitive functions requiring the employee's full attention. Sending photos or text messaging is prohibited unless it can be clearly linked to the conduct of official Town business. Additionally, employees should limit the use of their personal cell phones, in frequency and duration, to the greatest extent possible during hours of employment. This includes incoming as well as outgoing phone calls. Personal calls should not interfere with an employee's duties and should not impact an employee's productivity.

Regardless of whether a Town-owned cell phone is being used for public or incidental personal purposes, non-public safety employees shall not initiate a cell phone call while they are driving a motor vehicle or operating equipment. Non-public safety employees who receive a cell phone call while driving a motor vehicle or operating equipment are required to stop the vehicle/equipment in a safe location so that communication is held while the vehicle is stopped. The use of "hands free" technology is acceptable as long as it does not interfere with the safe operation of the vehicle. Public Safety (police, fire) employee use of Town-owned cell phones while driving a motor vehicle will be governed by departmental policy. Employees shall follow the laws of the Commonwealth as they relate to the use of mobile devices while driving.

FLSA exempt employees assigned cell phones shall power-on cell phones at all times during their workday, while on-call, and while not accessible by other means of telecommunication.

#### E. MONITORING

Immediate supervisors and Department Heads are responsible for monitoring the use of cell phones to ensure they are being used appropriately in accordance with this policy.

The Department Head shall be responsible to address inappropriate use, abuse, or failure to adhere to established policies. Inappropriate use of cell phones shall be reported to the respective Department Head with a copy to the Town Administrator.

The Town shall make provisions for providing cellular telephone communication capabilities to employees who, on an intermittent basis, meet the criteria for cell phone issuance.

The Town Administrator and/or Department Heads have the right to revoke, reevaluate, or deny use, issuance or assignment of cell phones at any time.

### XXVIII. CRIMINAL OFFENDER RECORD INFORMATION (CORI)

This policy is applicable to the criminal history screening of prospective and current employees, subcontractors, volunteers and interns, professional licensing applicants, and applicants for the rental or leasing of housing. Where CORI and other criminal history checks may be part of a general background check for employment, volunteer work, licensing purposes, or the rental or leasing of housing, the following practices and procedures will be followed.

The Town currently has four departments authorized to access CORI: Police, Park and Recreation, School, and Human Resources. Each department is responsible for complying with CORI regulations as defined in Chapter 256 of the Acts of 2010 and G.L. c. 6, § 172. Human Resources will conduct CORI checks for all departments without CORI access.

#### A. Conducting CORI Screening

CORI checks will only be conducted as authorized by the DCJIS and G.L. c. 6, §172, and only after a CORI Acknowledgement Form has been completed. With the exception of screening for the rental or leasing of housing, if a new CORI check is to be made on an individual within a year of their signing of the CORI Acknowledgement Form, the individual shall be given seventy-two (72) hours' notice that a new CORI check will be conducted. If a requestor is screening for the rental or leasing of housing, a CORI Acknowledgement Form shall be completed for each and every subsequent CORI check.

#### B. Access to CORI

All CORI obtained from the DCJIS is confidential, and access to the information must be limited to those individuals who have a "need to know". This may include, but not be limited



to, hiring managers, staff submitting the CORI requests, and staff charged with processing job applications. Human Resources will maintain and keep a current list of each individual authorized to have access to, or view, CORI. This list must be updated every six (6) months and is subject to inspection upon request by the DCJIS at any time.

C. CORI Training

An informed review of a criminal record requires training. Accordingly, all personnel authorized to conduct criminal history background checks and/or to access or review CORI information at the Town must review, and be thoroughly familiar with, the educational and relevant training materials regarding CORI laws and regulations made available by the DCJIS.

D. Use of Criminal History in Background Screening

CORI used for employment purposes shall only be accessed for applicants who are otherwise qualified for the position for which they have applied. Unless otherwise provided by law, a criminal record will not automatically disqualify an applicant. Rather, determinations of suitability based on background checks will be made consistent with this policy and any applicable law or regulations.

E. Verifying an Individual's Identity

If a criminal record is received from the DCJIS, the information is to be closely compared with the information on the CORI Acknowledgement Form and any other identifying information provided by the applicant to ensure the record belongs to the applicant. If the information in the CORI record provided does not exactly match the identification information provided by the applicant, a determination is to be made by an individual authorized to make such determinations based on a comparison of the CORI record and documents provided by the applicant.

F. Inquiring about Criminal History

In connection with any decision regarding employment, volunteer opportunities, housing, or professional licensing, the subject shall be provided with a copy of the criminal history record, whether obtained from the DCJIS or from any other source, prior to questioning the subject about his or her criminal history. The source(s) of the criminal history record is also to be disclosed to the subject.

G. Determining Suitability

If a determination is made, based on the information as provided in Section E of this policy, that the criminal record belongs to the individual, and the subject does not dispute the record's accuracy, then the determination of suitability for the position or license will be made. Unless otherwise provided by law, factors considered in determining suitability may include, but not be limited to, the following:

1. Relevance of the record to the position sought;
2. The nature of the work to be performed;
3. Time since the conviction;
4. Age of the candidate at the time of the offense;
5. Seriousness and specific circumstances of the offense;

6. The number of offenses;
7. Whether the applicant has pending charges;
8. Any relevant evidence of rehabilitation or lack thereof; and
9. Any other relevant information, including information submitted by the candidate or requested by the organization.

H. Adverse Decisions based on CORI

If an authorized official is inclined to make an adverse decision based on the results of a criminal history background check, the applicant will be notified immediately. The subject shall be provided with a copy of the organization's CORI policy and a copy of the criminal history. The source(s) of the criminal history will also be revealed. The subject will then be provided with an opportunity to dispute the accuracy of the CORI record. Subjects shall also be provided a copy of DCJIS' ***Information Concerning the Process for Correcting a Criminal Record.***

I. Secondary Dissemination Logs

All CORI obtained from the DCJIS is confidential and can only be disseminated as authorized by law. A central secondary dissemination log shall be used to record *any* dissemination of CORI outside of authorized individuals, including dissemination at the request of the subject.

XIX. VEHICLE USAGE POLICY

A. PURPOSE

1. The purpose of this policy is to establish guidelines and standards for:
  - a. Vehicle Uses – Municipal, Personal, and Stipends
  - b. Personal Vehicle Use for Work Related Travel
  - c. Municipal Vehicle Assignments
  - d. Commuting and Imputed Tax
  - e. Vehicle Accident Reporting
  - f. Responsibilities When Driving a Municipal or a Personal Vehicle
  - g. Policy Exemptions

B. APPLICABILITY

The policy applies to all employees of the Town unless specifically mentioned in a similar policy by a governing board. For the purposes of this policy, vehicles purchased by the Light & Water Departments are governed by the Light & Water Commissioners. Vehicles purchased by the School Department are governed by the School Committee. All other Town vehicles will be governed by the Town Administrator regardless of department and/or Appointing Authority.

If any provision of this policy violates any governing law or regulation, or if any law or regulation applicable to this policy becomes effective after the effective date of this policy, then this policy shall be deemed changed to be in compliance with such governing law or regulation.

C. DEFINITIONS

**Vehicle Stipend** – the amount approved by the Town Administrator to compensate an employee for regular and routine use of a Personal Vehicle for work related travel. Vehicle Stipends are considered compensation and as such are subject to taxation.

**Expense Reimbursement** – payment for approved expenses relating to Personal Vehicle use upon receipt of written documentation. Expense reimbursement is not considered to be compensation.

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

**Personal Vehicle** – a vehicle owned or available for private use by the employee.

**Commuting** – the use of a Municipal Vehicle for travel between the employee’s residence and his or her principal work location. Under Internal Revenue Service (IRS) regulations, the benefit of using a Municipal Vehicle for commuting is considered taxable income to an employee and the value of the personal use of the Municipal Vehicle will be included in his or her compensation.

#### D. VEHICLE USES

##### 1. Municipal Vehicles

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

##### 2. Personal Vehicles

It is the policy of the Town to reimburse employees for reasonable expenses which they incur as a result of Personal Vehicle use on behalf of the Town. Receipts and expense reports must be submitted in a timely manner in order for employee to be reimbursed for such expenses.

##### 3. Vehicle Stipend

It is the policy of the Town that in the event an employee is required to use his or her Personal Vehicle on a year-round basis, and that employee has not been assigned a Municipal Vehicle, the Town Administrator may authorize the payment of a Vehicle Stipend. Such stipend may be rescinded at any time and will not be paid in combination with personal automobile expense reimbursement.

#### E. ADMINISTRATIVE REQUIREMENTS

##### 1. Reimbursement of Work-Related Travel Expenses

When an employee is authorized to use a Personal Vehicle for work-related travel, he or she shall be reimbursed for mileage at the IRS standard mileage rate, unless covered by contract or stipend. Employees will be notified by the Accounting Department of any changes to the IRS rate which typically changes every January 1. In addition to the mileage rate, the Town will reimburse employees authorized to travel outside of the Town, driving a Personal or Municipal Vehicle, within the scope of employment, for tolls and reasonable parking expenses, when receipts are provided.

Employees receiving a Vehicle Stipend may be reimbursed for reasonable parking expenses. Those employees will not be reimbursed for tolls that are paid by the employee during his or her normal commute to work.

In order to be reimbursed for Personal Vehicle use, employees must complete a Reimbursement Expense Form provided by the Accounting Department and submit the same with appropriate supporting documentation and/or receipts in a timely manner. Employees will not be reimbursed for commuting between their homes and offices or other regular work locations or any other personal use.

2. Insurance

Employees who are authorized to use Personal Vehicles for work related travel are required to show proof to the Accounting Department, on an annual basis, of the following minimum levels of insurance coverage:

- a. • Bodily Injury: \$100,000/\$300,000
- b. • Property Damage: \$50,000

F. MUNICIPAL VEHICLES

1. Employees are required to have a valid motor vehicle license for the class of vehicle to be operated issued by the Commonwealth of Massachusetts or their state of current residence and must show proof of such valid license to their Supervisor or Department Head prior to being assigned a Municipal Vehicle. Prior to the assignment of a municipal vehicle, a copy of the operator's Massachusetts driving record will be reviewed.
2. Employees authorized to use municipal vehicles may be subject to periodic driving record checks through the Registry of Motor Vehicles. Driving records may be reviewed by the HR Department, Department Head, and/or the Town Administrator. Employees may be disqualified from driving municipal vehicles if driving records indicate a safety concern.
3. Assignment of Municipal Vehicles
  - a. The assignment of Municipal Vehicles with commuting privileges (24-hour access) will be made by the Town Administrator and will only be considered for employees who require a vehicle for the ordinary and necessary discharge of their job functions, as identified in an approved position description provided by the Department Manager and Human Resources Department. The following criteria will be used in the determination of eligibility for 24-hour vehicle use:
    - i. Bona-fide non-compensatory reason that requires commuting in the municipal vehicle;
    - ii. Officially designated 24-hour on-call status;
    - iii. Requirement for frequent emergency availability during non-working hours;
    - iv. Issuance of a pager or other communication device; and/or
    - v. Emergency or other equipment contained in the vehicle.The vehicles classified as 24-hour emergency use for the Town are:
    - i. Police and Fire Chiefs
    - ii. Police and Fire Deputy Chief
    - iii. Police Lieutenants and Detectives (unmarked)
    - iv. DPW Director
    - v. Highway Superintendent
    - vi. Highway General Foreman
    - vii. On-Call Water Employee Vehicle
    - viii. On-Call Light Employee Vehicle

The following Municipal Vehicles should be secured on Town premises at the close of business:

- i. All other Police and Fire Vehicles
  - ii. Park and Recreation Vehicles
  - iii. Cemetery Vehicles
  - iv. Building Commissioner Vehicle
  - v. Light Department Vehicles
  - vi. Water Department Vehicles
  - vii. MART Vehicles
  - viii. School Department Vehicles
  - ix. Assessing Vehicles
  - x. LCTV Vehicles
- b. Municipal Vehicle assignments may be rescinded in writing at the discretion of the assigning authority. Allowance of commuting privileges to non-emergency municipal vehicles may be made by the Town Administrator (*see Attachment A*).
- c. The reimbursement of fuel costs associated with personal use of vehicles is included in the payment at the IRS standard mileage rate. If an employee's personal vehicle is supplied fuel by the Town, the employee shall reimburse the Town at cost. Failure to do so will cause the Town-supplied fuel to be treated as imputed income to the employee.
- d. The Town may install GPS monitoring systems in any Municipal Vehicle.
4. Employees authorized to commute in a Municipal Vehicle may be subject to imputed income regulations as set forth by the Internal Revenue Service, which considers a certain portion of the vehicle use (namely the commute) to be income for the purposes of taxation. The Town Treasurer shall be responsible for determining any tax liability and will be provided with the names of all employees authorized to use Municipal Vehicles for commuting purposes. In the first year of service, the employee will provide an estimate of both total miles and personal miles they anticipates driving during the following reporting period. The normal commuting distance of the employee will be used as a minimum estimate of personal miles driven during the reporting period. Each subsequent December 1<sup>st</sup>, the employee will be required to submit a *Mileage Reporting Form* (see Attachment E) as well as a copy of their mileage log. Any true-up between the estimated personal miles and the actual personal miles driven will occur in December of each year.
- Employees who are assigned marked and unmarked police vehicles, and/or Municipal Vehicles that meet eligibility criteria as defined under 26 CFR 1.274-5T will not be subject to imputed income taxation as a result of the vehicle assignment. This includes Police and Fire Chiefs, Police Deputy Chief, Lieutenants and Detectives.

#### G. RULES AND RESPONSIBILITIES

Employees who drive a Municipal or Personal Vehicle are responsible for, but not limited to, the following:

1. Municipal Vehicles may only be used for legitimate municipal business.
2. Individuals assigned a Municipal Vehicle with commuting privileges may take "incidental personal uses" such as stopping at a grocery store or going to the bank on their way home.

3. Operators should exercise sound judgment at all times when using assigned Municipal Vehicles and should avoid the appearance of misuse.
4. The Massachusetts Conflict of Interest Law discusses unwarranted privileges. Using public equipment or resources for unauthorized personal use constitutes use of an official position to obtain an unwarranted privilege not similarly available to others. Misuse of an assigned Municipal Vehicle is an ethics violation.
5. Municipal Vehicles shall 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, etc.). Family members shall not ordinarily be transported in Municipal Vehicles unless prior approval is granted by the Town Administrator. Police Officers transporting individuals in the performance of their normal job duties are exempt from this provision.
6. The use of Personal Vehicles for transporting individuals unrelated to municipal business shall not occur on Town work time.
7. Municipal Vehicles shall contain only those items for which the vehicle is assigned and the operator's necessary personal items.
8. The Town shall not be liable for the loss or damage of any personal property transported in the Municipal Vehicle or for any personal property while using their Personal Vehicle for work related travel.
9. Employees are expected to keep Municipal Vehicles clean, and to report any malfunction, damage, needed repairs or other vehicle problems to their supervisors immediately.
10. Employees assigned Municipal Vehicles for commuting purposes are expected to park such vehicles in safe locations and to lock the car when not in use. Operators should never leave vehicles unattended with the ignition keys in the lock or anywhere in the vehicle.
11. Unless expressly exempted by law, employees are to ensure that they and all passenger(s) in a Municipal Vehicle wear seat belts at all times, if the Municipal Vehicle is so equipped.
12. All operators assigned a Municipal Vehicle will be tested for drugs and alcohol as provided by US DOT regulations and the Town's drug/alcohol policy.
13. Employees may not operate Municipal Vehicles or Personal Vehicles being used for work-related travel under the influence of alcohol, illegal drugs, or any controlled substances, including prescription medications for which driving is contraindicated.
14. Employees are prohibited from possessing alcoholic containers, illegal drugs, or controlled substances in a Municipal Vehicle or in a Personal Vehicle being used for work related travel.
15. Police Officers who are required to carry prohibited items in performing their normal job duties are exempt from applicable provisions.
16. Employees operating a Municipal Vehicle or a Personal Vehicle while on work-related travel must maintain a valid motor vehicle license issued by the Commonwealth of Massachusetts or the state of their current residence, which must be provided upon request by a Supervisor during a specific or periodic license check.

17. Employees operating a Municipal Vehicle or a Personal Vehicle while on work-related travel shall drive defensively and obey all applicable traffic and parking regulations, ordinances, and laws.
18. Employees who incur parking or other fines/citations while operating or using an assigned Municipal Vehicle or using a Personal Vehicle on work related travel are personally responsible for payment of such fines/citations.
19. Employees who are issued citations for any offense while operating or using a Municipal Vehicle must notify their Supervisor immediately when practicable, but in no case later than 24 hours after the issuance of an issued citation.
20. An employee who is assigned a Municipal Vehicle and who is arrested for or charged with a motor vehicle offense for which punishment includes suspension or revocation of the motor vehicle license, whether in his or her Personal Vehicle or in a Municipal Vehicle, must notify his or her Supervisor immediately when practicable, but in no case later than 24 hours after such arrest or charge has occurred. License suspension or conviction of an offense may be grounds for loss of Municipal Vehicle privileges.
21. No employee may use a Municipal Vehicle for out-of-state use without advance approval of the Town Administrator.
22. When utilizing a Municipal Vehicle, employees are required to obtain fuel from designated Municipal fueling facilities, unless fueling is required in the course of out-of-town travel.
23. Smoking is not permitted in a Municipal Vehicle. Those utilizing a Personal Vehicle for work related travel should be considerate of others in the vehicle who do not smoke.
24. Drivers misusing Town vehicles may be held personally liable for damages to persons or property, as well as their own legal expenses and defense, since the driver is acting outside the course and scope of permitted Town business. Drivers who misuse Town vehicles are also subject to disciplinary action by the Town.

#### H. CELLULAR PHONES AND HANDHELD ELECTRONIC DEVICES

The use of cellular phones and handheld electronic devices is governed by the Town's *Municipal Wireless Telephone Usage Policy*.

#### I. VEHICLE ACCIDENTS

When an employee using a Municipal Vehicle or Personal Vehicle on work-related travel is involved in a motor vehicle accident, the operator must:

1. Stop the vehicle
2. Obtain the following information:
  - a. Name(s) and address(es) of the other driver(s);
  - b. Drivers license number(s) of the other driver(s);
  - c. Name(s) and address(es) of the owner(s);
  - d. Registration number(s) of the other vehicle(s) involved;
  - e. Name(s) and address(es) of other driver(s) insurance company(ies); and,
  - f. Name(s) and address(es) of any witness(es) to the accident.
1. Do not admit liability for the accident, even if the employee believes it was their fault.
2. Immediately report details to the employee's immediate supervisor.
3. When any person has been injured and/or when vehicles have suffered significant damage, the local or state police must be called to the scene.

4. Do not move the vehicle in these circumstances until authorized by the police.
5. Unless an injury prevents the operator from doing so, they must fill out a Vehicle Accident Report within 48 hours of the accident. A blank copy of the form may be obtained from the Accounting office. The completed VAR shall be filed with their direct Supervisor.
6. The Supervisor shall ensure all information is in the report and file a copy with the Town Administrator's office.
7. The Supervisor shall also file a copy with the Human Resources Department for placement in the employee's personnel file.

J. 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 describe every situation that might arise. Employees seeking clarification of this policy should contact their supervisor or the HR Department. Exemptions from certain provisions of this policy may be authorized by the appropriate governing body (i.e., Select Board, School Committee, Light and Water Commissioners), under mitigating circumstances, at the request of the Department Head. Such exemptions must be documented and signed off by the employee (see Attachment B), approved by the appropriate governing board, and noted by the Human Resources Department, so as to be placed in the employee's personnel file.

K. EXEMPTIONS

Exemptions to the Vehicle Use Policy are strictly limited. Exemptions that will increase the liability to the Town are prohibited. Issues related to insurance coverage, transportation of individuals unrelated to municipal business, operating a vehicle without a valid motor vehicle license, are examples of what may not be exempted.

XX. ALCOHOL AND DRUGS/CONTROLLED SUBSTANCES USE AND TESTING POLICY

The Town has a long-standing commitment to maintain the highest standards for employee and public safety and health and the misuse of alcohol or the use of drugs/controlled substances is contrary to these high standards. The purpose of the Policy is to reduce accidents that result from the misuse of alcohol or the use of drugs/controlled substances, thereby reducing fatalities, injuries, and property damage.

The use or possession of alcoholic beverages or drugs/controlled substances by Town employees while on Town property, in any Town vehicle, or on Town time, including breaks or lunchtime, paid or unpaid, during any shift, is prohibited.

Any applicant or employee who is required to hold a Commercial Driver's License or who performs safety-sensitive functions will be subject to the alcohol and drugs/controlled substances testing provisions of this policy. The Town has implemented the Federal Highway Administration ("FHA") Alcohol and Drug Testing Regulations as set forth in 49 CFR Parts 382, 391, and 392, and the Department of Transportation, Procedures for Transportation Workplace Drug and Alcohol Testing Programs as set forth in 49 CFR Part 40, and as they may be amended.

A. DEFINITIONS

Any term which is not defined shall be given its ordinary common sense meaning. Unless the context indicates otherwise, the terms defined herein shall have the following meanings:

***Accident***



1. Except as provided in paragraph (b) of this definition, an occurrence involving a commercial motor vehicle operating on a public road which results in:
  - a. A fatality;
  - b. Bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or
  - c. One or more motor vehicles incurring disabling damage as a result of the accident, requiring the vehicle to be transported away from the scene by tow truck or other vehicle.
2. The term *accident* does not include:
  - a. An occurrence involving only boarding and alighting from a stationary motor vehicle; or
  - b. An occurrence involving only the loading or unloading cargo; or
  - c. An occurrence in the course of the operation of a passenger car or a multipurpose passenger vehicle (as defined in 49 CFR §571.3) by a motor carrier and is not transporting passengers for hire or hazardous materials of type and quantity that require the motor vehicle to be marked or placarded in accordance with 49 CFR §177.823.

***Alcohol*** - the intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohols including methyl or isopropyl alcohol.

***Alcohol Concentration or Content*** - the alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test.

***Alcohol Test*** - a test conducted by a Breath Alcohol Technician or any other person approved by the Department of Transportation rules, using an Evidential Breath Testing Device to measure the amount of alcohol concentration in a volume of breath, or any other test used to detect the presence of alcohol that is approved by the Federal Highway Administration (FHWA).

***Alcohol Use*** - the consumption of any beverage, mixture, or preparation, including any medication containing alcohol.

***Breath Alcohol Technician (BAT)*** - an individual who instructs and assists individuals in the alcohol testing process and operations an EBT.

***Commercial Motor Vehicle*** - means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:

1. Has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds; or
2. Has a gross vehicle weight rating to 26,001 or more pounds; or
3. Is designed to transport 16 or more passengers, including the driver; or
4. Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations (49 CFR part 172, subpart F).

***Confirmation Test***

1. For alcohol testing, a confirmation test means a second test following a screening test with a result greater than 0.00 that provides quantitative data of alcohol concentration. Confirmation of the screening test must be by an Evidential Breath Testing (EBT) device listed on the National Highway Traffic Safety Administration's (NHTSA)

Conforming Products List (CPL), and must be capable of printing out each test result and air blank, and must sequentially number each test.

2. For drugs/controlled substances testing, a confirmation test means a second analytical procedure to identify the presence of a specific drug or drug metabolite which is independent of the screen test and which uses a different technique and chemical principal from that of the screen test in order to ensure reliability and accuracy. (Gas Chromatography/Mass Spectrometry (GC/MS) is the authorized confirmation method for cocaine, marijuana, opiates, amphetamines, and phencyclidine).

**Covered Employee** - includes drivers as defined herein, mechanics, and individual who loads or unloads the vehicle, or any other individual who performs a safety-sensitive function.

**Driver** - Any person who operates a commercial motor vehicle, including, but not limited to, full-time, part-time, regularly employed drivers, casual, intermittent or occasional drivers, leased drivers and independent, owner-operator contractors who are either directly employed by or under lease to the Town or who operate a commercial motor vehicle at the direction of or with the consent of the town. For the purposes of pre-employment/pre-duty testing only, the term *driver* includes an individual applying to the Town for a position which involves the operation of a commercial motor vehicle.

**Drug/Controlled Substance** - Controlled substances include cocaine, marijuana, opiates, amphetamines, and phencyclidine and any other substance determined by the U.S. or the Commonwealth of Massachusetts to be a drug/controlled substance.

**Evidential Breath Testing Device (EBT)** - An EBT approved by the National Highway Traffic Safety Administration (NHTSA) for evidential testing of breath and placed on NHTSA's "Conforming Products List of Evidential Breath Measurement Devices" (CPL), and identified on the CPL as conforming with the model specifications available from the National Highway Safety Administration, Office of Alcohol and State Programs.

**Follow-up Test** - A follow-up test is an alcohol and/or drugs/controlled substances test administered to a covered employee who has violated the prohibitions of this policy and who has been permitted to return to duty after passing a return-to-duty alcohol and/or drugs/controlled substances test.

**Medical Review Officer (MRO)** – An MRO is a licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by the Town's drug testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's confirmed positive result together with his or her medical history and any other relevant biomedical information.

**Pre-Employment Test** - A pre-employment test is an alcohol and/or drugs/controlled substances test administered to an individual prior to the first time the individual performs a safety-sensitive function upon appointment to a position requiring the individual to hold a CDL or prior to the first time the individual performs a safety-sensitive function after having been laid off from a position requiring the individual to hold a CDL. In addition, alcohol and/or drugs/controlled substances tests may be administered to and person applying for a Town position.

**Random Test** - A random test is an alcohol and/or drugs/controlled substances test administered to a driver who has been randomly selected by a scientifically valid method from among the pool of Town drivers subject to such tests.

**Reasonable Suspicion Test** - A reasonable suspicion test is an alcohol and/or drugs/controlled substances test administered to a covered employee as a result of a trained Town official's belief that the covered employee has violated the drug, alcohol, or controlled substances prohibitions of this policy. A reasonable suspicion determination must be based on specific contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the covered employee. The observations may include indications of the chronic and/or withdrawal effects of drugs/controlled substances or alcohol and any of the following:

1. Documentation of unsatisfactory work performance or on-the-job behavior.
2. Evidence off the manufacture, distribution, dispensing, possession, or use of drugs/controlled substances, alcohol, or other prohibited substances.
3. Occurrence of a serious or potentially serious accident that may have been caused by human error.
4. Fights (physical contact), assaults, and flagrant disregard or violations of established safety, security or other work rules.

**Refusal to Submit (To an Alcohol or Controlled Substance Test)**

1. A covered employee who fails to provide adequate breath for testing without a valid medical explanation after he or she has received notice of the requirement for breath testing in accordance with the provisions of this part;
2. A covered employee who fails to provide adequate urine for controlled substances testing without a valid medical explanation after he or she has received notice of the requirement for urine testing in accordance with the provisions of this part;
3. A covered employee who engages in conduct that clearly obstructs the testing process;
4. A covered employee who fails to be readily available for post-accident testing; and
5. A covered employee who fails to report to, and undergo alcohol and drugs/controlled substances testing, a collection site as required.

**Safety-Sensitive Function** - A covered employee shall be considered to be performing safety-sensitive functions whenever:

1. inspecting or servicing the vehicle, or
2. driving or at the controls of the vehicle, or
3. resting in the vehicle, or
4. loading or unloading the vehicle including the performance of any related paperwork, or
5. performing those duties required of a driver involved in a vehicle accident, or
6. repairing or attending to a disabled vehicle, or
7. during all time while providing a breath sample or urine specimen including travel time to and from the collection site in order to comply with testing being directed by the Town.

**Screening Test (Also Known as an Initial Test)**

1. In alcohol testing, a screening test means an analytical procedure to determine whether a covered employee may have a prohibited concentration of alcohol in his or her system.

2. In drugs/controlled substances testing, a screening test means an immunoassay screen (or other DHHS-approved test) to eliminate “negative” urine specimens from further consideration.

**Substance Abuse Professional (SAP)** - a licensed physician (Medical Doctor or Doctor of Osteopathy), or a licensed or certified psychologist, social worker, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of and clinical experience in the diagnosis and treatment of alcohol and drugs/controlled substances-related disorders.

**Vehicle** - A commercial motor vehicle as defined above.

## B. PROHIBITED CONDUCT

### 1. GENERAL

- a. If a municipal employee or official has actual knowledge that any of the following prohibitions have been violated, they shall not permit that employee in violation from performing any covered functions.
- b. No covered employee shall report for duty or remain on duty while using any drug/controlled substance, except when the use is pursuant to the instructions of a physician who has advised the employee that the substance does not adversely affect the employee’s ability to perform the covered function.

### 2. ALCOHOL

- a. Covered employees are prohibited from reporting for duty or remaining affected by alcohol or when their blood alcohol concentration is 0.02 or greater.
- b. Covered employees are prohibited from possessing or using alcohol while on duty. Covered employees are prohibited from having used alcohol within four (4) hours of reporting for duty. Employees are cautioned that refraining from alcohol for four (4) hours before reporting for duty may not result in a negative test. Alcohol levels are affected by the amount of alcohol consumed, physical characteristics of the employee, and the employee’s rate of metabolizing alcohol which has been consumed.
- c. Covered employees are prohibited from using alcohol during the hours that they are on call. **NOTE:** Covered employees are cautioned that prescription drugs and over the counter medications which contain alcohol may result in the employee having a positive test.
- d. Drivers are prohibited from performing safety-sensitive functions for 24 hours following an alcohol test result indicating an alcohol concentration of greater than 0.02. Such drivers shall be in a non-paid status for the period of time they are prohibited from performing safety-sensitive functions.
- e. A covered employee is prohibited from being on duty or operating a municipal motor vehicle while the employee possesses alcohol unless the alcohol is being transported on municipal business.
- f. A covered employee required to take a post-accident alcohol test is prohibited from using alcohol for eight (8) hours following the accident or until they undergoes a post-accident alcohol test, whichever occurs first.
- g. A covered employee is prohibited from refusing to submit to a post-accident, reasonable suspicion, return-to-duty or follow-up alcohol test. A driver is prohibited from refusing to submit to a pre-employment, post-accident, random, reasonable suspicion, return-to-duty, or follow-up alcohol test.

3. DRUGS/CONTROLLED SUBSTANCES

- a. A covered employee is prohibited from reporting for duty or remaining on duty when the covered employee uses any drugs/controlled substances, except when the use is pursuant to the instructions of a physician who has advised the employee that the substance does not adversely affect their ability to safely perform their duties.
- b. A driver is prohibited from reporting for duty, remaining on duty, or performing a safety-sensitive function if the driver tests positive for drugs/controlled substances. A covered employee is prohibited from reporting for duty and remaining on duty if the covered employee tests positive for drugs/controlled substances. A covered employee who tests positive for drugs/controlled substances shall be required to be evaluated by a SAP. Any removal from duty shall be without pay. Subject to the supervisor's approval, employees will be allowed to substitute accrued paid leave for time lost under this provision. However, such substitution will be granted on a one time basis.
- c. A driver is prohibited from refusing to submit to a pre-employment, post-accident, random, reasonable suspicion, return to duty, or follow-up test for drugs/controlled substances. A covered employee is prohibited from refusing to submit to a pre-employment, post-accident, reasonable suspicion, return-to-duty, or follow-up drugs/controlled substances test.

C. TRAINING AND EDUCATION

1. EMPLOYEE TRAINING

- a. Employees who fall under the scope of this policy shall receive training consisting of the following:
  - i. The identity of employer representatives available to answer questions about these materials.
  - ii. The categories of individuals who are subject to the alcohol and drug testing.
  - iii. Specific information about individual conduct prohibited by DOT alcohol/drug regulations.
  - iv. Circumstances for testing for alcohol and/or drugs, protect the individual and the integrity of the testing process, safeguard the validity of the test results, and ensure that those results are attributed to the correct individual.
  - v. The requirement that an individual submit to DOT alcohol and drug tests.
  - vi. Explanation of the consequences of refusing to submit to DOT alcohol and drug tests, including the requirement that the individual be removed immediately from safety-sensitive functions, and the requirements for evaluation and/or treatment by a SAP and return to duty and/or follow-up testing.
  - vii. The consequences for individuals found to have an alcohol concentration of 0.02 or greater.
  - viii. Information concerning the effects of alcohol and drug use on an individual's health, work, and personal life; signs and symptoms of an alcohol or drug problems (the individual's or coworker's); and available methods of intervening when an alcohol or drug problems is suspected, including confrontation, referral to any employee assistance program, and/or referral to management.

2. SUPERVISOR TRAINING

- a. Supervisory personnel responsible for covered employees will receive training under this Policy.
- b. The training shall include at least one 60-minute period of training on the specific, contemporaneous physical, behavioral, and performance indicators of probable drug use, and at least one 60-minute period of training on the specific, contemporaneous physical, behavioral, and performance indicators of probable alcohol misuse.
- c. Training shall be for supervisors who may determine whether an employee must be alcohol and/or drug tested for reasonable suspicion.

D. NOTICE

1. Before performing a drug, alcohol, or controlled substances test under the requirements of the Department of Transportation rules and regulations, drivers being tested shall be notified that the alcohol and/or drugs/controlled substances test is required by 49 CFR Part 382.
2. Before performing a drug, alcohol, or controlled substances test under this policy, covered employees other than drivers being tested shall be notified that the alcohol and/or drugs/controlled substances test is required by this policy.

E. TESTING PROCEDURE

Any drug, alcohol, or controlled substances testing will comply with the procedure of Title 49 CFR Part 40.

1. GENERAL

- a. Title 49 Code of Federal Regulations (CFR) Part 382 requires that employers of Commercial Motor Vehicle (CMV) operators test their employees for alcohol and prohibited drugs under the following work-related conditions:
  - i. Pre-Employment/ Pre-Assignment
  - ii. Random
  - ii. Reasonable Suspicion
  - iv. Post-Accident
  - v. Return-to-Duty
  - vi. Follow-Up
- b. Title 49 CFR Part 40 specifies procedures which must be followed by the Town, and its service providers (e.g. MROs) when conducting alcohol and drug testing pursuant to regulations issued by agencies of the Department of Transportation.
- c. All information related to testing will be treated as confidential except as required to comply with DOT requirements, safeguard the safety of personnel and the public, or as otherwise legally required or allowed.
- d. The Town shall test each employee who performs a function listed in Appendix B for evidence of the following substances:  
Marijuana, Cocaine, Opiates, Phencyclidine (PCP), and Amphetamines

2. PRE-EMPLOYMENT TESTING

Employees currently in a “covered” position are not required to submit to a pre-assignment test upon entering another “covered” position.

- a. A pre-employment alcohol test with a result indicating an alcohol concentration less than 0.02, and drug test indicating a verified negative result, must be conducted before an individual is hired and when an individual is

transferred/promoted from a non-covered to a covered position. This also applies to employees returning from a leave of absence who have not been participating in the AMPADP and subject to the random selection process. Employees with an alcohol test result concentration of 0.02 or greater or who fail the drug test will not be assigned into the safety sensitive position and will remain in their current position.

- b. New employees shall sign a Consent for Release of Alcohol and Drug Misuse and Testing Information form. This form authorizes the Town to obtain information on the individual's DOT alcohol tests with a concentration of 0.04 or greater, positive DOT drug test results, and refusals to be tested, within the preceding two years, which are maintained by the individual's previous employers. The individual shall not be allowed to perform safety-sensitive functions after 14 days without obtaining this information.

Exception: The only exception to this requirement is if the information has been requested but a previous employer, in violation of DOT regulation, refuses to provide the information. In this case, a notation of such circumstances must be placed in the individual's file. If the individual stops performing safety-sensitive functions before expiration of the 14-day period or before the company has obtained the required information, the company must still obtain the information.

### 3. 3RANDOM TESTING

- a. The primary purposes of random testing are to deter alcohol and/or prohibited drug use and to ensure an alcohol and drug free work force. DOT regulations require that covered employees shall be subject to alcohol and drug testing on an unannounced and random basis.

Alcohol Testing:

The minimum annual percentage rate for random alcohol testing shall be 25 percent of the average number of driver positions.

Drug Testing:

The minimum annual percentage rate for random controlled substance testing shall be 50 percent of the average number of driver positions.

- b. The following is a discussion of some of the key aspects of the random testing process.
  - i. Employees remain in the random selection pool at all times, regardless of whether or not they have been previously selected for random or other required testing. Each driver shall have an equal chance of being selected for testing each time selections are made.
  - ii. Employees shall be selected for testing by using a computer- based random number generator or equivalent random selection method that is matched with an employee's social security number or employee ID number.
  - iii. Random alcohol and drugs/controlled substance test shall be unannounced and shall be spread reasonably throughout the year.
  - iv. Employees will be selected for random testing based on the number of covered employees at the time and the necessary testing rate.
  - v. Testing will be conducted on different days of the week throughout the annual cycle.
- c. Steps for random testing:

- i. The ADPM (or designee) shall use the random selection procedures to compile a list of covered employees selected for random testing during that testing cycle.
    - ii. The ADPM (or designee) shall ensure that the list of social security numbers or employee identification numbers will identify the correct employees who are to be randomly tested during the testing cycle.
    - iii. The appropriate manager/supervisor will notify the employee to be tested to report to the specific collection site as instructed.
    - iv. Employees will be notified that they have been selected for testing at any time during their shift on the day of collection.
    - v. Employees shall report immediately to the collection site within 30 minutes, plus travel time, once notified by the appropriate official.
  - d. Employees who are directed to submit to an alcohol and drug test and who refuse to cooperate will be considered to have failed the test, be removed from the job, considered insubordinate and will be disciplined up to an including discharge.
4. REASONABLE SUSPICION TESTING
  - a. A covered employee shall promptly submit to an alcohol and/or drugs/controlled substances test whenever a trained supervisor or trained Town official has a reasonable suspicion to believe that the covered employee has violated the drug, alcohol or controlled substances prohibitions of this policy.
  - b. The observations required by the paragraph above must be made during, just preceding, or just after the period of the workday that the covered employee is required to be in compliance with this policy.
  - c. After determination of reasonable suspicion, the alcohol test shall be administered within two hours unless the supervisor or Town official prepares and maintains on file a record stating the reasons the test was not administered within that time. The test may be conducted up to eight hours after the reasonable suspicion is made. If the test is not administered within eight hours after the determination, attempts to administer the test shall stop and the supervisor or Town official shall record and maintain on file the reasons why the test was not conducted.
  - d. No covered employee shall be subject to reasonable suspicion drug testing later than 24 hours following the determination that reasonable suspicion exists to require the covered employee to undergo such test. If the test is not administered within 24 hours after the reasonable suspicion determination, attempt to administer the test shall stop and the supervisor or Town official shall record and maintain on file the reasons why the test was not conducted.
  - e. A trained supervisor or trained Town official who makes the determination that reasonable suspicion exists to conduct an alcohol test shall not conduct the alcohol test of the covered employee.
  - f. A written record shall be made of the observation leading to a drugs/controlled substances reasonable suspicion test and shall be signed by the trained supervisor or trained Town official who made the observations within 32 hours of the observed behavior or before he results of the drugs/controlled substances test are released, whichever is earlier.
  - g. A written record shall be made of the observations leading to an alcohol reasonable suspicion test and shall be signed by the trained supervisor or trained



Town official who made the observations within 24 hours of the observed behavior.

- h. Nothing herein shall prohibit a supervisor or a Town official from determining that a covered employee is unfit for duty. Nothing in this paragraph shall be used to circumvent the requirements stated in this Section D.

5. POST-ACCIDENT TESTING

- a. A surviving covered employee shall be subject to post-accident alcohol and drugs/controlled substances testing as soon as practicable following the accident.
- b. A covered employee subject to post-accident testing shall be subject to a breath alcohol test not later than eight hours following the accident and to a drugs/controlled substances test no later than 32 hours following the accident.
- c. If an alcohol test is not administered within two hours following the accident, the trained supervisor or trained Town official shall prepare and maintain on file a record stating the reasons the test was not administered. If an alcohol test is not administered within eight hours following the accident, the trained supervisor or trained Town official shall cease attempts to administer an alcohol test and shall prepare and maintain the same record. If a drugs/controlled substances test is not administered within 32 hours following the accident, the trained supervisor or Town official shall cease attempts to administer a drugs/controlled substances test, and prepare and maintain on file a record stating the test was not promptly administered.
- d. A covered employee who is subject to post-accident testing shall remain readily available for such testing or shall be deemed to have refused to submit to testing. Nothing herein shall be construed to require the delay of necessary medical attention or to prohibit the covered employee from leaving the scene of the accident for the period of time necessary to obtain assistance in responding to the accident, obtain necessary medical treatment for injured people, or to obtain materials necessary to secure the accident test.

6. RETURN-TO-DUTY TESTING

Employees who fail or refuse to take the alcohol and/or drug test under Reasonable Suspicion, Post-accident, or Random, and where the action taken is short of discharge will be allowed to return to their safety sensitive position only after receiving an alcohol test result of less than 0.02 and/or passing a drug test in accordance with DOT procedures as directed by the MRO, and after a rehabilitation plan, if applicable, and a schedule for the employee's return to work has been developed and determined by the SAP.

7. FOLLOW-UP TESTING

- a. A covered employee who has undergone an alcohol test with a result of 0.02 or greater or who has tested confirmed positive for drugs/controlled substances, and who is subject to, and has complied with the return-to-duty testing provisions above, shall, at the Town's discretion, be permitted to return to work subject to the following:
  - i. The covered employee has been evaluated by a substance abuse professional who shall determine what assistance, if any, the covered employee needs in resolving problems associated with alcohol misuse and/or drugs/controlled substances use; and

- ii. The covered employee shall be subject to unannounced follow-up testing as directed by an SAP.
  - a. The number and frequency of such follow-up testing shall be as directed by the SAP, and consist of at least six (6) tests in the first twelve (12) months following the individual's return to duty.
  - b. Any such testing shall be performed in accordance with the requirements of 49 CFR Part 40. Follow-up testing shall not exceed 36 months from the date of the individual's return to duty.
  - c. The SAP may terminate the requirement for follow-up testing at any time after the first six (6) tests have been administered, if the SAP determines that such testing is no longer necessary.

8. DISPUTES OVER DRUG TEST RESULTS

If an employee disputes the validity of the drug test results, the reserve sample at the laboratory will be made available for a second test.

For more information, see Section XI: RETESTING A SAMPLE.

F. TESTING PROCEDURES & REQUIREMENTS

1. ALCOHOL

- a. Alcohol tests shall be administered by a Breath Alcohol Technician (BAT) using an Evidential Breath Testing device (EBT) except that if the Department of Transportation Federal Highway Administration approves administration of tests by persons other than BATs or approves the use of other methods or technologies for detecting the presence of alcohol then the administration of tests by such other persons and/or the use of such other methods or technologies shall be permitted under this policy.
- b. Alcohol testing shall be conducted in accordance with procedures set out as follows:
  - i. A covered employee directed to undergo alcohol testing shall proceed to the designated test site as instructed.
  - ii. A covered employee shall follow all procedures and instructions given by the Breath Alcohol Technician (BAT) including completing, signing, initialing, and/or dating any required forms or logbooks. If the covered employee takes the test but fails to sign the certification in Step 4 of the Breath Alcohol Testing Form, or fails to initial the logbook entry and the test shows a concentration of less than 0.02, it should not be considered a refusal to test.
  - iii. The testing site shall provide visual and aural privacy to the covered employee, sufficient to prevent unauthorized persons from seeing or hearing test results. All necessary equipment, personnel and materials for breath testing shall be provided at the location where the testing is conducted.
  - iv. No unauthorized persons shall be permitted access to the testing location when the Evidential Breath Testing Device remains unsecured or, in order to prevent such persons from seeing or hearing test results, at any time when testing is being conducted.
  - v. In unusual circumstances (for example, when it is essential to conduct a test outdoors at the scene of an accident), a test may be conducted at a location that does not fully meet the requirements of paragraph c, above. In such cases,

- the covered employee shall be provided visual and aural privacy to the greatest extent practicable.
- vi. The BAT shall supervise only one covered employee's use of the EBT at a time and shall not leave the alcohol testing location while the testing procedure for a given covered employee is in progress.
  - vi. Upon entering the test site, the covered employee shall be required to provide the BAT with positive identification. Positive identification may take the form of a photo ID card or identification by a supervisor or Town official. On request of the covered employee, the BAT shall provide positive identification to the covered employee.
  - viii. If a screening test of a covered employee indicates a breath alcohol concentration of less than 0.02, no further alcohol testing of the covered employee shall be conducted during this testing event, the BAT shall transmit the result to the Town in a confidential manner.
  - ix. If the result of a screening test of a driver indicates a breath alcohol concentration of 0.02 or greater, the driver shall be required to undergo a confirmation test.
  - x. If the confirmation test will be conducted by a different BAT, the BAT who conducts the screening test shall complete and sign the Breath Alcohol Testing Form and logbook entry. The BAT shall provide the covered employee with Copy 2 of the form.
  - xi. If a BAT other than the one who conducted the screening test is conducting the confirmation test, the covered employee shall be required to provide positive identification in accordance with paragraph g. above, to the new BAT and the covered employee may request positive identification of the new BAT.
  - xii. The covered employee shall not eat, drink, put any object or substance in his or her mouth, and, to the extent possible, not belch during a waiting period before the confirmation test. This waiting period begins with the completion of the screening test and shall not be less than 15 minutes.
  - xiii. The confirmation test shall be conducted within 20 minutes of the completion of the screening test.
  - xiv. If a BAT other than the one who conducted the screening test is conducting the confirmation test, the new BAT shall initiate a new Breath Alcohol Testing form. The covered employee shall then complete Step 2 on the form, signing the certification. Refusal of the covered employee to sign the certification shall be deemed a refusal to test.
  - xv. Refusal by the covered employee to complete and sign the Breath Alcohol Testing form (Step 2), to provide breath, to provide an adequate amount of breath, or otherwise to cooperate with the testing process in a way that prevents the completion of the test shall be noted by the BAT in the "Remarks" section of the form. The testing process shall be terminated and the BAT shall immediately notify the Town Designated Representative (TDR).
  - xvi. Refusal by the covered employee to complete and sign the Breath Alcohol Testing Form (Step 2), to provide breath, to provide an adequate amount of

breath, of otherwise to cooperate with the testing process in a way that prevents the completion of the test shall be deemed a refusal to test.

- xvii. If a screening or confirmation test cannot be completed, or if an event occurs that would invalidate the test, the BAT shall, if practicable, begin a new screening or confirmation test, as applicable, using a new Breath Alcohol Testing form with a new sequential test number.
- xviii. If the covered employee is unable, or alleges that he or she is unable, to provide an amount of breath sufficient to permit a valid breath test because of a medical condition, the BAT shall again instruct the covered employee to attempt to provide an adequate amount of breath.
  - a. If the covered employee refuses to make the attempt, the BAT shall immediately inform the TDR.
  - b. If the covered employee attempts and fails to provide an adequate amount of breath, the BAT shall so note in the “Remarks” section of the breath alcohol form and immediately inform the TDR.
  - c. If the covered employee attempts and fails to provide an adequate amount of breath, the TDR shall direct the covered employee to obtain, as soon as practicable after the attempted provision of breath, an evaluation from a licensed physician who is acceptable to the Town concerning the covered employee’s medical ability to provide an adequate amount of breath.
  - d. If the licensed physician determines, in his or her reasonable medical judgment, that a medical condition has, or with a high degree of probability, could have, precluded the covered employee from providing an adequate amount of breath, the covered employee’s failure to provide an adequate amount of breath shall not be deemed a refusal to take a test. The physician shall provide to the Town a written statement of the basis for his or her conclusion.
  - e. If the licensed physician, in his or her reasonable medical judgment, is unable to determine that a medical condition has, or with a high degree of probability, could have, precluded the covered employee from providing an adequate amount of breath, the covered employee’s failure to provide an adequate amount of breath shall be deemed a refusal to take a test. The physician shall provide to the Town a written statement of the basis for his or her conclusion.

## 2. DRUGS/CONTROLLED SUBSTANCES

Drugs/controlled substances testing shall be conducted by a certified laboratory and in accordance with procedures set out as follows:

- a. Covered employees directed to undergo a drugs/controlled substances test shall proceed to the designated collection site as instructed.
- b. Covered employees shall follow all procedures and instructions given by the collection site persons. Failure to do so shall be considered a refusal to test.
- c. The collection site person shall collect a urine sample from the covered employee in accordance with Federal Highway Administration procedures.
- d. Covered employees shall provide at least 45 ml of urine for testing. Covered employees who fail to provide at least 45 ml of urine shall be subject to the provisions of Paragraph 18 below.

- e. The collection site person shall divide the specimen into two containers. One container shall contain at least 30 ml of urine and shall be the primary specimen. The other container shall contain at least 15 ml of urine and shall be a split specimen.
- f. Both containers shall be shipped in a single shipping container, together with copies 1 and 2, and the split specimen copy of the chain of custody form, to the laboratory.
- g. The laboratory shall log in the split specimen with the split specimen seal remaining intact. The laboratory shall store the split specimen securely in accordance with approved procedures.
- h. The primary specimen shall undergo a screening test for the presence of drugs/controlled substances. If a screening test detects the presence of drugs/controlled substances, the primary specimen shall undergo a confirmation test.
- i. If the result of the test of the primary specimen is negative, the laboratory may discard the split specimen.
- j. The MRO shall review all primary specimen results. If the result of the test of the primary specimen is confirmed positive for the presence of drugs/controlled substances, the MRO shall notify the covered employee that the covered employee has 72 hours in which to request a test of the split specimen if the confirmed positive test is verified as positive. If the result of the test of the primary specimen is negative, the MRO shall have the authority to direct an employee to undergo a retest for the presence of drugs/controlled substances if, upon review of those results, the MRO has reason to believe the primary specimen has been adulterated.
- k. If the primary specimen tests confirmed positive for the presence of drugs/controlled substances, the covered employee may request, in writing that the MRO direct that the split specimen be tested in a different DHHS-certified laboratory for the presence of the drug(s) or drug metabolite(s) for which a positive test result was obtained in the test of the primary specimen. The MRO shall honor such request if it is made within 72 hours of the covered employee having been notified of a verified positive test result. The covered employee shall be responsible for any and all costs associated with having the split specimen tested.
- l. If the covered employee has not contacted the MRO within 72 hours the covered employee may present to the MRO information documenting that serious illness, injury, inability to contact the MRO, lack of actual notice of the verified positive test, or other circumstances unavoidably prevented the covered employee from timely contacting the MRO. If the MRO concludes that there is a legitimate explanation for the covered employee's failure to contact the MRO within 72 hours, the MRO shall direct that the re-analysis of the primary specimen or analysis of the split specimen, as applicable, be performed. The covered employee may not request re-analysis of the primary specimen.
- m. If the result of the test of the primary specimen is positive, the laboratory shall retain the split specimen in frozen storage for 60 days from the date on which the laboratory acquires it. Following the end of the 60-day period, if not informed by

- the MRO that the covered employee has requested a test of the split specimen, the laboratory may discard the split specimen.
- n. If the MRO directs the first laboratory in writing to forward the split specimen to a second DHHS-certified laboratory, the second laboratory shall analyze the split specimen by GC/MS to reconfirm the presence of the drug(s) or drug metabolite(s) found in the primary specimen. Such GC/MS confirmation shall be conducted without regard to the cutoff levels established by DHHS. The split sample shall be retained in long-term storage for one year by the laboratory conducting the analysis of the split specimen (or longer if litigation concerning the test is pending).
  - o. The result of the test of the split specimen shall be transmitted by the second laboratory to the MRO.
  - p. If the analysis of the split specimen fails to reconfirm the presence of the drug(s) or drug metabolite(s) found in the primary specimen, or if the split specimen is unavailable, inadequate for testing or untestable, the MRO shall cancel the test and report the cancellation and the reasons for it to the TDR, the covered employee, and to DOT for CDL holders.
  - q. A covered employee whose primary specimen tests confirmed positive for the presence of drugs/controlled substances and who requests, in accordance with paragraph 11 above, that the split specimen be tested, shall not be permitted to return to work pending the outcome of such test but, shall be suspended without pay and subject to further disciplinary action. However, if the test of the split specimen does not reconfirm the presence of the drug(s) or drug metabolite(s) found in the primary specimen, the covered employee shall be paid their straight time salary for all regularly scheduled shifts he or she would have worked had the suspension not occurred, and shall be reimbursed for the costs associated with having the split specimen tested.
  - r. If the covered employee is unable to provide the required 45 ml of urine, the covered employee shall be instructed to drink not more than 24 ounces of fluids and, after a period of up to two hours, again attempt to provide a complete sample using a fresh collection container. The original insufficient specimen shall be discarded.
  - s. If the covered employee is still unable to provide an adequate specimen, the insufficient specimen shall be discarded, testing discontinued, and the laboratory shall notify the Town of the covered employee's inability to provide an adequate sample.
  - t. The MRO will refer the covered employee for a medical evaluation to develop pertinent information concerning whether the covered employee's inability to provide an adequate specimen is genuine or constitutes a refusal to test. (In pre-employment testing situations, the Town will determine whether or not to hire the employee, and the MRO is not required to make such a referral). Upon completion of the examination, the MRO shall report his or her conclusions to the Town in writing.
  - u. If the MRO determines that the covered employee's inability to provide an adequate sample is not genuine, the covered employee shall be deemed to have refused to test.

G. CONSEQUENCES FOR COVERED EMPLOYEES

1. A covered employee shall not be permitted to perform a safety-sensitive function if the employee has engaged in conduct prohibited by this policy.
2. A covered employee who violates any of the requirements of 49 CFR Part 382 shall be subject to the penalty provisions of 49 U.S.C. 521(b).
3. A covered employee who refuses to submit to a required test shall be deemed to have tested positive for drugs/controlled substances and at a level 0.02 or greater for alcohol.
4. Refusal to submit to a required drug or alcohol test shall be deemed cause for discipline up to and including discharge.
5. Violation of the prohibitions contained in this policy shall establish cause for discipline up to and including discharge.

H. EMPLOYEE NOTIFICATION

1. The Town shall notify an applicant/covered employee of the results of a pre-employment test conducted under this Policy, if the applicant requests such results within 60 calendar days of being notified of the disposition of the employment application.
2. The Town shall notify a covered employee of the results of reasonable suspicion and post-accident tests and notify covered employees of random tests if the test results are verified positive. The Town shall also inform the covered employee which drug/controlled substances were verified as positive.

I. REFERRAL, EVALUATION, AND TREATMENT

Each covered employee who has a positive drugs/controlled substances test or blood alcohol concentration test of 0.04 or greater shall be referred to a Substance Abuse Professional (SAP). The SAP shall determine what assistance, if any, the employee needs in resolving problems associated with alcohol misuse and drugs/controlled substances use. An employee's SAP would ordinarily be available through their health care provider. A listing of SAPs will be provided in training and/or posted in work sites. Employees who do not know what substance abuse services are provided under their health care plan or who do not have a health care plan, are encouraged to contact the Employee Assistance Program for this information.

J. EMPLOYEE ASSISTANCE PROGRAM

1. The Employee Assistance Program (EAP), is available to provide information, referral, and support to all employees seeking alcohol and drug abuse services, including treatment, pursuant to 49 CFR 391.119 and 391.121.
2. A written statement outlining the Town's EAP program shall be placed on file and available for inspection at the Town Clerk's office.
3. During the period which the employee is completing the EAP's prescribed treatment plan, the employee will continue to be subject to all of the provisions of the alcohol and drug/controlled substance testing requirements.

K. RECORDS/CONFIDENTIALITY

1. Record Keeping
  - a. All records required to be maintained under the Federal Highway Administration (FHWA) Rules and Regulations shall be maintained in a secure location with controlled access.

- b. Alcohol and drugs/controlled substances test results shall not be included in personnel files.
2. Disclosure
- a. Except as required or permitted by law or expressly authorized or required by Title 49, CFR, subtitle B, Chapter III, Section 382.404, or any subsequent amendment or revision, the Town shall not release information that is contained in records required to be maintained under the FHWA Rules and Regulations.
  - b. Records shall be made available to a subsequent employer upon receipt of a written request from a covered employee. Disclosure by the subsequent employer is permitted only as expressly authorized by the terms of the covered employee's request.
  - c. Upon written request, a covered employee is entitled to copies of any records pertaining to the covered employee's use of drugs/controlled substances or alcohol, including any records pertaining to his or her alcohol or drugs/controlled substances tests.
  - d. All results of alcohol and/or drugs/controlled substances testing conducted pursuant to this Policy shall be made available, upon request, to the Secretary of Transportation, any DOT agency, or any State or local officials with regulatory authority over the Town or any of its drivers.
  - e. Information related to post-accident test results administered following an accident which is under investigation by the National Transportation Safety Board shall be released to the Board upon request.
  - f. The Town may disclose information pertaining to a covered employee that is required to be maintained under the FHWA Rules and Regulations to the decision maker in a lawsuit, grievance, or other proceeding initiated by or on behalf of the covered employee, and including, but not limited to, a workers compensation, unemployment compensation, or other proceeding relating to a benefit sought by the covered employee and arising from the results of an alcohol and/or drugs/controlled substances test administered in accordance with the FHWA.



## XXI. PERFORMANCE EVALUATION

### A. SUMMARY

The Town's performance review system has been developed to provide a workable and uniform practice of performance management for employees throughout the Town's departments and organizations. Performance review is an important opportunity to foster productive two-way communication and planning between the employee and supervisor in establishing and monitoring objectives for the individual employee which advance adopted goals established by their respective boards.

The HR Department is responsible for ensuring that performance reviews are conducted by designated supervisors of employees who are appointed by multiple-member Town boards.

***Performance review process.*** In order to ensure consistent reviews across all departments, the Town's performance review process is administered by the HR Director. The performance evaluation process is set forth in a User Guide, Form 1, and Form 2, developed by Human Resources, Inc.

***Multiple-member boards.*** In Littleton, Town boards with statutory authority to appoint employees include the Board of Health, Select Board, Cemetery Commissioners, Library Trustees, Park & Recreation Commission, the Planning Board, and the Conservation Commission.

***Designation of supervisor.*** The annual performance review is to be performed by the employee's designated supervisor. Where the appointing authority is a multiple-member Town board, it should formally designate the employee's supervisor.

***Best practice.*** While a board can designate as supervisor all of its members or its chairman alone, a best practice identified here is to formally delegate the supervisory function to the Town Administrator or their designee, where practicable. This can be accomplished by agreement with the Select Board, and/or made permanent by Town Bylaw amendment or by special act of the legislature. Even where the board delegates the supervisory function for performance review, it still retains whatever policy prerogatives it has under statute, bylaw or otherwise in their respective areas of authority along with the responsibility to establish policy goals and provide policy direction for their respective employees.

#### **Adoption of Policy Goals**

Each board should, from time to time, adopt policy goals for itself which reflect its prerogatives under statute, bylaw or otherwise in their respective areas of authority. These goals would be adopted at a posted public meeting of the entire board. Those goals then become the basis for the performance objectives established between the employee and the board, chair, or designated supervisor, depending upon the option chosen below.

#### **Options and Best Practices**

The HR Director, in consultation the Town’s human resources counsel [Attorney John F. Dolan, whose comments are noted below in *italics*], has identified the following four options<sup>1</sup> for multiple-member Town boards to consider in formally designating an employee’s supervisor, who would in turn conduct the employee’s performance review:

1. All board members as supervisor; all participate in employee’s performance review at public meeting with employee;
2. Board chairman as supervisor; performance review held at private meeting with employee [and Town Administrator];
3. Board delegates supervisor role to Town Administrator/designee by written agreement with Select Board; Select Board delegates to Town Administrator.
4. Board permanently transfers employee appointment to Town Administrator by Town Bylaw or special act of the legislature.

Options 3 and 4 are identified here as best practices, for the reasons discussed below.

**Option 1 - All board members as supervisor; all review at public meeting with employee.**

Under a first option, the board designates all of its members together as the supervisor for its appointee, with each member completing their own written performance review of the employee, which is reviewed with the employee during a posted public meeting. The review by the full board cannot take place in executive session. The individual members’ written reviews could also be compiled into a composite document by either the board chair or the Town Administrator prior to the public meeting. The performance review documents would become public records.

*Under this scenario, all members of the public body review the employee. Each member completes a written evaluation and those evaluations are reviewed with the employee during a public meeting. Assuming that the meeting is properly posted and the evaluation is adequately noticed in the posting, this method clearly comports with the Open Meeting Law. As noted on the first page of the Attorney General’s Open Meeting Law Guide, . . . , the Open Meeting Law seeks to balance the public’s interest in witnessing the deliberations of public officials with the government’s need to manage its operations efficiently. See also OML 2013-5, . . . . Option 1 involves an evaluation process that is conducted almost completely in the context of a public meeting. While the individual evaluations of members presumably are completed outside a public meeting, those evaluations are discussed at a public meeting. As such, those evaluations would*

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<sup>1</sup> The Personnel Board had reviewed another option, which on the advice of human resources counsel, it does not include here. *“This option involves the creation by each public body member of individual evaluations. Those evaluations, in turn, are compiled into a composite review by the Chair of the body. This composite review is then shared with the employee in a private meeting with the Town Administrator. In my opinion, this option likely would not meet with the approval of the Division of Open Government of the Attorney General’s Office. As a general rule, the sharing of opinions of a quorum of public body members via e-mail or other writing would constitute “deliberation” and violate the Open Meeting Law if not done at a properly posted public meeting. However, the Attorney General’s Office has advised that individual evaluations of an employee may be aggregated into a composite evaluation. . . . the Attorney General’s approval of the composite evaluation process is predicated on the assumption that the master evaluation document will be discussed at an open meeting.”*

*become part of the public record of the meeting and likely subject to disclosure. Open Meeting Law Guide, p. 13.*

*While consistent with the Open Meeting Law, this option, as a practical matter, has some drawbacks. As the Town has experienced, the performance evaluation process often is an uncomfortable experience for employees. This may be exacerbated when the evaluation is conducted in full view of the public. From the Town's perspective, Option 1 may have a chilling effect on the willingness of public body members to be candid in their assessments of the strengths and weaknesses of an employee's performance. This, in turn, can reduce the effectiveness of evaluations and, in the case of "problem" employees, come back to haunt the Town if the Town later wishes to discipline or terminate such an employee. That employee's personnel file may be filled with watered-down or "satisfactory" evaluations that don't support subsequent discipline or dismissal*

### **Options 2, 3 and 4**

*The remaining three options all involve some form of delegation or transfer of the public body's evaluation function to an individual: the Chair/designee in the case of Option [2], the Town Administrator/designee under Option [3], and the Town Administrator via the more formal route of bylaw amendment under Option [4]. In each instance, there is an evaluation meeting conducted in private with the employee and the reviewer (and Town Administrator in the case of Option [2]).*

#### **Option 2 - Board chairman as supervisor; review at private meeting with employee [and Town Administrator].**

Under a second option, the board/appointing authority could establish its chairman in the role of supervisor of the board's employee. The chairman would conduct the employee's performance review in a private—not public-- meeting. The Town Administrator could also participate in that private meeting, to provide input and to ensure the review is conducted fairly and timely. The performance review document created by the chairman would not be a public record.

#### **Option 3 – Board delegates supervisor role to Town Administrator/designee by written agreement with Select Board (includes Select Board delegating to Town Administrator).**

Under a third option—which is identified here as a best practice—the board/appointing authority would formally delegate supervision of its appointee to the Town Administrator (or his designee) by a written memorandum of agreement (MOA) between the appointing board and the Select Board. The supervisor would conduct the employee's performance review in a private—not public meeting. The performance review document would not be a public record.

The MOA constitutes the Select Board's approval under G.L. c. 41, §23A of assignment of duties to the Town Administrator requested by the appointing authority board.

Examples of this option include MOAs between the Select Board and the Board of Health (for its administrative assistant), Conservation Commission (for its conservation coordinator), and Zoning Board of Appeals (for its administrative assistant). In all three of those, the Town Administrator designated the Building Commissioner as the employee's supervisor. A fourth example was the MOA between the Select Board and the Council on Aging (for its director), with the Town Administrator as supervisor.

This option could also include the Select Board delegating supervision of its appointees to the Town Administrator under G.L. c. 41, §23A. In the case of the Police Chief or Fire Chief, any formal designation of the supervisor should be negotiated in the chief's employment agreement.

**Option 4 – Board transfers employee appointment to Town Administrator by Town Bylaw or special act.**

Under this fourth option – also identified as a best practice-- appointment of the board's employee would be formally transferred to the Town Administrator, where that option is practicable. The Town Administrator would then conduct the employee's review in private, as is currently done for those department heads and employees for which the Town Administrator is already the appointing authority.

This option could be pursued by Town Bylaw amendment or by a home rule petition special act of the legislature. Further legal review would be required to determine which method was required. In either case, a vote of town meeting would be required to initiate the transfer.

One example of this option is the vote under Article 25 of the May 6, 2013 Annual Town Meeting which added the position of Director of Elder Human Services to the list of department heads appointed by the Town Administrator under Town Code §3-3.

*With certain caveats, it is my opinion that Options [2] through [4], inclusive, would not violate the Open Meeting Law, as none appears to involve deliberation or action by a public body. The main caveat to this opinion is that the delegation should be complete, i.e., there should be no sharing of opinions by a quorum of the public body through the individual to whom the evaluation function is delegated. Further, if that individual is to report back to the public body on the evaluation, that should be done at a public meeting.*

*The risk of an Open Meeting Law violation, or at the least the perception of an Open Meeting Law violation, is greatest with Option [2], since the Chairperson of the body is the individual tasked with the evaluation. Under this option, the perception, and perhaps the reality, likely will be that the Chair essentially is following the composite evaluation process without the public meeting component, relying on input from other members. For this reason, Option [2], in my opinion, is not the best model.*

*As noted, the Town Administrator is the individual to whom the evaluation function is delegated under both Options [3] and [4]. The same caveat applies to both these scenarios. The Town Administrator can discharge this function without violating the Open Meeting Law so long as the Town Administrator does not end up functioning as a "straw" for the sharing of members' opinions outside a public meeting. Once again, the delegation should be complete. Under either option, the Town Administrator should be given the power to assess individually the employee's performance. While the opinions of others may be solicited, those opinions, if of a quorum of public body members, should not then be shared with other members except at a public meeting.*

*One of the stated purposes in the Town Code of having the Town Administrator administer the performance review process is "to ensure consistent reviews across all departments." Options [3] and [4] best serve this laudable goal. As between the two options, Option [4] would remove any question in the public's mind as to whether boards may delegate evaluation responsibilities and authority to the Town Administrator (in my*

*opinion, they may) and also eliminate the possibility that one or more boards may decline to delegate that authority. For that reason, it is my opinion that Option [4] is the preferred option among the final three approaches outlined in the memorandum.*

### **Performance Review System Documents**

The performance evaluation process adopted by the Personnel Board and Town Administrator is that developed by Human Resources, Inc., in consultation with affected departments and employees, and as set forth in a <sup>User Guide</sup>, <sup>2</sup> <sup>Form 1</sup>, and <sup>Form 2</sup>.

### **List of Town boards with employee appointing authority**

#### *Elected town boards*

Select Board: Town Administrator\*, Police Chief\*, Fire Chief \*; and all members of the Littleton Police Department

Library Trustees: Library Director\*

Park & Recreation Commission: PRCE Director

Planning Board: Town Planner/Permit Coordinator

Cemetery Commission: Cemetery Superintendent

Board of Health: part-time administrative assistant

#### *Appointed town boards*

Conservation Commission: Conservation Coordinator

Zoning Board of Appeals: part-time administrative assistant

*(\* Management contract positions not subject to the Personnel Bylaw*

### **Public Meeting Check List – for Boards selecting Option 1**

- Select a date and time for the performance review meeting that is mutually convenient for the participants—i.e., all board members, the employee, and the Town Administrator;
- Have the employee first complete the self-assessment portions of Form 1 or Form 2 (as appropriate) and submit that to the Chairman and/or Town Administrator, who will forward to each board member prior to their completion of the rating portions of that form
- Have the board members provide their completed forms to the board chair and/or the Town Administrator for preparation of the consolidated rating prior to the review meeting.<sup>3</sup>

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<sup>2</sup> The *User Guide* describes in the purpose of the system in Section 1.1, as follows:

“This performance evaluation system has been developed to accomplish several points:

- To continuously improve the effectiveness and efficiency of town services;
- To provide an opportunity for two-way communication and planning between supervisors and employees;
- To provide provide for the establishment of individual and departmental goals and objectives;
- To serve as the basis for acknowledging employee accomplishments and recognizing potential need for guidance, training, and/or support; and
- To provide documentation of performance to serve as a basis for salary adjustments and other personnel related actions.”

<sup>3</sup> Attorney Dolan advises that “*Board members should not bring the individual forms to the review meeting nor refer to them during the meeting. Otherwise, the individual forms will become part of the record of the meeting.*”

- Post a public meeting notice with includes the employee's performance review as an agenda item for the board's public agenda. The board's review cannot be conducted in executive session
- During the performance review, the Chair leads a discussion of the consolidated rating with the employee, who will have the opportunity to respond
- After discussion, the board can vote to adopt the form of the consolidated rating, with whatever modifications arise during the board discussion and employee response.
- While the consolidated rating is a public record, it is also placed in the employee's confidential personnel file.
- The employee has the right to respond in writing and to have that response be placed in the personnel file as a confidential record. If the employee's response is discussed at a public meeting, by either the employee or the board, then the letter becomes a public record.

## XXII. PAYROLL

### A. PAYROLL

Town of Littleton employees are paid biweekly. Payroll is submitted to the Treasurer's Office before noon on Fridays, biweekly. Direct Deposits (checks) are issued the following Friday by the Treasurer's Office. When submitting payroll forms, any vacation days used or sick time taken should be indicated. The payroll department maintains a current record of the number of vacation days available. Accrual balances are provided on the electronic biweekly paystub as well as in the Employee Self Service module.

All employees must have Direct Deposit. The payroll office will electronically transfer your pay to any bank or to any credit union. You will receive a breakdown of your weekly earnings on a non-negotiable check form.

Employees may enroll in Workers Credit Union through the payroll office. Automatic deductions can be made through the payroll office and may be changed at any time.

### B. W-4 INCOME TAX WITHHOLDING

Forms will be filled out at time of employment. You can change your deduction any time by contacting the payroll office and filing a new W-4.

### C. OBRA

As a part-time, temporary or seasonal employee of the Commonwealth of Massachusetts, or a participating local government employer, you're required to contribute at least 7.5% of your compensation to the Commonwealth's Deferred compensation Plan. This mandatory contribution is in accordance with the Omnibus Budget Reconciliation Act of 1990 ("OBRA") and subsequent Massachusetts General Laws, Chapter 29.

#### D. RETIREMENT SYSTEM

The Middlesex County Retirement System (“MCRS”) covers all employees working over 19.5 hours per week. Massachusetts Teachers Retirement System (“MTRS”) covers teachers only. All full-time municipal employees are required to contribute to a pension plan in lieu of FICA. Identification that MUST accompany this form is a copy of the employee's birth certificate and a marriage certificate if you use your spouse's name.

All retiring employees should contact MCRS, MTRS, and/or Social Security at least three (3) months prior to their retirement date. You are eligible for MCRS benefits if you have at least ten (10) years of creditable service and are age 55 or older.

The Town offers several deferred compensation plans (457 Pension Plans). They are both Federal and State tax deferred. Information is available in the Human Resources office or on the Town’s website.

**Employee Handbook Acknowledgement**

I, \_\_\_\_\_ (print name), as an employee of the Town of Littleton, hereby acknowledge that I have received the Town's *Employee Handbook*. Once signed, this form will be placed in the employee's personnel file by the HR Director for records purposes.

Employee Signature: \_\_\_\_\_ Date: \_\_\_/\_\_\_/\_\_\_