



TOWN OF HAMILTON

PERSONNEL , POLICIES AND ADMINISTRATIVE PROCEDURES

~~8/13/2014~~

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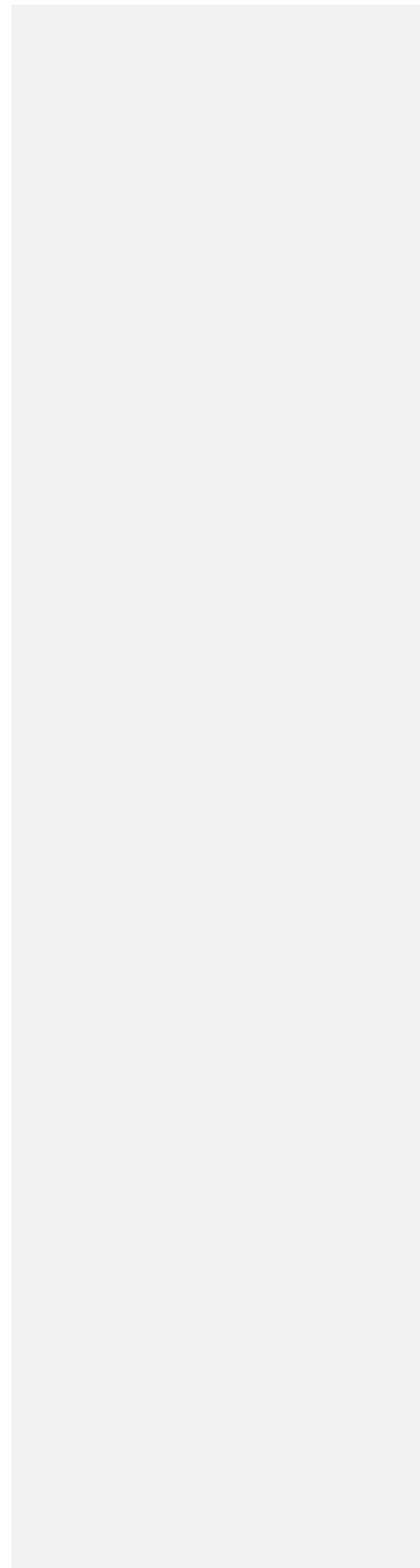
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About This document:

As an employee of the Town of Hamilton, you will want to know what you can expect from the Town and what will be expected of you. You may have questions about your job duties, your benefits, and the general operation of the Town. We have prepared this document to assist you in finding the answers to many questions. Please take the time to read and become familiar with its contents.

We are not able to explain every process, policy and procedure in this document. While it is not possible to answer every question, we have attempted to provide you with general information concerning the policies, programs and standards of the Town. We have strived to make this document clear and readable. However, if you have any questions, you are encouraged to discuss the matter with your supervisor and/or the Town Manager.

As may be expected, from time to time conditions may require the Town to supplement, vary from, modify or even eliminate one or more of the benefits, policies or guidelines described herein. This document is not, nor should it be construed as, a contract of employment. Unless otherwise provided by law, private written contract, or applicable collective bargaining agreement, employment with the Town is "at-will" which means that either you or the Town may end the employment relationship at any time and for any reason, without notice or explanation. Further, the Town reserves the right, at its sole discretion, to revise or disregard the practices, procedures, or benefits described herein, at any time with or without prior notice. In addition, such practices, procedures or benefits will be automatically amended in order to comply with applicable laws. No individual has the authority to alter, revise, amend or revoke any policy orally or in writing, or to make any contractual commitments regarding employment without the express written consent of the Town Manager. This document supersedes all previous Personnel By-laws. We suggest that you keep this document where you can easily refer to it should you have any questions related to its contents.

If you are an employee represented by a labor union, there may be a collective bargaining agreement which governs the terms and conditions of your employment with the Town. These policies and procedures are applicable to the extent to which they do not conflict with the terms of your collective bargaining agreement.

## SECTION ONE: ADMINISTRATION

### 1.1 General Provisions

#### 1.1.1 Purpose and Authorization

The purpose of these personnel policies and procedures is to establish a system of personnel administration governing employment within the Town of Hamilton based on sound concepts of personnel management and principles which ensure that the recruitment, selection, and advancement of personnel shall be based on ability, knowledge, education, and skill under fair and open competition.

The personnel system shall be administered without regard to race, color, religion, sex, national origin, political affiliation, age, sexual orientation, disability, gender identity and expression, genetic information, military or veteran service, or any other category protected by federal state or local law.

The Personnel policies and procedures are adopted pursuant to the authority granted by Article LXXXIX of the Constitution of the Commonwealth and General Laws, Chapter 41, Sections 108A and 108C.

**These personnel policies and procedures apply to all employees unless a separate contractual agreement supersedes or is inconsistent with a specific benefit, policy or procedure.**

#### 1.1.2 Application

All Town departments and positions are subject to these policies and procedures, including elected officials to the extent permitted by law. No vendor, independent contractor, or consultant is entitled to any rights or benefits provided under these policies and procedures.

#### 1.1.3 Rules of Interpretation

- a. These policies and procedures are intended to be in accordance with all applicable state and federal laws and the Town's by-laws. In the event of inconsistencies, the applicable law or by-law provision shall apply.
- b. Words using the singular number may extend and be applied to several persons.
- c. The Town of Hamilton, acting through its Town Manager or his/her designee, reserves the right to apply and interpret the provisions of these policies and procedures.

#### 1.1.4 Definitions

The following definitions apply:

- a. **"Town"**: the Town of Hamilton;
- b. **"full-time employee"**: an employee regularly scheduled to work at least thirty-seven and half

- (37.5) hours or more per week; 52 weeks per year
- c. **"part-time employee"**: an employee regularly scheduled to work fewer hours than a full-time employee as defined above. Except as required by law, only part-time employees regularly scheduled to work twenty (20) or more hours per week shall be eligible for benefits under these regulations.
  - d. **"temporary and/or seasonal employee"**: an employee in the Town's service holding a non-permanent appointment of a transitory nature (i.e. call fighters, reserve police officers, summer help, etc.). Such employees do not accrue or receive benefits;
  - e. **"appointing authority"**: any authorized personnel by the General Laws or otherwise to appoint employees;
  - f. **"department head"**: the individual in charge of a department's operations and activities. A department head may be an appointing authority;
  - g. **"non-exempt"** employee: an employee who is paid on an hourly basis.
  - h. **"exempt"** employee: an employee whose position is exempt from certain minimum wage and overtime provisions. Such employees are paid on a salaried, as opposed to hourly, basis. As an example department heads are exempt positions.
  - i. **"shared position"**: a position which is shared by two or more persons. Employees who share a position shall be eligible for benefits depending on the number of hours regularly worked per week by each employee.
  - j. **"classification"**: a group of positions sufficiently similar in respect to duties, responsibilities, and authority thereof that the same descriptive title may be used.
  - k. **"continuous employment"**: employment uninterrupted except for military service or other authorized leave of absence.
  - l. **"emergency employment"**: employment or appointment made for a specified time to cover an unforeseen situation.
  - m. **"emergency employee"**: an employee or appointee for emergency employment is generally employed for a period not exceeding 14 calendar days.
  - n. **"Town of Hamilton Premises"**: all Town of Hamilton facilities, grounds, and properties.
  - o. **"scheduled to work"**: that time when employees are expected to be working and does not include meal or break periods, and the time before or after the employee's workday.
  - p. **"Work day"**: the actual day an employee is scheduled to work
  - q. **"work week"**: Sunday – Saturday
  - r. **"paid time off"**: PTO is vacation, personal time, sick leave and any paid leave
- f.S. "immediate family". "Immediate family" shall include: mother, father, brother, sister, father-in-law, mother-in-law, son-in-law, daughter-in-law, grandparents and grandchildren, and a relative living in the employee's household.

## 1.2 Administration of Policies and Procedures

### 1.2.1 Responsibilities of the Town Manager

The ~~Town Manager~~[Board of Selectmen](#) shall be responsible for the adoption of personnel policies and procedures. The Town Manager shall also be responsible for the:

- a. administration and interpretation of these policies and procedures;
- b. establishment and maintenance of a personnel system;

- c. development administration, and amendment of any classification and compensation plan;
- d. the development of all necessary administrative procedures to implement the provisions of these policies and procedures, and;
- e. other responsibilities set forth in these policies and procedures.

### **1.3 Personnel Records**

#### **1.3.1 Record Keeping Policy**

The Town Manager shall be responsible for establishing and maintaining a centralized personnel record keeping system. The personnel record-keeping system shall contain such records as may be required by law and as necessary for effective personnel management. All employees and department heads shall comply with and assist in furnishing records, reports and information as may be requested by the Town Manager.

The Town Manager may establish written guidelines authorizing department heads to maintain specific or duplicate personnel records.

#### **1.3.2 Employees Covered by Record Keeping Policy**

All employees are covered by the Record Keeping Policy.

#### **1.3.3 Contents of Records**

The Town Manager shall maintain an individual personnel file for each employee which may include, but not be limited to, the following: the employment application or resume; a report of all personnel actions reflecting the original appointment, promotion, demotion, reassignment, transfer, separation, or layoff; history of employment and correspondence directly related to the employee's past employment record; reclassification or change in the employee's rate of pay or position title; commendations; records of disciplinary action; training records, performance evaluations; and other records that may be pertinent to the employee's employment record. Records of authorized leaves earned and used shall also be maintained in such files.

All records required by law to be maintained separately shall be maintained in accordance with such laws.

#### **1.3.4 Confidentiality and Access to Records**

Personnel records shall be considered confidential and access to records shall, unless circumstances dictate otherwise, be limited to the Board of Selectmen or its agents, the Town Manager, persons authorized by the Town Manager to administer the personnel system, appointing authorities and department heads and others who may have a legitimate business reason to review the records. Any employee may have access to review his or her personnel file. The employee's review of his or her employment record shall be in the presence of persons authorized by the Town Manager to administer the personnel system. An employee shall have the



right to a copy of his her personnel record, in accordance with General Laws Chapter 149, Section 52C.

#### **1.3.5 Centralization of Record Keeping System Records**

Records required to be maintained under these rules and regulations shall be under the charge of the Town Manager. The centralized records shall be maintained in a secure location. These centralized records shall be deemed to be the official depository of personnel records.

#### **1.3.6 Records Required Under the FLSA**

In accordance with the Fair Labor Standards Act (FLSA), all departments shall create, maintain and submit such payroll records, records of hours worked, authorized leave accrued and taken, overtime and any other required information. All employee authorization forms for any payroll deductions, such as health insurance, OBRA, etc. must be submitted to the Finance Department in the form prescribed and be maintained in the employee's personnel file.

#### **1.3.7 Development of Forms**

The Town Manager shall develop or revise necessary forms in support of the personnel record keeping system.

### **1.4 Compliance with Personnel Policies and Procedures**

Compliance with these Personnel regulations are required by all elected and appointed officials and employees.

## **SECTION TWO: PRE-EMPLOYMENT AND EMPLOYMENT**

### **2.1 Recruitment and Appointment**

#### **2.1.1 Recruitment Policy**

The Town shall be aggressive in the recruitment of candidates for Town positions. Individuals responsible for recruitment and selection will actively seek the most qualified individual while taking positive steps to ensure compliance with national, state, and local equal employment opportunity laws, policies and guidelines.

#### **2.1.2 Coverage**

Compliance with this regulation is required by all elected and appointed officials and employees.

#### **2.1.3 Equal Employment Opportunity**

The Town does not discriminate on the basis of age, race, religion, gender, national origin, color, disability, sexual orientation, genetic information, gender identity or expression, veteran or military status, or any other category protected by federal, state or local law. This policy extends to all aspects of the employment relationship, including recruitment and hiring, benefits, and all terms and conditions of employment. In addition, the Town will endeavor to make reasonable accommodations for known physical or mental limitations in order to enable otherwise qualified disabled individuals to perform the essential functions of their respective positions. The Town does not tolerate employees engaging in any behavior that is not in keeping with the Town's equal employment opportunity policy.

#### **2.1.4 Eligibility**

Any applicant who meets the criteria established in the job description shall be eligible for employment with the Town.

#### **2.1.5 Immigration law compliance**

Federal law requires that the Town verify that all its employees are legally eligible to work in the United States. As part of the orientation process, within the first three days of employment each employee must complete a Form I-9 and present documents that will allow the Town to confirm the employee's identity and eligibility to work in the United States. If you do not complete the form and/or are not able to provide the required documents within the required period of time, the Town may take action, up to and including delay in commencing employment or termination of employment.

#### **2.1.6 Recruitment**

The Town Manager with the participation of department heads shall be responsible for the recruitment and selection of personnel. The qualifications, classification and salary range shall be

established in accordance with the classification and compensation plans or union contracts.

- a. **Notice of Vacancies**  
Department heads, upon the identification of a vacancy or on the authorization of a new position, shall notify the Town Manager of their intention to fill the position. The Town Manager shall review and approve filling all vacancies prior to commencement of recruitment activities.
- b. **Posting and Advertisement of Job Vacancy Notices**  
Department heads shall post notices of vacancies in-house one week prior to said notices being submitted for outside publication in-house one week prior to said notices being submitted for outside publication.

Department heads shall ensure that notices of vacant positions be advertised externally. Such advertisement may, in the Town's discretion, be in a newspaper which includes Hamilton in its regular circulation area and or via other published or electronic means. Any advertisement shall identify the position, duties and salary range.

- c. **Examinations**  
The Town Manager may require an examination as part of the selection process. Examinations may be written, oral, practical, physical or any combination thereof and shall be relevant to the requirements of the position. All candidates should be treated equally with respect to examinations.
- d. **References**  
The Town Manager may contact a candidate's former employers, supervisors, and other references. References, Criminal Offender Record Information (CORI) and other background investigations shall be documented and made part of the applicant's file. All reference checks and investigations shall be completed prior to the offer of employment.
- e. **Application Records**  
If an applicant is hired by the Town, the application, documentation of reference checks, and related documents shall be maintained in the employee's personnel file. The Town shall maintain applications of those applicants not selected for employment for the period required by law. The department heads, to the extent possible, shall maintain the confidentiality of all applications.

### **2.1.7 Appointments**

All appointments shall be made in writing after the candidate has successfully passed a pre-placement medical examination. The written notice of appointment shall include the salary, the starting date, any unique or unusual conditions of employment and appropriate additional information. Copies of the letter of appointment shall be provided to the department head.

### **2.1.8 Pre-Placement Medical Examination**

All newly hired employees regularly scheduled to work twenty (20) hours per week or more and all seasonal employees (i.e. summer laborers, lifeguards, etc.) may be required to undergo a pre-placement medical examination and/or drug testing. The certification, if required, will be in such a form as the Town Manager shall determine.

#### **2.1.10 Failure to Report**

An applicant who accepts an appointment and fails to report to work on the date set by the department head, shall, unless excused by the Town, be deemed to have declined the appointment and the offer of employment shall be automatically withdrawn.

## **2.2 Orientation Period**

### **2.2.1 Orientation Policy**

All employees must meet acceptable work standards. The orientation period is utilized to help new and newly-promoted employees achieve effective performance levels. To ensure that new employees are aware of their duties and responsibilities, department heads shall inform the new employee of his/her responsibilities, duties, and obligations and shall provide the employee with a copy of the personnel rules and regulations and the appropriate job description.

### **2.2.2 Coverage**

The Orientation Policy applies not only to new Town employees but employees of the Town who are promoted to higher-level positions.

### **2.2.3 Orientation**

The appropriate department head shall conduct periodic orientation sessions for the purpose of providing new employees with information on benefits, rights and obligations as an employee of the Town. Department heads shall provide on-site training and orientation regarding specific rules, regulations, policies and procedures of the employee's assigned department including the safety policies and procedures.

### **2.2.4 Initial Orientation Period**

All newly appointed and newly-promoted employees are required to successfully complete an initial orientation period to begin immediately upon the employee's starting or promotion date and to continue for a minimum period of 180 calendar days, or other date set by contract. This may be extended by the number of days the employee has been absent from work during the 180 day period. The initial orientation period is designed to help new and promoted employees achieve effective performance standards. The initial orientation period shall be used by the Town to observe and evaluate the employee's job performance, workplace behavior, conduct, and work habits. Upon expiration of the initial orientation period, the department head shall notify the employee in writing that:

- a. the employee's performance meets satisfactory standards and the individual will be retained in the position; or
- b. the employee's performance requires additional observation and that the probation period will be extended an additional three (3) months; or,
- c. the employee will be discharged. An employee terminated during the original orientation period may not challenge such termination through the grievance policy contained in these policies and procedures.

#### **2.2.5 Department Head Responsibilities**

During the initial orientation period of any employee, department heads shall, at reasonable intervals, discuss work performance with the employee. The department head shall be responsible for documenting these discussions and copies of such documentation shall be submitted to the Town Manager and be placed in the employee's personnel file.

### **2.3 Transfer, Promotion, Demotion, Reinstatement, Voluntary Resignation and Involuntary Termination**

#### **2.3.1 Coverage**

Compliance with this regulation is required by all full-time and part-time employees of the Town.

#### **2.3.2 Transfer**

Transfer of an employee from one position to another without significant change in level may be affected if the employee has been in the original position for one year and, in the Town's judgment, is qualified for the new position.

#### **2.3.3 Promotion**

Vacancies occurring in existing positions above the lowest rank in any department in the Town may be filled, by the promotion of an employee in the Town service. Any promotion is subject to the availability of funds. The Town also reserves the right to fill vacancies with external candidates.

#### **2.3.4 Demotion**

An employee may be demoted to a position of lower grade for which he or she is qualified for any of the following reasons:

- a. When an employee would otherwise be laid off resulting from the abolition of a position; the employee's position is reclassified to a higher grade for which the employee is not qualified; lack of work; disciplinary action; lack of funds; or because of the return to work from authorized leave of another employee to such a position in accordance with the rules of leave.

- b. When an employee does not possess the necessary qualifications to render satisfactory service in the current position.
- c. When an employee voluntarily requests such demotion and the Town approves.

All demotions must receive the approval of the Town Manager and all department heads concerned. The employee will be notified in writing of his or her demotion and of the reason for such action.

### 2.3.5 Working at a Higher-Rated Position

An employee who is required by the Town to substitute in a higher classification for more than five (5) consecutive work days (not including days filling in for another employee on vacation) shall be compensated for same at the rate for the higher classification beginning with the sixth (6th) day, and ending at the conclusion of the period of substitution.

**Comment [ml1]:** This does not account for all situations and we should consider a reasonable percentage increase for instances where an employee is only covering part of the duties - I would propose 10%

### 2.3.6 Voluntary Resignation

Should an employee choose to leave the Town of Hamilton, we request adequate notice. For non-exempt employees, two (2) weeks will be sufficient. For department heads and other exempt employees, the equivalent of the employee's current maximum vacation entitlement will be sufficient. We may request more or less notice, depending on the employee's position and job responsibilities. The Town reserves the right to cease the employment relationship prior to the conclusion of the notice period. Resigning employees are also requested to provide a letter of resignation specifying the intended last day of work and the reason for resignation. Failure to provide the requested notice may have an adverse effect on eligibility for re-hire.

### 2.3.7 Involuntary Termination

It may be determined that an employee's employment should be terminated by the Town. As noted in various places in the personnel policies and procedures, there are reasons this may happen, from poor job performance to violation of Town policy, to layoff or reduction-in-force. Depending on the circumstances of termination, the employee may or may not receive advance notice.

## **SECTION THREE: COMPENSATION AND CLASSIFICATION**

### **3.1 Classification and Compensation Plan**

#### **3.1.1 Policy**

The Town shall establish and provide a uniform system for classifying all positions. That system shall establish proper relationships between positions based on the level of responsibility assumed and the minimum qualifications required to perform the job, so that the same range of compensation may be applied to each class, ensuring equitable pay.

For purposes of position classification, "supervisory responsibility" is defined as leading, directing, or assigning work to other employees. An additional premium of 5% of an employee's base pay shall be paid when that employee is regularly assigned supervisory responsibilities, out of the scope of his/her current job description and regular duties. This premium must be approved by the Town Manager.

#### **3.1.2 Coverage**

Compliance with this regulation is required by all full-time and part-time employees of the Town. The salary and compensation of elected officers of the Town shall be established annually by vote of the Town in conformity with the requirements of Sections 108 and 108A of Chapter 41 of the General Laws, and are not subject to these policies and procedures.

#### **3.1.3 Classification Plan Administration**

The Town Manager has responsibility for the administration of the classification plan and is authorized to:

- a. complete studies of new positions and make allocations to existing classes, establish a new class of positions, or delete a class of positions;
- b. provide for studies of existing positions when there has been a substantial change in the duties and responsibilities which justify consideration of possible reclassification;
- c. conduct periodic studies to insure the classification plan remains uniform and current; and,
- d. develop procedures to determine the proper classification of each position and classify positions.

#### **3.1.4 Classification of New Positions and Periodic Reviews**

The creation and revision of positions requires documentation as to the duties, skills, knowledge, abilities, and other work performance requirements of the position. The Town Manager will review and appropriately classify any new or revised position.

#### **3.1.5 Starting Rates for New Appointments**

Newly-appointed employees shall normally be paid at the minimum rate of the salary range for the

position. The Town Manager may elect to compensate a new employee at a greater rate than the minimum rate but not greater than the mid-point of any salary range for the position. A greater rate than the minimum rate may be paid if the new employee has exceptional qualifications or there is a lack of qualified applicants available at the minimum rate, with the approval of the Town Manager.

**3.1.6 Step Rate Increases**

The Town may establish policies providing for step rate increases. Such policies may be adopted on a Town-wide basis, or on a more limited basis (department-by-department or position by position). Every employee in a position for which step rates are provided may be considered for an increase in compensation to the next higher step rate within the compensation grade. Step increases will be based on the employee's date of appointment to the position and will be effective on the day in which the employee reaches his/her anniversary date.

**3.1.7 Promotion**

An employee who receives a promotion shall be compensated at the rate of pay that is closest to but greater than the employee's current rate of pay or, at the Town's option, at a step rate that the Town believes the employee's qualifications and performance warrants.

**3.1.8 Classification and Compensation Plans**

The classification plan adopted by the Town Manager shall be kept on file in the Selectmen's office and the Town Clerk's Office. Periodically, the Town Manager will review the compensation plan to assure competitiveness with comparable towns.

**3.1.9 Work Week**

The workweek of employees occupying full-time positions shall be as follows:

- a. Administrative and Clerical.....37.50
- b. Custodial, Fire Department, Emergency Center, Police Department, & Public Works .....40

**3.1.10 Shared Employment**

When employees are participating in a shared employment situation, the following rules will apply: Wages for the position will be shared at the same ratio as the hours worked by each employee and subject to the salary step increases in the compensation plan at the same ratio.

**3.2 Overtime**

**3.2.1 Coverage**

The Town shall pay overtime to eligible employees in conformance with the Fair Labor Standards Act (FLSA). Department heads shall be responsible for the control and authorization of overtime. Overtime shall be authorized at the discretion of a department head in accordance with appropriations. At the option of a department head, compensatory time may be provided in



conformance with the FLSA. Employees exempt from FLSA shall be entitled to compensatory time.

### 3.2.2 Overtime Payment

All full time, non-exempt employees required to work in excess of the 40 hours in the work week shall be paid overtime at the rate of one and one-half time the employee's hourly rate of pay. Payment of overtime is paid concurrently with the payroll cycle.

**Comment [ml2]:** This speaks to the letter of the FLSA; employees should be paid overtime when they work in excess of their regular work-week (i.e. 37.5)

### 3.2.3 Compensatory Time for Exempt Employees

The nature of employment for employees exempt from the FLSA is that they may be required to work additional hours or hours at times other than the normal work week. The purpose of compensatory time is to compensate these employees by providing time off from work. Compensatory time is not to be viewed as vacation. Compensatory time shall be accumulated at straight time and shall be used at the discretion of the Department Head within ninety (90) calendar days of the week in which it is earned.

## 3.3 Department Budgets

Each department head shall make provisions in the annual budget for pay adjustments anticipated during the ensuing year. No adjustments shall be effective or paid unless and until sufficient funds are available.

## 3.4 Performance Reviews

Each employee shall receive an annual performance review based on criteria established in the job description and goals mutually agreed upon by the employee and the supervisor. This review will be carried out by the department head and may include the Town Manager.

## 3.5 Payroll

### 3.5.1 Timekeeping

Exempt employees do not keep records of time worked for the purpose of the regular payroll. They are required to track and document earned and used paid time off. They are not eligible for over-time.

Non-exempt employees must keep an accurate record of time worked on a weekly basis. This record should be signed by the employee and the employee's department head and must be submitted to the payroll department on Thursday for each payroll cycle for payment on Wednesday.

### 3.5.2 Pay Period/Payday

The Town pays its employees bi-weekly every other Wednesday. The pay will reflect earnings up through the Saturday before the paycheck is issued.

### **3.5.3 Deductions**

The Town is required to make certain deductions from your paycheck such as for federal and state income taxes, and OBRA as required by law. The amount of these deductions will depend upon your earnings and on the information you furnish on your W-4 form regarding the number of exemptions you claim. All appropriate forms are also located on the Town's website.

An employee may modify a payroll deduction by submitting the appropriate form. These include, but are not limited to W-4, insurance, OBRA, etc. Please contact the Payroll Coordinator for the additional information or appropriate forms.

It is the policy of the Town to make deductions from the pay of salaried employees only where such deductions are permitted by the Fair Labor Standards Act, or Department of Labor regulations under that law. If a salaried employee believes that an improper deduction has been made from his/her salary, he/she may submit a complaint to the Town Manager. Any such complaint will be investigated promptly, and the employee shall be informed of the results of the investigation. If it is determined that an improper deduction has been made, the employee will be reimbursed for the amount of the improper deduction.

### **3.5.4 Direct deposit**

Town of Hamilton offers direct deposit of employee payroll checks. Each employee is required to use direct deposit for depositing his/her pay check into no more than two different bank accounts. Contact the Treasurer/Collector's Office for the appropriate forms. Be advised that direct deposit, both initial arrangements and changes in accounts, may take two pay periods to become effective.

### **3.5.5 Pay Advances**

The advancement of any pay, including vacation pay, is prohibited.

## **3.6 Unemployment Compensation**

An employee may be eligible for unemployment compensation following his/her separation from employment with the Town. Eligibility for unemployment benefits is determined by the Massachusetts Department of Unemployment Assistance. Applications for unemployment benefits should be directed to:

Commonwealth of Massachusetts  
Department of Unemployment Assistance  
TeleClaim Center: (617) 626-6800  
[www.detma.org](http://www.detma.org)

## **SECTION FOUR: STANDARDS OF CONDUCT**

### **4.1 Standards of Conduct**

#### **4.1.1 Policy**

All persons employed by the Town hold a position of public trust and as a result must present themselves in a professional and appropriate manner at all times. Employees shall avoid any action that might create the impression of using public office for private gain, giving preferential treatment to any person, or partiality in conducting Town business. Employees are expected to adhere to conduct established by state law. All employees may be subject to disciplinary action for acting in a manner that is not consistent with the standards of conduct.

### **4.2 Smoking/Tobacco**

Town of Hamilton municipal buildings and vehicles are smoke and tobacco free. This policy applies to smokeless tobacco and non-regulated nicotine products, i.e., e-cigarettes

### **4.3 Politics in the Workplace**

Participation in political activities is to be carried on outside of the employee's working hours. No political activities or solicitations will be conducted on Town owned property by an employee, during work hours or in work areas. Use of Town-owned assets in support of political activities or solicitations is prohibited.

### **4.4 Conflict of Interest**

**4.4.1** Insofar as is consistent with provisions of General Laws, chapter 268A, no employee shall maintain an outside business or financial interest, or engage in any outside business or financial activity which interferes with their ability to fully perform job responsibilities. Conduct of an employee shall be in accordance with the laws of the Commonwealth.

**4.4.2** No person employed by a department/office of the Town shall, at the same time, be a member of the Regulatory Board or Committee for which the department supports.

### **4.5 Confidentiality**

In the course of our work, Town employees create, evaluate, review and have access to a variety of documents and information, all with a goal of performing our duties and servicing our residents. The Town is governed by the Massachusetts Public Records Law and therefore residents and other members of the public may ask for documents and information. Employees should be familiar with the law, not share information confidential or otherwise exempt from the public records law. If an employee is unsure of what information and or documents are exempt, he/she should seek the counsel of his/her department head before proceeding. Releasing confidential information, could harm the Town, its residents and/or employees, and may be the basis for

disciplinary action up to and including termination of employment.

#### **4.6 Gratuities**

Consistent with the provisions of General Laws, chapter 268A, no individual employee of the Town may accept any form of gifts, gratuities, special favors or preferential treatment.

#### **4.7 Telephone**

While an employee is working, personal out-going or in-coming telephone calls should be kept to an absolute minimum. This applies to Town telephones, as well as employee personal phones.

#### **4.8 Attendance/Office Closure**

Any employee whose absence would result in the temporary closure of a town owned or occupied building shall immediately report such absence to their Department Head or the office of the Town Manager.

#### **4.9 Responsible Action**

It is the responsibility of every employee of the Town of Hamilton to take a certain amount of Responsible Action for the success of our Town. This action can take many forms and will be seen in such ways as:

**Safety at work:** Safety is every employee's responsibility. All employees are expected to report any unsafe conditions of any nature either within the Town of Hamilton or on Town property to Town administration. In the event that a condition exists that is a potential immediate hazard to residents or fellow employees, employees should secure the area from use if this can be safely done, and immediately report the hazard to Town management.

Employees are required to wear and use the safety equipment at all times while undertaking the work for which the equipment is furnished. There shall be no exceptions. Department heads and supervisors shall: assume full responsibility for the safety of working areas; recommend correction of deficiencies noted in work procedures, facilities, safety clothing or equipment, or behavior of employees; insure the availability and utilization of appropriate protective clothing and equipment; observe working conditions and field procedures to prevent possible safety hazards; and investigate and report all accidents promptly.

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

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

**Conservation of Resources:** Turn off running water, turn off unnecessary lights, turn down the heat

or air conditioning when not needed, limit the use of copy paper and supplies, reuse items when appropriate, protect and properly use Town equipment, and recycle resources appropriately.

#### **4.10 Examples of Prohibited Activities**

Disciplinary action may be initiated for failure of an employee to fulfill responsibilities as an employee including the standards set forth above and outlined below. It is impossible to list all examples of conduct which is unacceptable in the workplace. Some examples of actions considered sufficient cause for disciplinary action, up to and including termination of employment, are listed below. However the Town reserves the right to discipline an employee for any unacceptable conduct or behavior, even if it is not covered by one of the specific rules which follow.

- a. Incompetence or inefficiency in performing assigned duties;
- b. 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 supervisor;
- c. Habitual tardiness or absence;
- d. Falsification of any Town documents;
- e. Use or possession of illegal substances or alcohol while on duty;
- f. Misuse or unauthorized use of Town property;
- g. Fraud in securing appointment;
- h. Disclosure of confidential information;
- i. Abuse of sick leave or absence without leave;
- j. Violation of safety rules, practices and policies;
- k. Engaging in sexual or other harassment;
- l. Violation of personnel rules and regulations;
- m. Possessing an unauthorized weapon (knives, guns, explosives, or other devices that could be considered threatening, that were not purchased by the Town and owned by the Town, and are not being used specifically for Town business);
- n. Fighting or other physical abuse;
- o. Flagrant or repeated discourteousness;
- p. Theft or other violation of criminal or civil law;
- q. Acts or threats of violence, including aggressive actions, offensive actions, and threatening and offensive words;
- r. Employees who witness this type of behavior between co-workers will report it to a supervisor or member of the administrative team in a timely manner.

#### **4.11 Attendance/Punctuality**

##### **4.11.1 Absence and lateness**

Our ability to meet our responsibilities and therefore our residents' expectations depends to a great extent upon the dependability of our staff. Consequently, employees are expected to be present and ready for work when and where they have been assigned. Repeated absenteeism and tardiness may result in disciplinary action, up to and including termination of employment.

When you will be late, you should personally notify your supervisor as early as possible so that

appropriate planning can take place. Please phone your supervisor with the reason for your delay or absence and to indicate, if possible, when you expect to report to work. You must call each subsequent day of absence at the beginning of the day unless special call-in arrangements are made with your supervisor.

Occasionally, lateness to work cannot be helped. If it becomes repetitive, your supervisor will speak with you about the effect it is having on the satisfactory performance of your job.

Your supervisor and colleagues depend on you to be present during the established work schedule, and to be performing your job duties. If there are circumstances that prevent you from meeting these expectations, for the short- or long-term, you must speak with your supervisor and or any manager. Any employee who neglects to report to work or provide notification for three (3) consecutive days is assumed to have voluntarily resigned.

#### **4.12 Breaks**

All employees are entitled to take breaks during the regular workday. Exempt employees may have a sixty (60) minute meal break during a work period of at least six (6) hours. Non-exempt employees, in addition to the Sixty (60) minute unpaid meal break, may also have two (2) scheduled fifteen-minute paid breaks during a regular workday. Meal breaks are not considered time worked for purposes of calculating overtime.

#### **4.13 Solicitation and Sales**

Solicitation for outside interests or causes by an employee is only allowed for specific non-profit community organizations, for example Boy and Girl Scouts. Employees of the Town are not permitted to distribute, post, solicit or sell any materials, literature, products or services at any time while on Town of Hamilton premises and/or while either person is on working time, other than those products or services related to the employees' specific Town of Hamilton duties, without the express written permission of the Town Manager. Employees are also prohibited from using the Town's communications infrastructure for prohibited solicitations.

Similarly, non-employees of Town of Hamilton are not permitted to sell or solicit products or services using the Town's employees or communications infrastructure without the express written permission of the Town Manager.

#### **4.14 Entry After Hours**

Employees of the Town are not permitted to enter non-public areas of the Town's buildings, structures or the outdoor complex premises during non-working time. Unauthorized entry into non-public premises without the express permission of either the Town Manager or your supervisor may be grounds for disciplinary action up to and including termination of employment.

#### **4.15 Dress Code**

Work attire should be consistent with an environment that reflects an efficient, orderly, and professional organization. This policy is intended to provide guidelines as to appropriate "attire" during normal business operations.

The key point to sustaining an appropriate causal business attire program is the use of common sense and good judgment, and applying a dress practice that the Town deems conducive to our business environment. If you question the appropriateness of the attire, it probably isn't appropriate for the workplace.

Requests for advice and assistance in administrating or interpreting this guideline should be directed to your Department Head.

Some examples of unacceptable attire are as follows:

- Cutoffs
- T-shirts with logos
- Athletic wear and gear
- Spandex or Lycra such as biker shorts, yoga pants
- Tank tops, tube tops, halter tops with spaghetti straps
- Underwear as outerwear
- Beach wear
- Midriff length tops
- Provocative attire
- Off-the-shoulder tops
- Evening wear

#### Enforcement

Department managers and supervisors are responsible for monitoring compliance with and enforcing this policy. The policy will be administered as follows:

- a. If questionable attire is worn in the office, the department supervisor/manager will hold a personal, private discussion with the employee to advise and counsel the employee regarding the inappropriateness of the attire.
- b. If an obvious policy violation occurs, the department supervisor/manager will hold a private discussion with the employee and ask the employee to go home and change his/her attire immediately.
- c. Repeated policy violations will result in disciplinary action, up to and including termination.

## **SECTION FIVE: DISCIPLINARY AND GRIEVANCE PROCEDURES**

### **5.1 Disciplinary Procedure**

#### **5.1.1 Policy**

Department heads and supervisors are responsible for enforcing standards of conduct, rules and regulations, and performance standards. Failure to comply with any of the above may result in disciplinary action. The type of disciplinary action imposed is at the discretion of the department heads and is dependent upon the nature of violation. Disciplinary action shall include only the following: oral warning, oral reprimand, written reprimand, suspension, and discharge. Department heads shall be responsible for preparing written documentation of disciplinary action. All written documentation shall be provided to the employee and shall be filed in the employee's personnel file in the centralized personnel record keeping system.

#### **5.1.2 Coverage**

Compliance with this regulation is required by all full-time and part-time employees of the Town who have successfully completed the initial orientation period.

#### **5.1.3 Disciplinary Action**

Department heads will discuss serious disciplinary problems and proposed disciplinary actions with the Town Manager to insure that procedures are followed and that contemplated actions are warranted and consistent with practices in the Town.

#### **5.1.4 Disciplinary Action Options**

- a. Oral warning  
A department head or supervisor may issue an oral warning to the employee. The oral warning shall be presented in a manner minimizing embarrassment to the employee. The department head or supervisor shall orally communicate to the employee the nature of the deficiency and offer assistance in correcting the deficiency.
- b. Written reprimand  
Any oral warning which does not correct the deficiency may result in a written reprimand which may be issued by either a department head or Town Manager. The written reprimand shall include: the charge; the specific behavior and dates of the behavior, as appropriate; the warning that continuance of the behavior will result in severe disciplinary action; an offer of assistance in correcting the behavior; circumstances affecting the severity of the disciplinary action and any right of appeal. A copy of the written reprimand shall be placed in the employee's personnel file.
- c. Suspension  
A department head, with the approval of the Town Manager, may suspend an employee without pay for a period not to exceed ten (10) consecutive working days per incident.



Suspension may be in lieu of oral reprimand or written reprimand, and may be effective immediately. On or before the date of suspension a department head or the Town Manager shall furnish the employee with a written statement setting forth the reasons for the suspension, the effective date of the suspension and the date the employee shall return to work.

The notice of suspension shall include: the charge, the specific behavior and dates of the behavior, as appropriate; the warning that continuance of the behavior will result in severe disciplinary action, including discharge; an offer of assistance in correcting the behavior; circumstances affecting the severity of the disciplinary action and any right of appeal. A copy of the written statement shall be placed in the employee's personnel file.

d. Discharge

An employee may be discharged by the Town for cause. The employee shall be given written notice of the discharge signed by the appropriate Department Head or Town Manager specifying: the date of the discharge, the specific behavior and dates of the behavior, as appropriate; circumstances affecting the severity of the disciplinary action; and any right of appeal. A copy of the notice of discharge shall be placed in the employee's personnel file.

## 5.2 Grievance Procedure

For purposes of this policy, a "Grievance" is defined as a claim that the Town of Hamilton's Personnel Rules and Regulations have not been properly interpreted or applied, or a dispute as to the imposition of discipline. Grievances are to be resolved in the following manner:

a. Informal Resolution

When possible, workplace issues and problems should be resolved in the simplest way. Employees are therefore encouraged to discuss any matter of concern with their immediate supervisor in a mutual effort to resolve any problem or misunderstanding.

b. First Step

Upon failing to resolve any grievance in an informal manner an aggrieved employee may present a written grievance to the department head within ten (10) days from the time the employee has knowledge of the occurrence which gave rise to the grievance. (If the immediate supervisor and the department head are the same person, the employee may proceed immediately to the "Second Step" outlined below).

c. The written grievance shall contain the following information: the section of the regulation upon which the grievance is based; the occurrence(s) being grieved; applicable dates and times; any pertinent information relative to the grievance; and an indication of the action that is desired. The department head shall provide a response to the grievance within five (5) working days of receipt of the grievance.

d. Second Step

If the grievance has not been resolved at the First Step, the employee may present the grievance in writing to the Town Manager. If the Town Manager and the department head is

the same person then the employee may proceed immediately to the Third Step as outlined below. Any Second Step grievance shall be submitted to the Town Manager the earliest of five (5) working days of the department head's response, or ten (10) working days of the submission of the grievance to the department head. The Town Manager shall answer the grievance in writing within ten working (10) days of its receipt. Except where additional grievance or appeal steps are required by law, the Second Step shall be the final step in the Town's Grievance Procedure.

Step 3? If grievance is against the town manager the appeal is to the Board of Selectmen; we need to develop process for this...

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#### **5.2.1 Procedural Protection**

An employee may be represented by counsel or other representative of their choosing during the grievance process. Any expenses incurred by an employee during the course of the grievance process shall be borne by the employee. If the employee is required or requests to be present at hearings on a grievance, the employee shall not lose pay for work time lost. Department heads or supervisors shall not retaliate or take any disciplinary action against an employee based on the filing of any grievance filed in good faith.

#### **5.2.2 Failure to Act**

Grievances are expected to be filed in a timely manner. The employee filing a grievance and the Town shall meet all time limits specified in the grievance process. Any time limit may be extended by written agreement of the Town Manager and the employee. Failure of the employee to meet the time limits specified in this section shall result in a grievance being denied. Failure by the Town to act in accordance with the time limits set forth in this section shall be considered a denial of the grievance and the employee shall be allowed to move the grievance to the next step.

## **SECTION SIX: BENEFITS**

### **6.1 Holidays**

#### **6.1.1 Coverage**

Compliance with this regulation is required by all full-time and part-time employees regularly scheduled to work 20 hours or more per week.

#### **6.1.2 Recognized Holidays**

The Town recognizes the following holidays. On these days, employees, without loss of pay, shall be excused from all duty except in cases where the department determines that the employee is required to maintain essential Town services:

New Year's Day  
Martin Luther King Day  
President's Day  
Patriot's Day  
Memorial Day  
Independence Day  
Labor Day  
Columbus Day  
Veteran's Day  
Thanksgiving Day  
The day after Thanksgiving Day  
Christmas Day

The Town Manager or designee shall publish the dates for observance of designated holidays for the upcoming fiscal year by June 15th.

#### **6.1.3 Holiday Observance**

We follow the State of Massachusetts holiday observance schedule. For Holidays occurring on Saturday will be observed on Friday. Holidays occurring on Sundays will be observed on a Monday.

#### **6.1.4 Holiday Eve**

The Town building will close to the public at 12:00 pm on Thanksgiving, Christmas and New Year's Eve. An employee may choose to use vacation time and/or personal time for the scheduled afternoon hours. This regulation only applies when the holiday eve occurs on a Monday through Thursday.

#### **6.1.5 Holiday Pay**

Full-Time: Holiday pay is equal to one scheduled work day of pay.

Part-time: Part-time employees shall be entitled to holiday pay which shall also be prorated in accordance with the number of scheduled hours an employee works on the day the holiday is observed.

All hourly employees shall receive one day base pay plus one and one-half (1-1/2) time for hours worked on the holiday.

An employee whose work week is irregular, or by rotation of shifts, other than Monday through Friday, and whose regular day off falls on a holiday, shall be paid at the regular rate for such day or fraction of such day.

#### **6.1.6 Snow Days**

On days when employees who were scheduled to work are advised not to come to work for weather-related, or other reasons, all full-time and part-time employees scheduled to work shall be compensated in the amount each would have earned for the day, without impact upon other accrued leave.

If you were not scheduled to work (it was your regular day off, a planned vacation or personal day, jury duty, etc.) the day that the office was closed or closed early due to weather related issues, or other reasons unscheduled employees will not receive additional time or compensation pay.

### **6.2 Vacation**

#### **6.2.1 Coverage**

Full-time and part-time employees regularly scheduled to work 20 or more hours per week.

Part-time employees retained to work less than 1080 hours per year will be eligible for the following vacation coverage:

- 400 to 800 hours per year will receive one day equivalent to their regularly scheduled work hours, and
- 801 to 1080 hours per year will receive two days equivalent to their regularly scheduled work hours.

For example a part-time employee that works four hours on Tuesday and Thursday totaling 416 hours per year will receive 4 hours of vacation time.

#### **6.2.2 Accrual of Vacation**

Commencing on July 1<sup>st</sup> of each fiscal year an employee's vacation leave will accrue at the end of the month at the accrual rate of 1/12 of the annual eligible amount per month. [Accruals shall be credited on the last payroll of the month.](#) An employee may take vacation time any time during the fiscal year, whether or not the time has been earned as long as it is within the annual eligible

amount.

### 6.2.3 Vacation Eligibility

Vacation shall be earned and granted in accordance with the following schedule:

- a. Every employee occupying a full-time position, or a part-time position in which he or she regularly works more than 1,040 hours per year, shall be granted vacation with pay during each twelve months of employment, under the following schedule. Such vacation shall be prorated for portions of the year based upon regularly scheduled work hours. To calculate your prorated allowance use the following formula - # of hours regularly worked per week in part time schedule / # of hours a Full-time employee works = % of Full-time vacation allowance you are eligible for.

The example below is for a part-time employee that works in a department in which full-time employees work 37.5 hours per week. If the part-time employee works in a 40 hour work week department than substitute 37.5 for 40 in the calculations listed below. The example below is for an employee scheduled to work 26 hours per week for 52 weeks per year in a 37.5 hours per week department.

Part-time	26	hours X 52 weeks = 1352 hours per year
Full Time	37.5	hours X 52 weeks = 1950 hours per year

$1352 / 1950 = .69$  (69%)

A non-exempt full-time employee (37.5 hours) in their 3 year of employment is eligible for 75 hours vacation time. The 26 hour part-time employee would be eligible for 51.75 hours of vacation (75 hours X 69 % = 51.75).

- b. In the first year of employment, rules as to accrual and use of vacation pay are as follows:

~~An employee must be employed six months to be eligible to take vacation time. An employee starts accruing vacation immediately upon being hired. Vacation time may not be taken until the employee has completed his/her probationary period. However, a Department Head may authorize vacation upon hiring a new employee. Such vacation time must be prearranged and specific dates stated in the offer letter. Should an employee leave or cease to be employed by the Town of Hamilton for any reason before completing the probationary period, the town shall deduct vacation time used during the probationary period from the individual's pay. If the amount owed exceeds the value of the employee's pay, the employee will repay the town for any such deficiency within 14 days.~~

~~An employee leaving Town employment for any reason prior to the completion of six months of employment receives no vacation time and/or payment for that time. Once an employee has completed the six month period, he/she will accrue vacation time at the rate of one-half day for each month of employment, retroactive to the date of hire.~~

- c. All employees in continuous service of the town ~~for more than one year~~the date of hire but less than five years shall be entitled to up to two (2) work weeks of vacation leave with pay each year. Department heads shall be eligible for three (3) work weeks' vacation.
- d. All employees in continuous service of the town for **more than five years but less than ten** shall be entitled to up to three (3) work weeks of vacation with pay each year. Department heads shall be eligible for four (4) work weeks' vacation.
- e. All employees in continuous service of the town for **more than ten years** shall be entitled to up to four (4) work weeks of vacation leave with pay each year. Department heads shall be eligible for five (5) work weeks' vacation.
- f. All employees in continuous service of the Town for **more than fifteen years** shall be entitled to up to four (4) work weeks plus one (1) day vacation leave with pay each subsequent year.
- g. All employees in continuous service of the Town for **more than twenty years** shall be entitled to 5 work weeks' vacation leave with pay each year.

h. The **maximum** any employee may receive is **5 weeks' vacation**.

h.i. The Town Manager may exercise discretion in the hiring of Department Directors and may authorize additional vacation based on a candidates skills and experience in municipal government or similar positions.

h.j. Forms section provides the allocation of vacation on a fiscal basis.

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#### 6.2.4 Scheduling

Employees are required to submit requests for vacation time to their department head. Each department head shall by July 1<sup>st</sup> of each year, develop a vacation schedule for all employees in the department who are eligible or who may become eligible for vacation time during the year. The department head may honor a seniority based approach to scheduling vacation when a scheduling conflict occurs. Vacation shall be authorized by the department head at such times, in his/her opinion, as to cause the least interference with the performance of regular work of the Town. Vacation leave will not be unreasonably denied.

#### 6.2.5 Carry-Over of Vacation

Vacation leave has a regenerative effect on an employee's health. Therefore, employees are encouraged to take all their vacation time in the year it is earned. With prior written approval of the Town Manager an employee may carry over up to one work week to the following fiscal year to be used by no later than July 31. If vacation time is not used within the required time period it is forfeited.

**Comment [m13]:** We should consider allowing employees to carryover a number of vacation days (3-5?) by right so that I am not having to spend so much time on these requests - discussion)

#### 6.2.6 Death

When an employee dies with unused vacation time due him/her, the value of such unused time shall be paid to the estate of the deceased employee.

#### **6.2.7 Use**

Vacation is must be taken in hourly increments, ~~with a minimum of 4 hours for all employees working 20 or more hours per week.~~

#### **6.2.8 Termination or Resignation**

If employment is terminated or an employee resigns, the employee shall be paid for any accrued unused vacation time due him/her. If the employee has used vacation time in advance of the monthly accrual, as of their last day of employment, shall be responsible for reimbursing the Town for all vacation pay received for unearned vacation time. The Town may deduct such unearned vacation pay from any payments made to the employee following notice of termination of employment.

#### **6.2.9 Retirement**

When an employee meets retirement eligibility and retires from the Town of Hamilton the employee shall be paid for all unused vacation allowance earned in the vacation year during which retirement occurs.

#### **6.2.10 Holiday While on Vacation**

An employee shall be granted an additional day of vacation, if while on vacation leave a Town-recognized holiday occurs. An employee will not be charged for vacation time for any recognized Holiday that occurs during his/her vacation.

#### **6.2.11 Vacation Pay Advances**

Vacation pay will be paid the week-pay period that the vacation is taken. Pay advances are prohibited.

### **6.3 Personal Days**

#### **6.3.1 Personal Days**

A full-time employee may be granted up to three (3) personal days per year. Use of such days is subject to the approval of a department head or Town Manager. Personal days will not be accumulated, and are not paid to an employee upon resignation, termination, retirement, or other separation of employment.

Part-time employees regularly working twenty (20) or more hours per week shall be eligible for a pro-rated amount of personal days.

## 6.4 Sick Leave

### 6.4.1 Coverage

Full-time employees and part-time employees regularly scheduled to work 20 hours or more per week.

### 6.4.2 Accumulation

An employee of continuous service shall accumulate one and one-quarter days of sick leave with pay for each full calendar month of continuous service. There is no cap on the amount of sick leave an employee may accumulate and cannot be used in advance. An employee sick leave **buy back** is capped at a maximum of 150 days. Sick leave will accumulate as of the 1<sup>st</sup> pay check of the month for the preceding month. For example, an employee will receive 1.25 days accumulated sick leave for the month of August. The 1.25 day accumulated for August will appear on the 1<sup>st</sup> pay check issued in September.

### 6.4.3 Use of Sick Leave

Sick leave shall be granted to an employee only when the employee is incapacitated from the performance of duties by personal sickness, injury, exposure to a contagious disease, or the sickness, injury or exposure to a contagious disease of a dependent living in the same household, who normally requires the care or direct supervision of the employee. A department head may grant an employee leave with pay in the event of serious illness of a member of the employee's immediate family, which leave shall be considered to be sick leave of such employee up to 5 amount of days without using the requesting qualifying as a Family Medical Leave.

**Comment [m14]:** Wording - FMLA does not have to be requested by the employee but rather is triggered by a qualifying event

### 6.4.4 Authorization of Sick Leave

Sick leave shall be authorized by a department head. Notification of illness shall be made to the employee's supervisor, if possible, prior to starting time or as soon as practical thereafter. The department head or Town Manager may require a physician's certificate of illness if an absence lasts longer than three business days or if the abuse of sick leave is suspected. Department Heads are required to contact the Town Manager prior to the start of the work day when they will be absent from work due to illness. Such notification may be voicemail, email, text message to either the office or cell phone number.

### 6.4.5 Workers' Compensation and Sick Leave Supplemental Payments

The Town through its department head may supplement workers' compensation payments in the amount which is the difference between the amount paid in Worker's Compensation payments and the employee's regular compensation to the extent the employee has accumulated sick leave. Such supplemental payments shall be charged against accrued sick leave first and then vacation until such leave has been exhausted at which time such supplemental payments shall cease.



#### 6.4.6 Termination or Resignation of Employment

An employee, who ceases employment with the Town, other than by retirement, shall not be entitled to compensation in lieu of sick leave not taken.

#### 6.4.7 Retirement Sick Day Buy Back

Employees who retire under the provisions of MGL Chapter 32 will be paid at the rate of one day of pay at the straight time rate for each four days of accumulated sick leave. To be eligible for this benefit, an employee must have at least ten years of service to the Town. An employee's sick leave **buy back** is capped at a maximum of 150 days.

An employee who is retiring must provide written notice of his or her intention to retire by January 1<sup>st</sup> of the fiscal year prior to the fiscal year in which the retirement is to take effect in order to obtain this benefit. If the employee fails to provide notice as required in the above sentence, he or she shall be entitled to payment in the fiscal year which begins one year after the fiscal year in which the retirement is to take place.

#### 6.4.8 Short Term /Long Term Disability

Employees may purchase short term, long term disability insurance or both through an insurer or insurers selected by the Town. Employees shall be responsible for paying the entire cost of such coverage including any fees. Upon the employee's authorization the Town shall deduct the premium amount from the employee's paycheck and make payment to the insurer. The Town shall have the right to change insurers upon reasonable notice. All decisions relating to such insurance, including decisions as to coverage, eligibility, premium costs, and benefits shall be made by the insurer(s), and not the Town. Decisions made by the insurers shall not be subject to grievance and arbitration."

~~The Town does not contribute to or provide any Short Term or Long Term Disability coverage for its employees.~~

#### ~~6.4.9 Donating Accrued Sick Leave~~

~~The donation of accrued sick leave by a Town employee to another Town employee will only be allowed when the employee receiving the donation has exhausted his/her accrued sick time and has been on sick leave for an extended period of time (for purposes of this Section, "extended" is a minimum of one month). The donation of accrued sick leave requires the approval of the Town Manager, and the Department Head of the employee donating the time. Donations are transferred to an employee in increments no greater than one week and the maximum number of days an employee may have donated by others is 90 days. If either the donor or the recipient is a member of a union, the union must approve in writing the donation and receipt of the sick leave. Any employee who has used all accrued sick leave and is using donated sick leave from another employee is on special status and not accruing either benefits or seniority toward step increases. The donation of sick time is permanent, irrevocable and cannot be used as part of an employee's~~

~~buy-back.~~

## **6.5 Leaves of Absence**

### **6.5.1 Coverage**

Compliance with this regulation is required by all full-time and part-time employees of the Town, unless otherwise provided.

### **6.5.2 Bereavement Leave**

In the event of death in the immediate family of an employee, such employee shall receive funeral leave without loss of pay for the employee.

Employees shall be entitled to five (5) days bereavement leave with pay for absence due to each death of their spouse/domestic partner or child(ren).

Employees shall be entitled to three (3) days bereavement leave with pay for absence due to each death of other "immediate family". "Immediate family" shall include: mother, father, brother, sister, father-in-law, mother-in-law, son-in-law, daughter-in-law, grandparents and grandchildren, and a relative living in the employee's household.

### **6.5.3 Jury Leave**

Jury leave shall be granted and paid in accordance with state law.

### **6.5.4 Military Leave**

Town employees are entitled to military leave under the provisions of the Uniformed Services Employment and Re-employment Rights Act ("USERRA") of 1994. USERRA has specific requirements as to eligibility for leave, notice, and reinstatement of employment upon completion of military service.

Currently, specific provisions of state law govern pay and vacation entitlement for public employees who have performed service for the National Guard or military reserves since September 11, 2011. Eligible employees are paid their regular base salary for each pay period of military leave of absence after September 11, 2001, reduced by any amount received from the United States as base pay for military service performed during the same pay period. Such employees do not lose any seniority, vacation days, sick leave, or personal days.

Further, Town employees are entitled, during the time of service in the armed forces of the Commonwealth, or during the annual tour of duty of not exceeding 34 days in any state fiscal year and not exceeding 17 days in any federal fiscal year as a member of a reserve component of the armed forces of the United States, to receive pay, without loss of ordinary remuneration, are also entitled to the same leaves of absences or vacations with pay given to other like employees.

### **6.5.5 Leave of Absence Policy**

In situations not covered by other Town leave of absence policies, the Town Manager may, at his/her discretion, grant a leave of absence without compensation and without loss of seniority for periods not exceeding three-months. Only those employees completing at least one year of continuous service shall ordinarily be eligible for leaves of absence under this section.

Employees granted a leave of absence shall be classified as out of service of the Town and shall not be entitled to other benefits as may be provided by the Town, including, but not limited to seniority, sick leave, vacation leave and compensation during the periods of the leave. An employee granted a leave of absence for a period of thirty (30) days or less shall be entitled to coverage under applicable group health and life insurance plans. An employee granted a leave of absence for a period of greater than thirty (30) days may be provided coverage under applicable group health, dental and life insurance plans, provided that the employee pays the total premium cost, in accordance with applicable statutes.

Leaves of absence shall not be granted to enable an employee to accept other employment or for self-employment. Any request for leave of absence or reinstatement after such leave without pay shall be made in writing.

### **6.5.6 Maternity Leave**

A regular full-time female employee is eligible for maternity leave after completion of three (3) months of employment, for the purpose of:

- Giving birth; or
- Adopting a child under the age of 18; or
- Adopting a child under the age of 23, if the child is mentally or physically disabled.

The employee must give the Town at least two (2) weeks' notice of her anticipated date of departure and intention to return. Although not required by law, employees are strongly encouraged to provide this notice in writing, so as to avoid any confusion or dispute. A female employee who qualifies may take up to eight (8) weeks of unpaid maternity leave. Where permitted by law, maternity leave will run concurrently with Family and Medical Leave (see below).

Following this leave, the employee will be returned to her prior job, or to a job that is equivalent in pay and status.

Any female employee who has accrued paid time off (PTO) available to her may substitute that PTO for unpaid leave during the eight-week period of leave under this policy. PTO, however, may not be used to extend the total leave under this policy to more than twelve weeks. Applied vacation, personal days, sick leave and FMLA run concurrently with maternity, not in addition to it. In all cases the maximum amount of combined unpaid and/or paid leave will be 12 weeks.

### **6.5.7 Family and Medical Leave**

Eligible Town employees are entitled to leave under the Family Medical Leave Act ("FMLA") on the

terms and conditions stated in this policy, the regulations issued by the Department of Labor under the FMLA, and The Town's other applicable leave policies.

All employees who have been employed for at least one year, have completed at least 1,250 hours of service during the 12-month period immediately preceding the commencement of leave are eligible for leave under the FMLA. An eligible employee may request an FMLA leave of up to 12 weeks in a 12-month period (measured backward on a rolling basis) for any of the following reasons:

1. The birth or adoption of a child or the placement of a foster child with the employee, or to care for the employee's child during the first 12 months after birth or placement.
2. To care for the "serious health condition" of an employee's spouse, child, or parent. For purposes of this policy, a "serious health condition" is an illness, injury, impairment or physical or mental condition that involves either an overnight stay in a medical care facility or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job or prevents the qualified family member from participating in school or other daily activities. Subject to certain conditions, the "continuing treatment" requirement may be met by a period of incapacity of more than three (3) consecutive calendar days combined with at least two (2) visits to a health care provider; or one (1) visit and a regimen of continuing treatment; or incapacity due to pregnancy; or incapacity due to a chronic condition. Other conditions may meet the definition of "continuing treatment."
3. The "serious health condition" of an employee that causes the employee to be unable to perform the functions of his or her position, including incapacity due to pregnancy, prenatal medical care, or child birth.
4. Any "qualifying exigency" arising out of the fact that the spouse, or a son, daughter or parent of the employee is on covered active duty in the Armed Forces or National Guard or Reserves. A "qualifying exigency" includes: (1) short notice deployment (limited to seven calendar days from date notified of deployment); (2) military events and related activities; (3) childcare and school activities; (4) financial and legal arrangements; (5) counseling; (6) rest and recuperation (limited to five days of FMLA leave); (7) post-deployment activities; and (8) additional activities, only as mutually agreed to by employee and the Town.

**Special leave entitlement relating to an employee's family member in the Armed Forces:**

A spouse, son, daughter, parent, or "next of kin" may request up to 26 workweeks of leave to care for a covered service member during a single 12-month period. A covered service member is: (a) a current member of the Armed Forces (including a member of the National Guard or Reserves) who has a serious injury or illness incurred in the line of duty on active duty that may render the service member medically unfit to perform his or her duties for which the service member is undergoing medical treatment, recuperation, or therapy; in outpatient status; or on the temporary disability retired list; or (b) a veteran who: (i) has a serious injury or illness incurred in the line of duty on active duty (or existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active duty) for which the veteran is undergoing medical treatment, recuperation, or therapy and (ii) was a member of the Armed Forces (including a member of the National Guard or

Reserves) at any time during the period of 5 years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy.

### **Use of Leave**

The leave may be taken in one block of twelve (12) weeks, or if required, employees may take FMLA leave on an intermittent or reduced leave schedules (select days or hours, for example) when medically necessary to care for a seriously ill family member or a covered service member, because of the employee's own serious health condition, or due to a qualifying exigency. Employees needing intermittent leave for planned medical treatment must make reasonable efforts to schedule the leave so as to not to unduly disrupt the Town's operations.

### **Employee Responsibilities**

Employees must provide 30 days advance notice of the need to take FMLA leave when the need is foreseeable. Such notice must be submitted in writing to the Town Manager, or his/her designee. When 30 days' notice is not possible, the employee must give notice of the need for such unforeseeable leave as soon as practicable under the facts and circumstances of the situation and generally must comply with the Town's normal call-in procedures for an absence or tardiness.

Employees must provide sufficient information for the Town to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions, the family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or circumstances supporting the need for military family leave. Employees also must inform the Town if the requested leave is for a reason for which FMLA leave was previously taken or certified. Employees also may be required to provide a certification and periodic recertification supporting the need for leave.

### **Employer Responsibilities**

Employees requesting leave will be advised whether they are eligible under FMLA. If they are, the Town will provide notice of any additional information the employee needs to provide, as well as the employee's rights and responsibilities under the FMLA. If the employee is not eligible for the leave, the Town will inform the employee and provide a reason for his/her ineligibility.

The employee will also be informed if leave will be designated as FMLA-protected and the amount of leave that will be counted against the employee's leave entitlement, if possible. If it is determined that the leave is not FMLA-protected, the Town will notify the employee of this fact, as well. An employee's failure to comply with the Town's FMLA leave procedures can be grounds for delaying or denying an employee's request for FMLA-qualifying leave.

### **Use of Sick/Personal/Vacation Time**

In order to use paid benefit time during an approved FMLA leave, employees must comply with the Town's normal paid leave policies. Earned and accrued sick, personal and vacation time must be used during an approved FMLA leave prior to taking any unpaid leave.

## **Benefits and Protections**

During an approved FMLA leave, the employee's position will be held open to the extent required by the FMLA, and the Town will maintain the employee's health coverage under any group health plan (if there is such coverage) on the same terms as if the employee had continued to work. Upon returning from FMLA leave, most employees will be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms.

Use of FMLA leave will not result in the loss of any available employment benefit that accrued prior to the start of the leave.

## **Unlawful Acts and Enforcement**

FMLA makes it unlawful for any employer to: interfere with, restrain, or deny the exercise of any right provided under the FMLA; or discharge or discriminate against any person for opposing any practice made unlawful by the FMLA or for involvement in any proceeding under or relating to the FMLA.

An employee may file a complaint with the US Department of Labor or may bring a private lawsuit against an employer. (DOL contact information is: 1-866-487-9243; TTY 1-877-889-5627; [www.wagehour.dol.gov](http://www.wagehour.dol.gov)). FMLA does not affect any federal or state law prohibiting discrimination, or supersede any state or local law or collective bargaining agreement which provides greater family or medical leave rights.

### **6.5.9 Veteran Funeral Services**

Full-time Town employees who are veterans shall be granted leave, with pay, to attend the funeral or memorial service of a veteran when so authorized by the Town Manager, without loss of pay in accordance with the General Laws of the Commonwealth.

## **6.6 Stipends & Certifications**

### **6.6.1 Stipend Payments**

Stipends are budgeted on an annual basis and paid proportionally monthly (1/12 per month) on the last pay check period of each month (i.e. \$1000 annual stipend will be paid as \$83.33 per month for every month worked). Stipends are paid in the fiscal year in which they are due.

### **6.6.2 Certification Payments**

In certain situations, Town employees are statutorily entitled to payments for achieving or maintaining required certifications, any such certification payments will be incorporated in the employee's pay check.

## **6.7 Workers' Compensation**

### **6.7.1 Coverage**

Compliance with this regulation is required by all employees of the Town, unless otherwise provided.

### **6.7.2 Period Not Covered by Workers' Compensation**

Charges shall be made against sick accruals for the legal waiting period not covered by the state worker's compensation act.

### **6.7.3 Coordination of Sick Leave with Workers' Compensation**

An employee receiving sick leave with pay and simultaneously receiving compensation under workers' compensation laws shall receive only that portion of his regular salary which will, together with said compensation, equal his or her regular salary. Sick leave shall be charged accordingly.

### **6.7.4 Notification**

An employee must file a workers' compensation claim in a timely manner (i.e. as soon as possible after the accident) with Town Clerk. All accidents no matter how minor should be reported to the Town Clerk. The Town Clerk will provide you with any forms necessary for your claim and contact our insurance provider.

## **6.8 Employee-Incurred Expenses and Reimbursements**

### **6.8.1 Coverage**

The Town will reimburse all approved, legitimate expenses incurred by an employee as a result of that employee performing town business related to the employee's work (not including sales tax as the Town is tax-exempt).

### **6.8.2 Mileage Reimbursement**

The Town will reimburse employees at a rate established by the IRS and voted by Finance and Advisory Committee when an employee must use a personal vehicle for Town-related business, provided that they have prior approval from a supervisor to use a personal vehicle. Travel expenses between the employee's home and work location are not reimbursable. If travel is required from home to a third location for business purposes, then to work or visa-versa, reimbursement will be the difference between the mileage from the home to work and the total miles driven on business.

Request for reimbursement must be approved by the employee's supervisor on a form that displays the date the travel occurred; the beginning and ending odometer reading; the destination; and the reason for travel and number of miles traveled.

### **6.8.3 Use of personal vehicle**

When it is necessary to use a car for approved travel, an employee may choose to use his/her own personal vehicle. Town of Hamilton will reimburse according to the following policies. Town of Hamilton will not reimburse moving violations or parking violations. However, the Town of Hamilton will reimburse for tolls and parking with appropriate receipts.

For use of your personal car for approved travel, Town of Hamilton will reimburse by multiplying the mileage accrued by the rate of reimbursement as established by the Federal Government guidelines.

Town of Hamilton's insurance does NOT cover you in the case of an accident while driving your own vehicle on Town business. You are responsible for carrying adequate insurance coverage. Any damage incurred to your vehicle while being used for Town of Hamilton business is covered by your own personal insurance policy. Town of Hamilton does not assume responsibility for deductibles or other uninsured loss to the vehicle. Nor does Town of Hamilton pay for repairs or other such costs that result from your actions or the actions of others. You are advised to consult with your own insurance carrier.

### **6.8.4 Town Vehicles**

The policy for Town Property also applies to use of Town vehicles. Should you be authorized to use a Town vehicle, it is to be used only for Town business. Misuse or misappropriation of Town vehicles may result in disciplinary action, up to and including termination of employment, criminal prosecution, and/or other liabilities and penalties.

Authorization to operate the vehicle extends only to those employees given permission by the Town Manager. No unauthorized person may operate a Town vehicle. Of course, all laws pertaining to the operation of motor vehicles are to be adhered to at all times. Any moving violations received while you are operating a Town vehicle are your responsibility, not the Town's. A moving violation may result in disciplinary action including termination of employment.

The Town pays insurance and taxes for Town Vehicles.

You must comply with the following conditions for the use or benefit of a Town car:

1. to take reasonable care of the car and to keep it in a clean condition;
2. you may not use the Town Vehicle for private purposes.
3. cell phones are not to be used while operating a Town vehicle for any purpose. This includes making and receiving phone calls, making or receiving text messages, or accessing other phone features. If it is necessary to use your cell phone, you must pull off the road.
4. to keep the car in a roadworthy condition, regularly serviced and maintained, and to take appropriate action to remedy any faults;
5. to report to the Department Head at the earliest opportunity any damage to the car or any accident arising from its use, regardless of how the damage or accident occurred;



6. to report to the Department Head at the earliest opportunity any incident involving the Police which arises from use of the Town vehicle;
7. to assist the Town with insurance claims or investigations into accidents, damage or Police inquiries arising from use of the Town vehicle.

If you are involved in an excessive number of accidents or other driving incidents for which you are wholly or in part at fault, the Town reserves the right to withdraw the Town Vehicle from your use and may result in disciplinary action including termination of employment.

If you expressly or impliedly give permission to use the Town vehicle to any person other than an authorized employee, and the Town vehicle is involved in an accident while being used by that person, you shall, at the Town's sole discretion, pay for the cost of repairing or replacing the vehicle and may result in disciplinary action including termination of employment.

Further, you will indemnify the Town for liability to any third party who suffers loss or damage.

If you cease to hold a valid current driving license and in consequence are unable to either attend work or (in the Town's reasonable opinion) carry out your duties properly and effectively, then unless suitable alternative employment is available, the Town will be entitled to terminate your employment without notice.

If you or the Town become involved in criminal proceedings in connection with your use of the Town vehicle or any use by any other person to whom you have expressly or impliedly given permission to use the vehicle, you will be responsible for all parking fines and charges, costs, fines, criminal compensation and any other financial liability connected with or arising from such criminal proceedings. If the Town initially pays some of the above liabilities, you will reimburse such sums to the Town as soon as possible.

If you are summarily dismissed or are not required by the Town to work out your notice period (regardless of who gave notice), you shall return the Town vehicle and keys on your last day at work in accordance with the Town's instructions, and shall not be entitled to any further use or benefit of the vehicle or to any compensatory payment in lieu.

#### **6.8.5 Fringe Benefits – Employer Owned Vehicle**

The use of an employer-owned vehicle may constitute as a fringe benefit for state and federal tax purposes. Personal use, such as regular commuting from home to work mileage, must be accurately reported to the Internal Revenue Service as a fringe benefit income.

Employers who provide their employees with cars (or other highway motor vehicles) must determine the actual value of the employees' personal use of the cars. The value for personal use is considered a non-cash fringe benefit that must be included in the employees' gross income.

An employer must determine the actual value of this fringe benefit to be included in an employees' income. This value will be determined by the Fair Market Value of the personal use of the vehicle. The employee is required to keep a daily log of all mileage, both personal and town. This log is to

be provided to the Finance Department by January 1st for calculating the value of the fringe benefit.

If a company vehicle is considered to be of limited personal value, determined by the IRS, such as an ambulance, hearse, school bus, police or fire vehicles, the personal use would not be subject to tax.

#### **6.8.6 Travel Reimbursement**

~~Travel expenses authorized in advance by the department head shall be reimbursed after such expenses have been submitted in significant detail on a reimbursement form.~~

~~Reimbursement requires submission of original receipts for all expenses, regardless of the amount. It is the employee's responsibility to obtain valid receipts for expenses incurred. No expenses will be reimbursed without supporting documentation.~~

Insert wording for a per diem policy.

Reimbursement must be sought within thirty (30) days from the completion of the travel or purchase or from the date on which the expenses were incurred. There is no guarantee of reimbursement that is sought after thirty (30) days. These instances will be reviewed on a case-by-case basis, and must be approved by the Town Manager.

#### **6.8.7 Conferences and Meetings**

Employees may receive reimbursement, subject to any state law requirements, for attending conferences or meetings sponsored by institutions or professional organizations for which the subject matter relates directly to the employee's position or provides beneficial information to enhance departmental operations. Prior approval of the department head is necessary and total expenses must be within departmental budget limits.

#### **6.8.8 Professional Memberships**

Approval of a town-sponsored membership in an appropriate professional organization will be the responsibility of the employee's department head, subject to the availability of funds.

#### **6.8.9 Publications**

Approval of town-paid subscriptions to any appropriate professional publication must be approved by the employee's department head, subject to the availability of funds.

#### **6.8.10 Credit Cards**

Some positions at the Town of Hamilton require the use of a Town credit card. Use of the Town credit card is for business related expenses only. Abuse of the Town credit card, such as use for personal expenses may result in disciplinary action up to and including termination of employment.

Unauthorized charges to the Town credit card are the responsibility of the individual to whom the card has been issued. In the event of the theft or loss of the Town credit card, the employee MUST immediately notify both the card issuing authority as well as the Town Manager, immediately.

## **6.9 Health Insurance**

### **6.9.1 Policy**

Group health insurance for Town employees is governed by Chapter 32B of the Massachusetts General Laws; the Town's website provides the information on the current plans and co-insurance. You may also see the Finance Department for further information.

## **6.10 COBRA**

The Consolidated Omnibus Budget Reconciliation Act (COBRA) provide for continuation of group health coverage that might otherwise be terminated. In very specific situations former employees, retirees, spouses, former spouses and dependent children have the right to continue health coverage under an employer's group plan, for a defined period of time.

Although one may elect to continue health coverage under COBRA, the participant is responsible for the cost of the entire premium. Unlike the benefit for active employees and eligible dependents covered under their group plan, the employer does not pay any part of the premium for a COBRA participant's coverage. (There is also the possibility of a small additional charge for administration.) It is ordinarily less expensive, though, than non-group health coverage.

Please see the COBRA guideline for additional information.

## **6.11 OBRA/Section 457(b) Plan**

### **6.11.1 Purposes of OBRA/Section 457(b)**

Municipal employees are not subject to the social security tax on compensation under FICA, but are subject to the Medicare portion of FICA (currently 1.45%). Since Town employees are not eligible for social security OBRA/Section 457(b) offers another alternative for saving towards retirement for all employees. All part-time, seasonal, or temporary employees who work fewer than 20 hours per week are required to sign up for OBRA.

### **6.11.2 Effective Date**

The Town converted to OBRA as of July 1, 2007.

### **6.11.3 Employee Contribution**

An OBRA employee must make a mandatory contribution of at least 7.5% of his/her gross compensation per pay period to the Plan. Contributions are made on a tax-deferred basis, meaning

contributions are not subject to federal or state income tax at the time they are made. Mandatory employee contributions are automatically invested by the managing investing firm. In addition, an employee can voluntarily increase his/her contributions, which are invested among the Plan's available investment options in accordance with the terms of the Plan.

#### **6.11.4 Advantages for Employees**

The advantages for employees in joining OBRA are that by deferring compensation, you have the opportunity to:

- Lower current income taxes, taxes are postponed on contributions and investment earnings until withdrawn. This means that contributions are not subject to federal or state income tax at the time they are made. Employees will be taxed on the value of your contribution plus earnings at the time they receive a distribution.
- A 457 deferred compensation plan is a retirement plan that allows employees to make contributions into an account established on their behalf. The amounts accumulated on the employee's behalf are distributed at retirement or due to another qualifying event, such as separation from service or death.
- A 457 deferred compensation plan sponsored by a governmental entity is "portable." If an employee goes to work for another employer, he/she can rollover the benefits to the new employer's plan, if that plan accepts rollovers. If that isn't possible, employees can receive benefits or leave them in the former employer's plan where they will continue to accumulate tax deferred. A 457 plan can also be rolled over into a traditional IRA.
- An employee may make additional voluntary contributions. By making additional contributions, the employee may invest these additional contributions in any of the investment options offered by the Massachusetts 457 Deferred Compensation ("SMART") Plan.
- The employee may access the money for "Unforeseeable emergency", as defined by Internal Revenue Code.

#### **6.11.5 When can an employee withdraw money from his/her account?**

When an OBRA employee has a change of status (i.e. leaves the Town employment) and would like to receive benefits, it is required that the department head sign off and send a list to the Payroll Department with the employee's name, address, social security number and date of status change (last day worked). The money may be withdrawn when the employee:

- Reaches age 70 1/2
- Separates from service (no longer works for the Town)
- Experiences an unforeseeable emergency as defined by IRS guidelines
- Dies (the designated beneficiary(ies) will receive the benefits)
- Has an account that does not exceed \$5,000 and the employee has not made a contribution in the last 24 months.

#### **6.11.6 Additional information**

Basic Facts about OBRA can be found at <http://www.mass.gov/smartplan/forms/OBRAPlanHighlightsr.pdf> and <http://www.mass.gov/smartplan>.

## **6.12 Retirement**

### **6.12.1 Eligibility**

Town employees are members of the Essex Regional Retirement System. Generally, an employee is eligible for retirement if he/she has twenty years of credible service or is age 55 with at least 10 years of credible service. Creditable service is earned by working at least 20 hours or more per week. For specific information as to eligibility, benefits, etc. employees should contact the Essex Regional Retirement Board.

## SECTION SEVEN: TOWN COMMUNICATIONS

### 7.1 Town Communications

#### 7.1.1 Open Door Philosophy

Our sincere conviction is that the best and most rewarding employee/administrative relationships result from direct communication between employee and supervisor, and between other employees of the administrative team at the Town of Hamilton.

We encourage employees to bring ideas, comments, and problems to their supervisor. If, for some reason, it would be more appropriate to contact someone other than the supervisor, an employee should feel free to get in touch with any other member of the administrative team. We will listen to concerns and aim to assist and support employees.

#### 7.1.2 Bulletin Boards

Bulletin boards are the property of Town of Hamilton and information posted there will only be that which is generated by the Town, subject to approval of the Town Manager and his or her representative.

#### 7.1.3 Contact with the Media or Outside Attorneys

From time to time an employee may be contacted by the media or by attorneys not associated with the Town of Hamilton and asked to comment on issues or events in the Town. Under no circumstances is an employee to provide the media or any other outside parties any information regarding Town of Hamilton that is exempt from the Public Records Law or otherwise confidential. To ensure that only the most current and accurate information is given to the media or outside parties, please direct all such requests to your Department Head.

#### 7.1.4 Notification of Closing/Delayed Openings due to weather

Non-essential employees please call 1-978-468-5570 after 6:45 a.m. There will be a message recorded indicating if the Town Hall Offices will be closed or opening late due to inclement weather. If there is no recording relative to weather after 6:45 a.m. the offices will be open as usual.

### 7.2 Social Media

When you are participating in social networking, you are representing both yourselves personally and the Town. During non-work hours, there is no intention to restrict a staff's ability to have an online presence and/or to mandate what staff can and cannot say. This policy is intended to provide you with a set of guidelines for appropriate online conduct and to avoid the misuse of this communication medium. This policy is not intended to restrict the flow of useful and lawful communications, but to minimize the risk to you, your coworkers and the Town. This policy should not be interpreted to restrict employee communications that are otherwise authorized and/or protected by law.

Comment [ml5]: Review for currency

### 7.2.1 Definition of Social Media

Social Media refers to the means of interactions among people to create, share, exchange and comment on contents among themselves in virtual communities. Social media includes: Facebook, blogs, YouTube, instant messaging, LinkedIn, Twitter, among others.

Many sites defined above have the ability to blur the lines between work and personal environments. Keep this in mind and make sure to have a balance of information that shows respect, shares only appropriate information, and maintain confidential information about employees, the Town and the residents.

### 7.2.2 Policy Guidelines

- a) If you identify yourself as a Town employee, make it clear that you are speaking on your own behalf and not on behalf of Town.
- b) Do not post any confidential, sensitive or proprietary information about Town.
- c) Do not post any information related to Town's guests, clients, trainees, participants, or tenants.
- d) Do not post or display comments about co-workers, supervisors or Town that are vulgar, obscene, threatening, intimidating, harassing, knowingly false/defamatory and/or a violation of Town's policies, including but not limited to its policies against discrimination and/or harassment and its Code of Conduct.
- e) Do not post statements, photographs, video or audio that reasonably could be viewed as malicious, obscene, threatening or intimidating, or that might constitute harassment or bullying. Examples of such conduct might include offensive posts meant to intentionally harm someone's reputation or posts that could contribute to a hostile work environment on the basis of race, sex, disability, age, sexual orientation, active military or veteran status, ethnicity, national origin, gender identity and expression, religion or any other status protected by law or Town policy.
- f) As a Town staff, be aware that you are responsible for the content you post and that information remains in cyberspace forever.
- g) Be aware that you are not anonymous when you make online comments. Information on your networking profiles is published in a very public place. Even if you post anonymously or under a pseudonym, your identity can still be revealed.
- h) On personal sites, no employee may "Friend" any employee to whom the employee reports or who is in a position to supervise or manage the employee's work/performance. Employees participating in professional sites, such as LinkedIn, may designate co-workers as *friends* or *associates*.
- i) Any Social Media behavior or conduct either on or off-duty that elevates to harassment as defined by the Town Harassment Policy – or any other Town policy - will be subject to subject to disciplinary action.
- j) Users who violate the policy may be subject to disciplinary action, up to and including termination of employment. If you have any questions about this policy or a specific posting out on the web, please contact Human Resources.

### 7.3 Acceptable Use – Computer, Network and Communications Resources and

## **Infrastructure**

### **7.3.1 Purpose**

The Town owns and/or leases computer, electronic network systems and communications systems for the performance of the Town's business. These systems include, but are not limited to, computer hardware, software, e-mail systems, database programs, internet access programs, telephone systems and mobile technology. Town employees have access to and use these systems in conducting the business of the Town. Appropriate use of computing networking and communications resources includes authorized research, communications, and official work of the Town.

Access to networks, computer systems and other communications infrastructure owned or operated by the Town require certain user responsibilities and obligations and is subject to Town policies and local, state, and federal laws. Appropriate use should always be legal, ethical and appropriate. Users should also demonstrate respect for intellectual property, system security mechanisms, and Town policies, including but not limited to the Town's anti-harassment policy.

### **7.3.2 Coverage**

All employees, elected officials and appointees of the Town.

### **7.3.3 Authorized users**

Authorized users are defined as current staff of the Town, elected officials and individuals connecting to the Town's public services (Assessors Public computer, Library Public computers, etc.). On occasion, others, such as technicians, consultants, vendors, etc. may be granted access to a specific computer or network resource by the Town's System Administrator.

### **7.3.4 Freedom from harassment**

No employee may use the Town's computers or networks in violation of the Town's anti-harassment policy, or any other policy.

### **7.3.5 Individual Responsibilities**

Each Town employee is responsible for his or her actions with respect to the Town's computer and network systems.

Appropriate precautions for managed systems include performing regular backups (if you are not on the server), controlling physical and network access, using virus protection software, and keeping any software installed (especially anti-virus and operating system software) up to date with respect to security patches. .



- It is important to verify that any e-mail or other electronic information received is from a reliable and trusted source. Employees should not open any suspicious emails.
- Employees should be careful which websites are visited. Pop-ups, malware, etc. may accompany unreliable websites.
- Do not access internet radio stations, or view or down-load videos. This increases vulnerability for all users and may slow down processing time for all users.
- For better security, change your passwords on the network regularly (at least monthly).
- Do not install or use screen savers except the Windows default settings.
- All users must store Town information on the Town's server. This requires daily connection to the Town's server. The Town's is backed up nightly, has a firewall, and has improved security over individual computers.
- Software or files should not be brought from home or from other outside sources. They may contain viruses, and may violate copyrights or license agreements of owners.
- Chain letter emails should not be sent or forwarded. They may contain viruses.
- Information on the Town of Hamilton's computer and communications systems – including incoming and outgoing emails, text messages, downloaded files and Web browser histories – is not private. That information may be subject to the Massachusetts public records law. Whether or not the information is subject to that law, the information may be accessed, reviewed, disclosed and monitored by the Town, at its discretion, at any time without notice.

#### **7.3.6 Sharing of access**

Computer accounts, passwords, and other types of authorization are assigned to individual users and must not be shared with others. Employees are responsible for any use of their account. Authorized users may not run or otherwise configure software or hardware to intentionally allow access by unauthorized users.

#### **7.3.7 Termination of access**

When an authorized user changes positions or responsibilities within the Town, the department head responsible for initiating that change in status, must coordinate with the Finance Director to ensure that access to Town resources is appropriate for the change. An individual may not use facilities, accounts, access codes, privileges, or information for which he/she is not authorized. In the case of separation from employment an employee shall, upon request, provide the Town with any passwords and/or access codes used by the employee required to access their computer accounts. All previously setup access authorizations will be suspended within 24 hours of said separation.

#### **7.3.8 Attempts to circumvent security**

Users are prohibited from attempting to circumvent or subvert any systems security measures.

### **7.3.9 Use of copyrighted and licensed information and materials**

Users are prohibited from using, inspecting, copying, storing, and redistributing copyrighted computer programs and other material, in violation of copyright laws.

No software may be installed, copied, or used on the Town of Hamilton resources except as permitted by the owner of the software and the Town of Hamilton. Software subject to licensing must be properly licensed.

### **7.3.10 System Administration Access**

The Finance Director or an individual authorized by the Finance Director may access users systems and files for the maintenance of networks and computer systems, and other legitimate business reasons.

### **7.3.11 Monitoring of usage**

Users should be aware that their use of the Town of Hamilton's computing resources are not private. While the Town does not routinely monitor individual usage of its computing resources, it reserves the right to do so as part of network maintenance, and to monitor compliance with this policy and other Town policies.

Among the reasons the Town may without notice monitor the activity and accounts of individual users of the Town's computing resources, including individual login sessions and communications, are the following:

- The user has voluntarily made them accessible to the public.
- It reasonably appears necessary to do so to protect the integrity, security, or functionality of the Town of Hamilton's computer system.
- There is reason to believe that the user has violated, or is violating, this policy.
- An account appears to be engaged in unusual or unusually excessive activity, as indicated by the monitoring of general activity and usage patterns.
- Upon receipt of a legally served directive of appropriate law enforcement agencies, administrative agencies, or courts.

### **7.3.12 Suspension of individual privileges**

The Town may suspend computer and network privileges if an individual is found not following its computer use policies. Violation of policy may also lead to disciplinary action, up to and including termination of employment.

## SECTION EIGHT: POLICIES

### 8.1 Drug and Alcohol

#### 8.1.1 Purpose

This policy outlines the responsibilities of employees, supervisors and department heads with regard to drug and alcohol use in the workplace. In addition, this policy outlines the responsibilities of the Town regarding the testing of employees in safety sensitive positions in accordance with U. S. Department of Transportation regulations, and in accordance with the Drug-free Workplace Act of 1988.

#### 8.1.2 Coverage

This policy applies to all employees in the Town. Those portions of the policy regarding testing of employees in safety sensitive positions applies only to employees who are required to have a Commercial Drivers' License or Water License, or where otherwise required by state or federal law.

#### 8.1.3 Safety Sensitive

For the purposes of this Policy, safety-sensitive shall refer to all employees required by the Town to obtain and retain a Commercial Drivers' License and Water License who are performing the following functions:

- waiting to be dispatched at Town of Hamilton property.
- inspecting, servicing or conditioning any commercial motor vehicle.
- time at the driving controls of a commercial motor vehicle.
- time spent on or in a commercial motor vehicle.
- loading or-unloading a commercial motor vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, or remaining in readiness to operate the vehicle.
- time spent performing the driver requirements associated with an accident.
- repairing, obtaining assistance, or remaining in attendance upon a disabled-vehicle.
- inspecting, servicing, conditioning or treating Town water supplies.

#### 8.1.4 Policy

The Town of Hamilton firmly believes that the use of illegal drugs and misuse of legal drugs, including alcohol, is a source of danger in the workplace and a threat to the Town's goal of maintaining a productive and safe work environment. The Town discourages users of illegal drugs and mis-users of legal drugs, including alcohol, from seeking employment with the Town and encourages very forcefully the rehabilitation of such persons already in its employ.

Employees of the Town are visible and active members of the communities where they live and work. They are inescapably identified with the Town and are expected to represent it in a responsible and creditable fashion. While the Town has no intention of intruding into the private

lives of employees, the Town does expect employees to report for work in a condition to perform their duties. The Town also recognizes that employee off-the-job involvement with drugs and alcohol can have an impact on the workplace and on our ability to accomplish our goal of providing an alcohol and drug-free environment.

In accordance with the federal Drug Free Workplace Act, the illegal use, sale or possession of narcotics, drugs or controlled substances while on the job or on Town property is an offense warranting disciplinary action up to and including termination.

Employees who are under the influence of alcohol, either on the job or when reporting to work, or who possess or consume alcohol during work hours, have the potential for interfering with their own as well as their co-workers safe and efficient job performance. Consistent with Town practice, such actions are proper cause for disciplinary action up to and including termination of employment.

Employees are expected to follow any directions of their health care provider concerning prescription medications, and must immediately notify their supervisor if any prescription drug is likely to have an impact on job performance. In addition, notification must be given at the time of any testing or screening as to any drugs or medicine being taken.

Any employee, while on Town property or during the employee's work shift, including without limitation all breaks and meal periods, who consumes or uses, or is found to have in his or her possession, in his or her locker or desk or other repository, alcohol or drugs, which are not medically authorized, or is found to have used or to be using such alcohol or drugs, will be suspended immediately pending further investigation. If use or possession is substantiated, disciplinary action, up to and including termination will be imposed.

The Town is committed to the treatment and rehabilitation of employees with alcohol and controlled substance misuse problems, and encourages employees to come forward voluntarily and seek assistance for those problems prior to and after implementation of the testing program.

If at any time an employee volunteers to enter a chemical dependency program, he/she will enter without fear of disciplinary action being taken against him/her as a result of seeking treatment. Such a program is designed to provide care and treatment to employees who are in need of rehabilitation. Details concerning the treatment any employee receives at this program shall remain confidential and shall not be released to the public.

#### **8.1.5 Testing**

The Town will comply fully with the regulations mandating pre-employment drug, random, reasonable suspicion, post-accident, return to duty or follow-up drug and alcohol testing in accordance with the regulations issued by the U.S. Department of Transportation and regulating authority.

Drivers and Operators performing safety-sensitive functions are subject to the following prohibitions:

- no driver shall report for duty or remain on duty requiring the performance of safety-

sensitive functions having a breath alcohol concentration of 0.04 percent or greater as indicated by an alcohol breath test. A driver found to have an alcohol concentration of 0.02 or greater but less than 0.04 may not perform a safety sensitive function for a minimum of 24 hours following administration of the alcohol test.

- no driver shall use alcohol while performing any safety-sensitive function.
- no driver shall perform any safety-sensitive function within 4 hours after consuming alcohol.
- no driver required to take a post-accident alcohol test shall consume alcohol for 8 hours after the accident or until he/she undergoes a post-accident alcohol test, whichever comes first.
- no driver shall be in the possession of any medication containing alcohol unless the package seal is unbroken.
- no driver shall refuse to submit to any random, post-accident, reasonable suspicion or follow-up alcohol test.

Use of illicit drugs by safety-sensitive drivers and operators is prohibited.

#### 8.1.6 Types of Tests

Types of Tests -To the extent practicable, all tests will be conducted during employees normally scheduled work hours. The following tests are required:

**Pre-employment** - All applicants for employment in positions requiring Commercial Drivers' License and Water License or candidates for transfer or promotion to such a position.

**Post-accident** - Conducted after accidents on drivers in Town vehicles or plant operators whose performance could have contributed to the accident, as determined by a citation for a moving traffic violation, and for all fatal accidents even if the driver is not cited for a moving traffic violation. An accident is defined as an incident involving a commercial motor vehicle or Town plant in which there is either a fatality, an injury treated away from the scene, 'or a vehicle is required to be towed from the scene. Alcohol tests should be conducted within two hours, but in no case more than eight hours after the accident. Employees must refrain from all alcohol use until, the test is complete. Post-accident drug tests must be conducted within thirty two hours.

If there is no alcohol test within two hours of an accident, or no drug test within thirty-two hours of an accident, the supervisor must place in the employee's medical file a memo explaining the reasons the test was not done.

**Reasonable Suspicion** - when a trained supervisor or manager observes behavior or appearance that is characteristic of alcohol or drug misuse, a reasonable suspicion test must be conducted. The standard to be used by the supervisor or manager, in making the decision to test, must be based upon personal observation made by observing the employee regarding; appearance, behavior, speech or body odors. The reason(s) for deciding to test must be written down immediately with a copy placed in the employee's medical file.

If a test cannot be administered, the driver must be removed from performing safety sensitive

duties for at least 24 hours. Testing for alcohol abuse must be based upon suspicion which arises just before, during or just after the time when the employee is performing safety-sensitive duties. Testing for substance abuse may occur at any time upon suspicion.

**Random** - Conducted on a random, unannounced basis just before, during or after performance of a safety sensitive function for alcohol or at any time for drugs. Each year, the number of random alcohol tests conducted by the Town must equal at least 25% of all the safety-sensitive drivers and operators. Random drug tests conducted by the Town must equal at least 50% of all safety-sensitive drivers and operators. Although the Town will make every effort to insure the tests will be random, it is possible that one person may be called to be tested more frequently than another.

**Return to Duty and Follow-up** - Conducted when an individual who has violated the prohibited alcohol or drug standards returns to performing safety sensitive duties. Follow-up tests are unannounced and at least six (6) tests must be conducted in the first 12 months after a driver returns to duty. Follow-up testing may be extended for up to 60 months following the return to duty.

#### 8.1.6 Conducting Tests

**Alcohol** - DOT and regulating authorities' rules require breath testing using evidential (EBT) or non-evidential breath testing devices. Two breath tests are required to determine if a person has a prohibited alcohol concentration. A screening test is conducted first. Any result less than 0.02 alcohol concentration is considered a "negative" test. If the alcohol concentration is 0.02 or greater, a second, confirmation test must be conducted. If a non-evidential screening test reveals a blood alcohol concentration of 0.02 or greater, a confirmation test must be performed within thirty minutes using an EBT device.

**Drugs** - Drug testing is conducted by analyzing a driver's urine specimen, and must be conducted through a U. S. Department of Health and Human Services certified facility. Specimen collection procedures and chain of custody requirements ensure that the specimen's security, proper identification and integrity are not compromised.

DOT and regulating authorities' rules require a split specimen procedure. Each urine specimen is subdivided into two bottles labeled as primary and split. Both bottles are sent to the laboratory. Only the primary specimen is opened and used for the urinalysis. The split specimen remains sealed at the laboratory. If the analysis of the primary specimen confirms the presence of illegal controlled substances, the driver has 72 hours to request that the split specimen be sent to another DHHS certified laboratory for analysis. If the first test is positive then the second laboratory retest, if negative, is paid by the Town; if the retest is positive the employee pays.

All urine specimens are analyzed for the following drugs:

Marijuana (THC metabolite), Cocaine, Amphetamines, Opiates (including heroin) and Phencyclidine (PCP)

Testing is conducted using a two-stage process. First, a screening test is performed. If the test is positive for one or more of the drugs, a confirmation test is performed for each identified drug. Sophisticated testing requirements ensure that over-the-counter medications or preparations are

not reported as positive results.

All drug tests are reviewed and interpreted by a physician designated as a Medical Review Officer (MRO) before they are reported to the employer. If the laboratory reports a positive result to the MRO, the MRO will contact the driver and conduct an interview to determine if there is an alternative medical explanation for the drugs found in the urine specimen. For all the drugs listed above, except PCP, there are some limited, legitimate medical uses that may explain a positive test result. If MRO determines that the drug use is legitimate, the test will be reported to the Town as a negative result.

#### **8.1.7 Refusal to Participate**

Any refusal to participate in any of the types of alcohol and/or drug tests authorized in this policy will be treated as indicative of a positive result.

#### **8.1.8 Consequences of Alcohol/Drug Misuse**

- 1) Safety sensitive employees who have any alcohol concentration (defined as 0.02 or greater) who tested just before, during or just after performing safety sensitive functions must be removed from performing such duties for 24 hours. Depending on the circumstances, disciplinary action, up to and including dismissal, will be imposed upon an employee whose alcohol test reveals any alcohol concentration (between 0.02 and 0.04). If there is a **test failure after an accident** there will be **immediate dismissal**.
- 2) Drivers and operators who engage in prohibited alcohol or drug conduct (that is, who test positive for alcohol use greater than 0.04 or drug use) must be immediately removed from safety sensitive functions. Drivers and operators who are serving a probationary period will be terminated immediately. Non-probationary drivers and operators will be offered an opportunity for rehabilitation. Non-probationary drivers and operators who choose not to avail themselves of this rehabilitation opportunity will be terminated immediately.
- 3) Drivers and operators who wish to continue employment with the Town of Hamilton must be evaluated by a substance abuse professional and comply with any treatment recommended to assist them with an alcohol or drug problem. The payment for any recommended treatment will be strictly at the expense of the employee (or his/her health insurance program, if applicable). Employees will be placed on non-occupational sick leave or leave without pay status during the treatment period, whichever is appropriate.
- 4) Drivers and operators who have been evaluated by a substance abuse professional, who comply with any recommended treatment, who have taken a return to duty test with a result less than 0.02, and who are then subject to unannounced follow-up tests at the employee's expense, may return to work.
- 5) Once an employee successfully completes or is following the rehabilitation program, he/she shall be returned to his/her regular duty assignment or an equivalent position. Employee assignments during treatment shall be based on each individual's circumstances. As a condition of employment, the employee must comply with prescribed follow-up care.

### **8.1.9 Information/Training**

- 1) All current and new employees will receive written information about the testing requirements and how and where they may receive assistance for alcohol or drug misuse. All employees must receive a copy of this policy and sign the Confirmation of Receipt.
- 2) All supervisory and management personnel in the Department of Public Works must attend at least two hours of training on alcohol and drug misuse symptoms and indicators used in making determinations for reasonable suspicion testing. Supervisors and managers will be instructed on the detection of abuse problems and the enforcement of the testing policy. Periodic, on-going training will also occur after implementation of the policy.
- 3) This Policy will be posted on employee bulletin boards and will be available to all employees.
- 4) Educational information will be made available periodically which will focus on the potentially dangerous effects of drug and alcohol use and abuse, the procedures associated with pre-employment drug screening and "reasonable suspicion" testing, the effects on job performance measured in loss of productivity, and the potential safety hazards presented to the individual employee, other employees and the public.
- 5) All recruitment advertising will include the statement "Drug/alcohol screening is a condition of employment" at the bottom of the advertisement/posting with the EEO statement.
- 6) All final candidates for employment will be given a copy of this policy, and be given the opportunity to read the policy in its entirety.

### **8.1.10 Record Keeping**

- 1) The Town is required to keep detailed records of its alcohol and drug misuse prevention program.
- 2) Driver alcohol and drug testing records are confidential. Test results and other confidential information may only be released to the employer, the substance abuse professional, the MRO, and any arbitrator of a grievance filed in accordance with this policy. Any other release of this information may only be made with the driver's consent, or in response to a court order.

### **8.1.11 Pre-employment References**

- 1) The Town must obtain and review the following information from each employer that the prospective driver worked for, in a safety sensitive position, during the previous two years: information about a test which the employee's blood alcohol was 0.04 or greater; information about a positive drug test; and information about any refusal to participate in the alcohol and drug testing program.
- 2) The prospective employee must provide the former employer with a written release allowing the release of this information or he/she will not be hired.



3) If the Town is unable to obtain the information in (1) and (2) above, it must document that fact and include a summary of its efforts to obtain the information.

4) If the previous employee indicates that a positive result was received, or that the employee refused to participate when selected for an alcohol or drug test, the applicant may not be appointed unless he/she has already consulted with a substance professional, already received recommended treatment, and subsequently tested negative in a return to duty test for the former employer.

5) The Town of Hamilton must provide the same information to subsequent employers of current Town employees when provided with a written release.

#### **8.1.12 Questions**

Questions about this policy should be referred to the employee's Supervisor and/or Employees can call MIIA (800) 451-1834 for counseling.

## **8.2 Harassment: Sexual and Other Forms**

### **8.2.1 Policy**

Employees and applicants for employment with the Town of Hamilton have a right to be free from harassment based on any category or characteristic protected by law. This includes harassment based on race, color, religion, sex, national origin, disability, sexual orientation, gender identity, military or veteran service or genetic information. Such harassment in the workplace is unlawful. The Town of Hamilton will not tolerate harassment in the workplace, whether by superiors, coworkers or non-employees. Further, any retaliation against an individual who has complains about harassment or retaliation against individuals for cooperating with an investigation of a harassment complaint is unlawful and will not be tolerated.

Individuals who are victimized by harassment have statutory remedies, which include filing a complaint with an administrative agency in the courts, both on a state and federal level. The Town of Hamilton has developed this policy to familiarize employees with the appropriate standards.

This policy affords those who feel they are victims of harassment with a procedure for making the town aware of the problem and allowing it to attempt to remedy the situation. It is the policy of this town to promptly investigate all complaints of harassment. When it has been determined that inappropriate conduct has occurred, the town will act promptly to eliminate such conduct and impose any necessary corrective action, including disciplinary action where appropriate.

This policy shall be provided annually to all Town employees and to all new employees at the time of hire.

### **8.2.2 Definition of Sexual Harassment**

While this policy prohibits discrimination on any basis protected by law, the problem of sexual harassment requires specific attention. Sexual harassment is defined as sexual advances, requests for sexual favors, and other 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.

Sexual harassment is not limited to prohibited conduct by a male towards a female or by a supervisor towards one of lower rank.

1. Men and women may be the victims of sexual harassment, and a woman as well as a man may be the harasser.
2. The harasser does not have to be the victim's supervisor. He/she may also be an agent of the supervisor, a supervisory employee who does not supervise the victim, a non-supervisory employee coworker), or, in some circumstances, even a non-employee.
3. The harasser may, but need not, be the same sex and have the same sexual orientation as the victim.

The victim does not have to be the person at whom the unwelcome sexual conduct is directed. He/she may also be someone who is affected by such conduct when it is directed toward another person. For example, the sexual harassment of one employee may create an intimidating, hostile, or offensive working environment for another coworker or interfere with the coworker's work performance. The belief that such interference has occurred must be objectively reasonable.

Sexual harassment does not depend on the victim's having suffered an actual economic injury as a result of the harasser's conduct. For example, improper sexual advances which do not result in the loss of a promotion by the victim or the discharge of the victim may, nonetheless, constitute sexual harassment where they interfere with the victim's work or create a harmful or offensive work environment. The belief that such interference occurred must be objectively reasonable.

### **8.2.3 Examples of Sexual Harassment**

1. Demanding sexual favors accompanied by direct or overt threats concerning one's job, performance evaluation, promotion, salary increases, increased benefits, or continued employment.
2. Engaging in reprisals (not granting promotions, assigning undesirable tasks, making negative statements about the victim's personal or work conduct, etc.), as a result of an individual's refusing to engage in social/sexual behavior.
3. Contact with any sexual part of a co-worker's body (e.g., touching, patting or pinching).
4. Touching any nonsexual part of the body (e.g., shoulder, etc.) after that person has verbally or otherwise indicated that such touching is unwanted.
5. Refusing to take action or to enforce disciplinary measures against a person who has been sexually harassing another staff member or otherwise condoning such behavior.
6. Continuing to ask a person to socialize after work when that person has verbally or in writing indicated no interest in such activities.
7. Displaying sexually suggestive pictures, objects, cartoons or posters.

8. Subtle or direct pressure for sexual activities; e.g., continuing to write suggestive notes or letters after being informed they are unwelcome.
9. Verbal harassment or abuse; e.g., referring to or calling a person an endearing, demeaning or sexualized term, or making reference to a person's physical characteristic (e.g., pregnancy) when that person has verbally or in writing indicated to the harasser or the Town of Hamilton he/she does not wish to be addressed or referred to in that manner.
10. Leering (i.e., prolonged staring) at a person's body or whistling.
11. Language of a sexual nature in another's presence, or conduct, even if not directed to said individual, once it is known that such conduct is unwelcome; such as sexual epithets, jokes, written or oral references to sexual conduct, gossip regarding one's sex life, comments about an individual's body, comments about an individual's sexual activity, deficiencies, or prowess.
12. Inquiries into one's sexual experience or discussion of one's sexual activities, after it is known that the individual does not welcome such inquiries or discussions.

#### 8.2.4 Procedure

Responsibilities of all employees:

1. Each employee is personally responsible for:

- a. Ensuring that [s]he does not harass any other employee, applicant for employment, or other individual, either in the workplace or at a work-related activity;
- b. Informing any individual that their words or actions are unwelcome and offensive, when any type of harassment is encountered;
- c. Immediately reporting acts of harassment;
- d. Cooperating in the investigation of complaints of alleged harassment by providing any information he/she possesses concerning the matters being investigated and;
- e. Otherwise cooperating with the Town's efforts to prevent and eliminate sexual and other forms of unlawful harassment and to maintain a working environment free from such unlawful discrimination.

1. Reporting Procedures

- a. Any employee who believes [s]he has been the victim of harassment shall report this fact, either orally or in writing, as soon as possible to his/her supervisor. The supervisor shall report such information, through the chain of command, to the Town Manager
  - See attached telephone list for name, work address and telephone number of Town Administrator and Personnel Board members.
- b. If the employee believes that the nature of the harassment or the identity of the alleged perpetrator is such that [s]he is not comfortable discussing the situation with her/his immediate supervisor, the employee may contact the next higher level of supervision in the chain of command above the supervisor or, if this is not appropriate, should report the matter to the Board of Selectmen. If a supervisor is contacted, [s]he shall report such information, through the chain of command, to the Town Manager.

- c. In the event the employee feels it is not appropriate to contact the Town Manager or any member of the Personnel Board, he/she may contact any member of the Board of Selectmen at 978-468-5572.

## 2. Complaint Investigation

When the Town receives a complaint of harassment, it will 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, and consistent with the requirements of a fair and complete investigation. The Town's investigation will include an interview with the person filing the complaint and also may include interviews with witnesses or other individuals who the Town believes would be useful to the investigation. The person alleged to have committed the harassment also will be interviewed. When the Town has concluded its investigation, it will, to the extent appropriate, inform the person filing the complaint and the person alleged to have committed the conduct of the results of the investigation.

## 3. Sanctions

Any employee found to have engaged in harassment in violation of this policy is subject to disciplinary action up to and including termination of employment.

Retaliation against an individual that has complained about harassment or has cooperated with an investigation of a harassment complaint is such a serious violation of this policy and the law that disciplinary action, most likely discharge, will be taken.

## 4. Disciplinary Action

If it is determined that inappropriate conduct has been committed by one of the Town employees, the Town will take action as is appropriate under the circumstances. Action may range from counseling to termination of employment.

## 5. Additional Remedies

In addition to the above complaint procedures, if you believe you have been subjected to 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).

**The United State Equal Employment Opportunity  
Commission ("EEOC")**

John F. Kennedy Federal Building  
475 Government Center  
Boston, MA 02114  
(800) 669-4000  
TTY 1-800-669-6820

## 2. The Massachusetts Commission Against Discrimination ("MCAD")

Boston Office:  
One Ashburton Place-Rm 601  
Boston, MA 02108  
(617) 994-6000  
TTY (617) 994-6196

Springfield Office:  
436 Dwight Street Rm 220  
Springfield, MA 01103  
(413) 739-2145

Worcester City Hall  
455 Main Street, Room 100  
Worcester, MA 01608  
(508) 799-8010

### 8.3 Workplace Violence Prevention

#### Purpose

The Town is committed to providing a safe workplace free from aggressive, intimidating, threatening, or violent acts. The Town does this through the prohibition of violent, threatening and intimidating behavior, and by enacting this policy, which seeks to prevent such behavior, and establishes procedures to respond to actual or threatened violence. The Town maintains a ZERO TOLERANCE policy against workplace violence.

#### Application

This policy applies to **all** of the Town's employees, including managers, supervisors and non-supervisory workers. The policy not only applies to interactions between Town employees, but also interactions between employees and residents, vendors, customers, contractors, business visitors to the Town's workplace, and others with whom employees may come in contact as part of their job duties.

#### Definitions:

**Violence** - the deliberate and wrongful violation, damage, or abuse of other persons, self, or property, including threats of violence as defined below. Acts and/or threats of violence include, but may not be limited to: physical (such as hitting, shoving, kicking, arson, and sabotage), verbal (i.e., intimidation, threats, and abuse), and non-verbal (such as gestures, stalking and intimidation).

**Intimidation** - an act towards another person, the purpose of which is to coerce, and the result of which could reasonably cause the other person to fear for his or her safety or the safety of

others.

**Threat of violence** - a communicated intent, whether express or implied, to engage in an act of violence as defined above.

**Act of violence** - exercise of physical force against another person or against property.

## **Prevention**

The goal of the Town is to prevent workplace violence. To that end, the following policies have been established:

### **Zero Tolerance for Acts or Threats of Violence:**

The Town does not tolerate violence, threats of violence, or intimidation. If you engage in this type of behavior you will be subject to disciplinary action, up to and including termination of employment. This includes even jokes as to violence, which are never appropriate. **If an employee is suspended for violation of this policy, he/she will not be allowed on Town property for the period of such suspension.**

### **Ban on Weapons:**

Employees are prohibited from bringing guns and other weapons on to Town premises or vehicles. This includes personal vehicles which are parked on Town premises. Employees are also prohibited from carrying a weapon while on Town business. This paragraph does not apply to law enforcement employees who are required to carry firearms as part of their job duties. Nothing in this policy shall prevent an employee who uses a knife to perform job duties from carrying a knife that does not violate Massachusetts law

### **Dealing with Difficult Customers:**

Many of our employees are involved in direct contact members of the public, who are customers of the services we provide. We hope that difficult interactions with members of the public can be avoided or minimized. At all times, the goal of the Town employee should be to minimize conflict and avoid creation or escalation of difficult situations. You should resort to physical self-defense only when absolutely necessary, when there are no other safe avenues. Report all instances to your Department Head and/or Town Manager, immediately.

### **Domestic Violence:**

Unfortunately, situations of domestic violence are not limited to the home. If you are concerned that a domestic situation may result in a workplace violence situation, you are encouraged to share your concerns with any of the individuals described below in the following section of this policy.

### **Inspections:**

In furtherance of this workplace violence policy, the Town reserves the right to inspect lockers,

vehicles, backpacks, bags, etc. which are brought on Town property.

### **Reporting, Investigating and Resolving Instances of Actual or Potential Violence**

It is in everyone's interest to avoid and prevent violence in the workplace. Any employee who is the victim of, witnesses, or becomes aware of an act of actual or threatened intimidation or violence should immediately report the matter.

The personal safety of Town employees and others who may be the victims of violence is of the highest importance. Therefore, should an employee feel for any reason that there is an immediate threat to personal safety, the employee and any others potentially in danger should be removed immediately from the immediate area, and a call should be made to 911. Only when immediate safety is assured should an internal report be made as described below.

Internally, reports can be made to any or all of the following:

The employee's immediate supervisor

Any manager

The Town Manager

In making a report under this policy, the more details you can provide as to the facts the easier it will be to commence the required investigation. However even if all of the facts are not known you are encouraged to report actual or threatened intimidation or violence as soon as possible.

All reports of threatened or actual violence will be investigated promptly and thoroughly. In most cases, the investigation will be conducted by the Town Manager or his/her designee. The investigation will be conducted as confidentially as possible, given the needs of a thorough and fair investigation.

**Upon a report or allegation that an employee has violated this policy, at the discretion of the Town the employee may be placed on leave pending completion of the investigation. If the employee is placed on leave he/she will not be allowed on Town property.**

### **Dealing with the Aftermath of Violence**

The Town is aware that victims of, and even witnesses to, acts or threats of violence may have concerns that need to be addressed. The Town is prepared to offer resources to any employee who needs such assistance.

## **8.4 Employee Assistance Program**

The Massachusetts Interlocal Insurance Association (MIIA) offers a free Employee Assistance Program (EAP) benefit available to Town employees and members of the employee's household. EAP offers:

- Confidential counseling with licensed mental health providers
- Free Legal and Financial Consultation with qualified attorneys and financial planners
- Referrals to child/elder care resources, self-help & parent support groups, education programs, summer camps, fitness classes, weight loss & smoking cessation programs, etc.
- Consultation with EAP professionals about work issues to help employees and supervisors work together successfully

To learn more, please read a short description about how the EAP can benefit you - EAP Brochure

**Please call anytime at (800) 451-1834 if you wish to speak with a counselor or schedule an appointment. Counselors are available 24 hours a day, 7 days a week to assist with personal problems and to find the resources you need.**

## **8.5 Volunteering**

### **8.5.1 Policy**

Any work an employee performs that is the same type of work as he/she ordinarily performs for the Town must be compensated. An employee may not volunteer his or her time and not seek payment for work that is the same type of work that the employee ordinarily performs for the Town

## **8.6 Employment References and Employment Verification**

After an employee has left the Town's employ, any requests for information from prospective employers, credit agencies, etc., will be responded to only as verifications. The Town generally does not provide additional information. When presented with certain employment-related information, such as dates of employment, job title, and last salary, the Town will confirm or deny the correctness of the information, according to our personnel records. All requests for information or requests for confirmation of employment data must be directed to the Town Manager or his or her designee, and no other individual is authorized to provide such information on behalf of the Town.



## **SECTION NINE: FORMS**

All forms are located on the Town's website under the Human Resource Department.

- 9.1 New Hire Application**
- 9.2 COBRA**
- 9.3 FMLA Checklist**
- 9.4 IRS W-4**
- 9.5 OBRA**
- 9.6 IRS I 9**
- 9.7 Pre-Employment Consent to Drug Screening**
- 9.8 Drug and Alcohol Screening Consent**
- 9.9 Employee Warning Notice**
- 9.10 Employee Sick Leave Donation Form**
- 9.11 New Position and/or Reclassification form**
- 9.12 Fiscal Vacation Allocation Tables**

## **SECTION TEN: CONTRACTS**

All Union contracts can be obtained on the Town's website and are updated as the contracts change.

## SECTION ELEVEN: ACKNOWLEDGEMENT

### 11.1 Acknowledgment of Receipt of the Personnel Policies and Procedures Document

I have received the Town of Hamilton Personnel Policies and Procedures. I understand that neither the Rules and Regulations nor any policy or portion of a policy constitutes a contract of employment or a promise to employ me for any particular length of time or under any particular terms or conditions. I acknowledge and agree that, unless the terms of a collective bargaining agreement or a written contract provide to the contrary, my employment is at-will and that both Town of Hamilton and I have the right to end the employment relationship at any time, with or without notice or explanation.

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Employee's Signature

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Employee's Printed Name

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Date

## SECTION TWELVE: HISTORY

### 12.1 History of the Personnel By-Laws, Rules and Regulations

<u>Date</u>	<u>Change</u>
May 15, 2000	<p>Article 5-1 Passed at ATM</p> <p>Delete the current Personnel By-law and replace it with the following Personnel By-law: The Board of Selectmen upon the Initiative of a majority vote of the Personnel Board shall have the authority to establish or amend Personnel Policies for non-Union Employees of the Town. The Classification and Compensation Table as amended from time to time shall be incorporated by reference into the Personnel By-law. Amendment to the Compensation and Classification Table shall further be approved by Town Meeting, except that in the case of urgent necessity, the Personnel Board, after consultation with the appointing authority and the Board of Selectmen may establish interim positions and compensation until the vote of the next Town Meeting. The compensation of elected officers of the Town shall be established annually by vote of the Town. A public hearing notice is to be published at least seven (7) days prior to the hearing in a newspaper of general circulation in the Town, shall be held by the Selectmen prior to the adoption or amendment of any personnel policy. For purposes of this by-law, personnel policies may include any conditions of employment, consistent with applicable state or federal law.</p>
October 16, 2008	Personnel By-laws renamed the Personnel By-Laws, Rules and Regulations
October 16, 2008	Personnel By-Laws, Rules and Regulations adopted.
May 4, 2009	Annual Town Meeting – Amend Town By-laws to reflect name change from Personnel By-law to Personnel Policies and Procedures
May 4, 2009	<p>Article 2009/5 5-1 Passed at ATM</p> <p>Selectmen may petition the Legislature to enact An Act Establishing a Town Manager in the Town of Hamilton</p>
October 8, 2009	<p>Governor signs into law, effective immediately, Ch. 114 of the Acts of 2009, “An Act Establishing a Town Manager in the Town of Hamilton.”</p> <p>Town Manager supervises and manages the day-to-day activities of all town departments and employees under the jurisdiction of the board of selectmen and coordinate their activities with those of all other departments and employees. The Town Manager appoints and removes all department heads and officers, subordinates, and employees under the jurisdiction of the board of selectmen. Appointment and removal of department heads are subject to confirmation by the board of selectmen. All other appointments are made in consultation with respective department heads, boards, commissions, or committees. Town Manager serves as the town’s personnel director, administers the town’s personnel policies, compensation plans, and employee benefit programs, serves as the town’s pension administrator, coordinates compliance with Americans with Disabilities Act, affirmative action, prepares and implements job descriptions, reviews personnel performance at least annually, recommends salary and benefit adjustments, negotiates all collective bargaining agreements, and as approved by the board of selectmen, establishes compensation agreements for all employees not subject to collective bargaining.</p>

August 13, 2014 Board of Selectman adopt the rewrite and update of the Personnel By-law and Policies.