


**Town of Berwick
Personnel Policy
January 1, 2024**



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ATTEST: A true copy of The Town of Berwick Personnel Policy, which was approved at the December 5, 2023, Select Board Meeting to take effect January 1, 2024.



Patricia Murray

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Chapter 1: Introduction

Section 1.1 – Purpose

The purpose of this document is to set forth a uniform and equitable system of personnel administration for the employees of the Town of Berwick, Maine. It includes policies and procedures for employee hiring and advancement, benefits, retirement, discipline, and other related activities. The policies and procedures apply to all employees, unless inconsistent with a collective bargaining agreement or by a personal employment contract. These policies and procedures are not intended and do not constitute a binding employment contract with any individual or group of employees.

The Goals of personnel management in the Town of Berwick:

- Promote effectiveness, economy, and productivity in delivering services to the citizens of Berwick.
- Encourage a commitment of professional excellence in serving the public and continue the professional development and upgrading of employee skills.
- Provide reasonable assurances that all rights and benefits of employees and applicants for employment are protected and respected.
- Disclaimers: Although this manual provides information to Town of Berwick employees, it does not create legally enforceable rights. The following disclaimers are included to provide notice to that effect:
 - This document is not a contract.
 - Where this manual contains descriptions or references to insurance or other benefit plans, the specific provisions of the benefit plan will take precedence and govern should a conflict arise concerning interpretation, application, or benefit level.
 - Human resource policies, procedures, and benefits are affected by changes in applicable laws, regulations, economic conditions, and the way that the Town of Berwick runs its operations. The Town may change, amend, repeal, or modify any of these policies or procedures at any time for any reason, with or without prior notice.
 - This manual supersedes any policy and rule previously written. This manual applies to all full-time, part-time, seasonal, per diem, and temporary employees, as defined herein, except for the Town Manager and those employees whose employment relationship with the Town is governed by a collective bargaining agreement insofar as those provisions of the collective bargaining agreement are in specific conflict with this manual.

Upon hiring, each new employee will be provided a copy of this manual and will review and sign an acknowledgement of its receipt and understanding.

Section 1.2 – Authority

This policy has been adopted by the Select Board for use in the day-to-day administration of personnel matters. As with all policies, it is recognized that the Select Board shall be the final authority in matters relating to the establishment, amendment, implementation, and interpretation of this policy.

Section 1.3 – Chain of Command

It is imperative that all employees have a clear understanding of who they report to:

- Select Board (SB): Composed of five members elected by the registered voters of the Town of Berwick, who hold offices for a term of three years and oversee the Town Manager.

- **Town Manager:** The Manager is hired by the SB to be the chief administrative officer of the Town and is responsible for the day-to-day activities of all Town departments and the successful completion of projects. They report to the SB. They are responsible for appointing Department Heads, with confirmation by the SB.
- **Department Heads:** The individuals who oversee the department & department employees to ensure the completion of day-to-day tasks. Unless otherwise specified, Department Heads report directly to the Town Manager.

Section 1.4 – Expectations

Each employee is expected to maintain the highest ethical and moral standards. They are to take ownership and personal responsibility for all commitments to residents and to fellow employees, as residents and businesses pay for services directly through property taxes and other fees. Servicing them honestly, effectively, and professionally is expected and required. Embracing the rules and regulations set forth for the organization, not simply complying, is the key to each employee's future with the Town.

To be successful in our organization, employees shall:

Attitude:

- Always have the best interests of the Town and fellow employees in mind.
- Demonstrate professionalism, a positive attitude and self confidence in the accomplishment of tasks and communication with others.
- Value the unity of this organization and take care of one another.
- Maintain a positive, well-balanced work environment.
- Be willing to learn new functions of the job.

Professional Conduct:

- Treat customers, citizens, coworkers, vendors, and the public with patience, respect, courtesy, professionalism, and consideration.
- Communicate openly, honestly, and clearly with supervisors and coworkers.
- Listen and learn from the input of constructive criticism to improve job performance.
- Be confidential with personal information.

Teamwork:

- Apply problem solving techniques.
- Contribute to the team spirit in the workplace.
- Work to be an individual performer as well as a team player.
- Share ideas and ways to contribute.
- Endeavor at all times to get along with co-workers and refrain from conflict in the workplace.

Initiative:

- Anticipate and complete projects in a comprehensive manner to provide a high-quality service.
- Promote and enhance the image of Berwick.
- Be dependable, punctual, and reliable.
- Strive to provide quality service to the Town's customers.

Section 1.5 – Amendments

The Select Board may change, amend, repeal, or modify any of these policies or procedures at any time and for any reason, with or without prior notice.

Chapter 2: General Provisions

Section 2.1 – Equal Opportunity Employer

As an Equal Opportunity Employer (EEO), the Town of Berwick shall not discriminate against an applicant or employee based on race, color, religion, sex, gender or gender identity, age, ancestry, sexual orientation, physical or mental disability, genetic information, status as a covered veteran, national origin, political affiliation, or any other protected class as determined by state or federal laws.

The Town will not discriminate or retaliate against any individual in any aspect of employment based on the individual's exercise of a right under the Maine Workers' Compensation Act, because the individual engaged in protected activity under the Maine Whistleblower Protection Act, or exercised rights under any other law. The Town will not retaliate against an individual because the individual has exercised a right under the Maine Human Rights Act, federal anti-discrimination laws, has participated or cooperated in a discrimination proceeding, or opposed a violation of the Maine Human Rights Act, or any other State or Federal law relating to nondiscrimination in employment.

The Town will employ, upgrade, and promote the best qualified person who is available at the pay level established for the position.

Section 2.2 – Confidential Information

Employees have access to confidential information pertaining to persons or property in the Town and must NOT use this privileged information to their private advantage or to the advantage of others. The Town Manager is the "Freedom of Information" Officer. All requests or other actions that relate to the Maine Freedom of Access ("Right to Know") law must be directed to and handled by the Town Manager. Accordingly, employees and town officials receiving requests that fall under the Freedom of Access law should not respond to such requests unless directed to do so by the Town Manager.

Section 2.3 – Compensation

During the hiring process, the Town Manager or designee, may approve a wage and/or vacation, PTO accrual rate that considers the applicant's years of prior relevant work experience, education, and other factors.

Section 2.4 – Disability Accommodation

The Americans with Disabilities Act (ADA), the Americans with Disabilities Amendments Act (ADAAA), the Pregnant Workers Fairness Act (PWFA), and the Maine Human Rights Act require employers to not discriminate against applicants and individuals with disabilities and, when needed, to provide reasonable accommodations to applicants and employees who are qualified for a job, so that they may perform the essential job duties of the position.

It is the policy of the Town of Berwick to comply with all federal and state laws concerning the employment of individuals with disabilities (including temporary disabilities), and to act in accordance with regulations and guidance issued by the Equal Employment Opportunity Commission (EEOC) and the Maine Human Rights Commission (MHRC). Furthermore, it is the Town's policy not to discriminate against qualified individuals with disabilities in regard to application procedures, hiring, advancement, discharge, compensation, training or other terms, conditions, and privileges of employment.

Accommodation Process:

- 1) When a request for accommodation is made by an employee who is a qualified person with a disability, the employee or the employee's immediate supervisor shall contact the Human Resources office for assistance in considering the request.
- 2) Any information submitted shall be considered confidential and may be shared only with those who have a need to know in accordance with federal and/or state law. The Human Resources office shall make the determination of the need to know in consultation with the applicable department.
- 3) The Human Resources office must make the following necessary determinations for each ADA or MHRA accommodation request:
 - (a) Whether the individual has a covered disability. This determination may require appropriate evaluation and documentation from a medical care professional.
 - (b) Whether an accommodation is needed for the individual to perform the essential function(s) of the employee's position.
 - (c) Whether the accommodation(s) is (are) reasonable and would not create an undue hardship for the town.
- 4) The Human Resources office shall make a determination within a reasonable time of receipt of the request for accommodation. A reasonable time is necessarily flexible, taking into consideration such factors as the complexity of the request, cooperation of the employee, any need(s) for additional medical information, and so forth.
- 5) In the process of determination, the Human Resources office, and the Department Head as necessary and appropriate, will engage in an interactive process with the employee, which will include discussion or other exchange as to the nature and reasonableness of accommodation.
- 6) If an employee is not satisfied with the determination regarding a requested accommodation, the employee may submit a request for reconsideration to the Town Manager. The Town Manager shall promptly review and respond to the request for reconsideration and notify the employee.
- 7) Once an accommodation is determined, it will be documented and placed in the employee's medical file.
- 8) Both the employee and their supervisor will continue to monitor the need for the accommodation to ensure there aren't any issues/concerns by either party, and to provide and consider updated medical information if necessary.

Section 2.5 – Storm Closing/Absence Policy

The Select Board and Town Manager take the safety of all employees seriously and have put in place a policy to follow in case of bad weather or other emergency. A notice shall be placed: on the closed door(s) of those office(s) if safely able to do so, on the Town's web page, BCM ticker notice, indicating an apology to visitors, the time the office is expected to reopen, and, if possible, a referral to any other open office that may be covering for the closed office(s). All regular employees due to work that day/partial day shall be compensated for any temporary closures of town hall offices or transfer station at the same rate of compensation as if they had worked. Such time shall not be considered "hours worked" or used to compute overtime compensation. Employees absent from work due to leave will not receive additional compensation.

The Town Manager, with Select Board approval, may also choose to close for disasters and days of national celebration or mourning.

Purpose: It is the purpose of this policy to provide guidelines to key decision makers for the Town of Berwick when weather or other situations require that the town offices not be open during posted business hours. The Select Board recognizes that circumstances exist that might require closure in

the interest of staff and/or public safety. **The Town Manager is the person in charge of making these decisions and has discretion to do so.**

Weather Related Emergency Closure: When extreme weather conditions are forecast during normal business hours, the Town Manager will review the State of Maine's storm closing decisions and review road conditions with Public Works. A determination shall be made based on:

- If normal business operations will place town employees in potential harm while commuting to or from their place of work
- The duration and/or severity of the weather event becomes a potential safety risk for anyone on the road.
- Power outages and/or road closures have taken place or are predicted to take place.

If deemed necessary to close, the Town Manager will attempt to make that decision before 6:00 AM on the morning of a storm or during the day when weather conditions are predicted to become hazardous.

Locations: Each location will be reviewed independently, and a decision made by the Town Manager. Public notice protocol as noted below will be followed for all locations as much as possible.

- Closing the Town Hall: The Town Manager will notify the Town Clerk who will notify Department Heads either by telephone or e-mail, so they are aware of the action. The Clerk will also set up a phone tree to notify office staff of the closing before 7:00 AM.
- Closing the Transfer Station: The Town Manager will notify the Director of Public Works who will contact the Transfer Station Supervisor and additional employees as needed. The town's trash removal company and other vendors will be notified as needed.
- Fire, Police, Dispatch and Public Works: Emergency personnel are required to work during emergencies and therefore are not included in this policy.
- Fire and Police Administrative Assistants follow the Town Hall closures, and if on Fridays, the Chiefs will notify the Assistants.
- Closing of the Recreation Department and BCM: both these departments are housed at the Town Hall and will follow that Closing process.
- Closing of the Library: The Library Director will notify library personnel either by telephone or e-mail, so they are aware of the action.

Emergency Closure – Should a facility require closure, due to a major incident (water break, fire, robbery, utility system failure, etc.) the Town Manager shall be notified as soon as possible, and notification made as per the public notice protocol in this policy. If possible, a sign will be placed in an appropriate location indicating the nature of the closure.

Public Notice - The public will be notified of the decision of any closure (partial or full day) through the following means, if possible:

- Local television stations
- The Town's Web page
- The Town's Facebook page
- The Town's telephone answering machine.
- Local radio stations
- Berwick Community Media
- Signage on appropriate facility

Personal Decision - Closing a municipal office will be the exception rather than the rule for severe weather. However, if on a day when the weather is extreme and an employee believes it is unsafe to drive to work, the Town Manager accepts this as a permissible excuse for not coming to work. Employees must use accumulated comp time or vacation time on their time logs for these days. The employee must inform their Department Head of their decision. Anyone found abusing this policy will have to seek any future approval in advance of taking the day off from the Town Manager.

Employee Impact - All regular and part-time employees scheduled to work on a day when their facility has been closed by the Town Manager, or an unforeseen emergency, shall receive their regular pay for that day, or portion of the day the facility is closed. Such hours will not be counted as "hours worked" for overtime purposes. Anyone who received prior approval for a sick, vacation or personal day on an emergency closure day will be held to taking the previously approved time.

Section 2.6 - Utility Failure/Emergency Event

In the event of an inability to operate because of a utility failure, emergency event or some other condition, the Town Manager may establish temporary facilities at some other location or may declare appropriate facilities temporarily closed. In instances where facilities are closed and employees are asked to not report to work, employees will receive their regular wages during the closure. Such hours will not be counted as "hours worked" for overtime purposes.

Section 2.7 – Workers' Compensation Protocol/Procedures

The Town of Berwick provides workers' compensation coverage to its employees in accordance with the State of Maine laws. The following protocol and procedures will be followed for all work-related injuries/illnesses.

An employee shall report all work-related illnesses/injuries to a supervisor on the day of the occurrence, or as soon as possible. The supervisor or their designee shall be responsible for ensuring that the appropriate first report of injury is completed. This form shall be submitted to the Finance Office, upon completion. Any supported documentation will be attached (accident report, doctor's report, police report, etc.). All reports will state whether there was any lost work time. All non-emergency injuries/illnesses needing medical attention shall be reported to ConvenientMD, Dover, NH for evaluation. If an employee is injured during the hours that ConvenientMD is not open, and it is not an emergency, the employee should wait and report to ConvenientMD as soon as it opens. If an emergency illness/injury occurs during the hours that ConvenientMD is closed, the employee should report to the emergency room.

In the event an employee is referred to the Town's designated health care provider (ConvenientMD) (10-day doctor), the Town will schedule the appointment(s) at no cost to the employee. An appointment with the Town's designated health care provider (10-day provider) does not prevent the employee from making an appointment with their regular or other health care provider at their own cost, which may include the employee's health insurance coverage.

Each visit to a physician/medical facility will require the employee to submit, to their supervisor, a M-1 Report completed by the health care physician.

FMLA. If eligible, workers' compensation absences will run concurrently with FMLA.

Benefit Premiums. An employee shall be entitled to maintain group health insurance coverage on the same basis as if they had continued to work at the Town. To maintain uninterrupted coverage, the employee will be required to continue paying their share of insurance premium payments. If an employee is receiving concurrent PTO, Annual, sick, vacation, or compensatory time, the premium will be deducted from the paycheck, as is normally the practice.

If the employee informs the Town that they do not intend to return to work at the end of the leave period, the Town's obligation to provide health benefits ends.

Accrual of PTO, Annual, Sick, Vacation, and Holidays will stop accruing once paid leave has been exhausted, consistent with the Town's leave policies. However, the use of family or medical leave will not be considered a break in service when vesting or eligibility to participate in benefit programs is being determined.

Waiting Period. Under Maine Workers' Compensation, the waiting period is seven (7) days from the date of incapacity, with the exception of fire fighters. There is no waiting period for fire fighters. Employees may use their accruals for the waiting period.

Supplemental Pay. In cases of an injury covered under the Workers' Compensation Act, an employee receiving a workers' compensation check shall have the option to supplement the workers' comp check with their accruals to "make themselves whole". In no case will an employee receive double compensation for lost time due to a workers' compensation illness/injury.

Participation in the Maine Public Employees Retirement System (MainePERS). While receiving workers' compensation benefits, those employees who participate in MainePERS may request a bill from MainePERS to pay their MainePERS contributions based on the wages portion of the benefits received. If an employee does not pay the applicable contributions, the employee will not receive any service credits for that period.

Disputed Workers' Compensation Claims. During the period that an employee is unable to work due to a workers' compensation claim that is in dispute, the employee may be eligible for Short Term Disability, after the applicable waiting/elimination period.

Return to Work. When possible and appropriate for the Town's staffing needs, modified, short-term, or early return-to-work assignments ("Modified- Duty") may be made available to an employee as a positive means of rehabilitation following a workers' compensation illness or injury. Any candidate for Modified-Duty must be approved by a medical provider. An employee who medically qualifies for such Modified-Duty work is required to accept the assignment.

As soon as Modified-Duty is requested or appropriate, the employee's supervisor will evaluate any work restrictions and search for suitable Modified-Duty work within the employee's department. If none exists within the employee's department, then the Town Manager and supervisor may deem it appropriate to look elsewhere within the Town for such work assignments consistent with the skills and abilities of the employee. If there is no Modified-Duty available, the employee will be instructed to return to work on a date when such work exists, restrictions change, or when full-

duty is possible, whichever comes first. The Department Head (or designee) will notify an employee as to the availability of suitable work. The Town, however, has no obligation to create work for employees while on workers' compensation qualifying leave.

The duration of Modified-Duty is limited to thirty (30) working days but may be extended at the discretion of the Department Head. Extensions may be considered based upon medical evidence and employee rehabilitative progress. Any extension will be re-evaluated by the Department Head on a weekly basis.

All employees returning to full-duty (regular duty) work must present the supervisor with the appropriate medical documentation, clearly indicating any remaining restrictions or limitations or the lack thereof.

An employee injured at work who fails to promptly report back to work as soon as reasonably possible (in accordance with the work schedule in effect at that time) upon a "fit for duty" medical release, or an employee found to be violating work restrictions of a doctor while on a Workers' Compensation or Short-Term Disability leave may be disciplined, up to and including discharge.

Chapter 3 - Hiring

Section 3.1 – Hiring Authority

The Town Manager is the hiring authority, unless otherwise specified by Charter, ordinance, or Maine law, and they shall appoint, hire, supervise and direct all municipal employees including those whom the Municipal Officers are required by State law to appoint, excluding members of boards, commissions, and committees.

Section 3.2 – Recruitment and Employment

Recruitment Notices shall be prepared setting forth a basic description of the position, any minimum qualifications, requirements or skills, education and experience preferences, application process, and the date by which applications must be received. Such notices shall affirm Berwick as an Equal Opportunity Employer. It shall be the policy of the Town of Berwick to advertise as widely as is deemed necessary to attract a qualified field of candidates. All job notices will be posted on bulletin boards in Town work sites and via Town emails and may run concurrently with external postings.

Applications: All applicants are required to submit a Town of Berwick application, resume, and a letter of intent to the HR Generalist. Any misrepresentations, falsehoods, or significant omissions of information may exclude the applicant from consideration, or, if the person has been hired, may result in termination.

Job Descriptions:

Human Resources maintains job descriptions for all positions. Job descriptions are utilized in all postings and advertisements for job openings and are the basis for employee evaluations. Job descriptions will contain the following information:

- Position Details: Title, Department, Exempt or Non-Exempt Status, Classification and Union Applicability
- Supervision received and exercised.
- Essential duties and responsibilities

- Peripheral or Special duties (if applicable)
- Education and experience qualifications
- Knowledge, skills, and abilities qualifications
- Physical requirements and Work Environment
- Reasonable Accommodation Clause
- Equal Employment Opportunity/Anti-Discrimination Policy

Human Resources and the Department Head review job descriptions on an annual basis and recommend modifications to the Town Manager, if necessary. The Town Manager has final approval of all changes and revisions to job descriptions. The Select Board has final approval of all changes and revisions to the Town Manager's job description.

Background Checks: All employees must submit to a background check as a condition of employment. All offers of employment are conditioned on receipt of a background check that is kept confidential and only viewed by individuals involved in the hiring process. If information obtained from a background check would lead the Town to deny employment, a copy of the report shall be provided to the applicant, and the applicant will have the opportunity to dispute the report's accuracy. An applicant or employee who provides false, misleading, or incomplete information on an application form, resume, or during a background check, shall either be disqualified from employment consideration, or if employed based in whole or in part on such false, misleading, or incomplete information, shall be subject to termination.

Background checks may include a criminal record check, although a criminal conviction does not automatically bar an applicant from employment.

Physical Examinations: Applicants who have received conditional offers of employment may be required to submit to a medical examination to ensure that they can perform the essential functions of the job with or without reasonable accommodation and without substantial risk of harm to themselves or to others. Pre-employment medical examinations will be required based on the position or class of positions and not on the basis of an individual applicant. From time to time, the Town may require a current employee to submit to a medical examination paid for by the Town for the same purposes, or if the Town has reason to question the employee's physical or mental ability to perform the essential duties/functions of the job or suspects the employee may pose a danger to either him/herself, fellow employees, or the public. Whenever medical information is obtained about an applicant or employee, it will be treated confidentially and will be maintained in a confidential file separate from the personnel file. Access will be limited to those who need or are entitled to know. Upon written request, a copy of the medical information will be provided to the applicant or employee who is the subject of the medical information.

Section 3.3 – Date of Hire

This is the date that full-time and regular part-time employees actually begin working. For purposes of benefit calculations, when a regular part-time employee becomes full-time or when a full-time employee becomes a regular part-time employee, the date(s) of hire shall remain the same, but the adjustment of any benefits shall be clearly noted as of the respective date(s) of the change and type of employment. The following formula shall be used when establishing a conversion from part-time to full-time service: the total number of hours worked part-time divided by the number of hours in the full-time position workweek (37.5/40) determines the number of full-time weeks worked. To establish a new date of hire for full-time service, conversion of PTO count back from the date the employee starts full-time the number of weeks determined by the above calculation. This becomes the employee's starting entitlement for PTO.

Section 3.4 – Classifications of Employment

Department Head positions include the Town Clerk, Police Chief, Fire Chief, Finance Director, BCM Director, Library Director, Recreation Director, and Director of Public Works. The Town may change the designation of Department Heads as operations require.

When there is not a Department Head as noted above, there may be a position that covers as “acting Department Head” at the determination and under the direction of the Town Manager.

- A. **Probationary:** All employees, appointed or hired, are considered probationary for the first six (6) consecutive months of their employment with the exception of a police officer. A police officer is considered probationary for one year after graduation from the Maine Criminal Justice Academy or when the Board of Trustees of said Academy waives the basic training requirement.
- B. The object of the probationary period is to determine the ability of the employee to adhere to the required work standard through a period of actual observation and review by the supervisor.
 - a. The employee will be reviewed by their supervisor at least twice during the probationary period with that documentation placed in the employee’s personnel file.
 - b. The Department Head can recommend to the Town Manager the removal of an employee who is unable or unwilling to satisfactorily perform the duties of the position, whose work habits and/or dependability do not merit the continuance of service, or who does not adhere to the standards set forth in this handbook.
 - c. The Town Manager can terminate the employee without notice or cause or employee recourse, prior to the expiration of the probationary period.
 - d. The Town Manager can make the decision to extend the probationary period, not to exceed one year in total, if they believe the employee will benefit from additional time for training, progressing in duties, or working on certification required for the position. The employee must agree to the extension of the probationary period in writing. If no written agreement is obtained prior to the end of the original probationary period, the employee may be dismissed under par. (d) above.
- C. **Regular Full-Time:** Employees who work a regularly scheduled workweek of at least **37.5 hours per week**, year-round in nature. Hours may vary according to department scheduling needs. The employee receives all benefits provided within this policy, except where otherwise provided for in a collective bargaining agreement.
 - Regular full-time Union employees will fall under their specific Collective Bargaining Agreements
 - Regular full-time employees shall be entitled to full participation in the following benefits as set forth in this handbook:
 - Holidays
 - Jury duty
 - Medical Insurance
 - Paid Time Off (PTO)
 - Bereavement
 - Leaves of Absence
 - Retirement
 - Exemption Positions

The following positions are salaried and exempt from overtime (list is subject to change).

- Town Manager
- Police Chief
- Police Captain
- Fire Chief
- Town Clerk
- BCM Director
- Library Director
- Recreation Director
- Finance Director
- Director of Public Works

- D. **Regular Part-Time:** An employee who is budgeted to work a regular schedule of less than 37.5 hours per week on a continuing basis or indefinite basis. Any schedule changes must be reported to the Finance Office so adjustments can be made to accruals.
- a. Employees who work **20 hours or more per week** (and less than 37.5) are eligible to receive PTO (Section 8.15). They are also eligible for paid holidays provided that the holiday falls on the day that the employee was regularly scheduled to work. Other holidays are not paid. All paid days are pro-rated based on the individual's regular workday schedule. Hours for accrual purposes are based on their normal work week. Employees are not eligible for other benefits except the Mission Square Retirement Program without a Town match, and any other benefits mandated by law.
 - b. Employees who work **under 20 hours per week** on a regular basis are eligible for paid holidays provided that the holiday falls on the day that the employee was regularly scheduled to work. Employees are not entitled to any other benefits, except those mandated by law.
- E. **Temporary and Seasonal:** Temporary employees work on a non-regular basis for a limited assignment not to exceed six months, usually with a predetermined end date. Full-time and part-timeseasonal employees, as designated by the State of Maine, are included in this classification. Employees in this classification must be rehired for each separate period of employment. Temporary employees may not be allowed to average 30 or more hours of work per week over a 52-week period without prior authorization by the Town Manager. Temporary employees are not entitled to benefits, except those benefits mandated by law, such as social security.
- F. **Select Board:** Members of the Select Board are elected officers of the Town of Berwick and are not employees unless deemed otherwise by specific sections of Maine law. These individuals receive a stipend, but do not receive any benefits.
- G. **Appointees to Boards and Committees:** People appointed by the Select Board to serve in positions such as the Planning Board, Board of Appeals, Recreation Commission, etc., or special committees are volunteers providing service to the Town of Berwick. These individuals are not employees, and do not receive any compensation or benefits. They can be removed from their appointments by the Select Board and hold no reasonable expectation of re-appointment beyond the expiration of their appointed term.
- H. **Reserve Officers:** Reserve Officers do not fall under the part-time category as they do not have a regular set schedule. They also do not qualify as temporary or seasonal as they

could be utilized anytime during the year. Their working time and limitations are controlled by the Police Department and State of Maine regulations. These employees are not entitled to benefits except those mandated by law.

- I. **Per diem Firefighter/EMTs** – Per diem positions with no benefits normally work under 36 hours per week and receive Earned Paid Time (EPL) but are not considered a regular part-time employee.
- J. **Call Firefighters:** Call firefighters do not fall under the part-time category as they do not have a regular set schedule. They also do not qualify as temporary or seasonal as they could be utilized anytime during the year. Their working time and limitations are controlled by emergency situations/calls. These employees are not entitled to benefits except those mandated by law.

Section 3.5 – Nepotism

The Town reserves the right to consider close family and equivalent relationships between or among Town employees or between an applicant and a current employee that could reasonably present conflicts of interest, the appearance of favoritism or otherwise impact the Town’s ability to manage employees. An employee shall not be put in the position of supervising a relative or anyone who is the equivalent of a close family relationship.

Definitions

Nepotism – The practice among those with power or influence of favoring relatives or friends, especially by providing him/her jobs, promotions, preferential treatment etc.

Relative - A relative is any one of the following: spouse, partner, children, stepchildren, parents, grandparents, grandchildren, brother, sister, brother-in-law, sister-in-law, aunt, uncle, nephew, niece, son-in-law, daughter-in-law, mother-in-law, father-in-law, stepparents, half-brother, half-sister, first cousin.

Town Official - Town Official pertains to all elected officials (Select Board) and administrative appointee (Town Manager).

Supervisor – Person responsible for supervising, evaluating, promoting, hiring, appointing, or taking any other supervisory or personnel action. This includes Department Heads, Foreman, Chiefs, Town Manager and Select Board, etc. when said position/person is in a supervisory role.

Appointments, Hiring and Evaluations

- To avoid any nepotism or appearance of nepotism, the Town will not hire any individual for a position whose direct supervisor is a relative (note “Waivers” section).
- Any applicant who is related to a current employee within a department may be considered for regular employment or employment for a limited time within that department as long as there are no supervisory duties associated with either position.
- Questions as to an individual’s supervisory duties, or lack of, will be determined by the Town Manager.
- For purposes of this section only, “Departments” will be defined as follows:

Administration
Assessing
Finance

Town Clerk
Human Resources
Police

Fire
General Assistance
Community Development and Planning

Public Works
Recreation
BCM

Select Board

In the case that the Select Board has authority on whether any candidate or existing employee will be hired, promoted, or receives additional benefits, and the appointee or employee is related to a member of the Select Board, then that Select Board member must recuse themselves from the decision-making process.

Waivers

This policy may be waived for positions defined by the Town Manager when they determine that such waiver is necessary to recruit sufficient personnel to meet the Town's needs. Such waivers shall not create a grandfathered situation or precedent. Each hire will be evaluated independently.

Under no circumstances shall this policy be waived in any situation involving an employee without the express prior approval of the Town Manager. It is the Select Board's policy that such authorizations shall be granted, if at all, only in those infrequent situations where there is no other available qualified applicant for the position concerned, and the vacancy to be filled is a position critical to the operation of the Town or the Department concerned.

In a situation where the nepotism policy is waived, every effort will be made to assign relatives to separate crews, shifts or to different supervisors.

Section 3.6 – Return Rights

Former employees who left with good employment history shall, provided their qualifications are equal to those of other applicants, be considered for reemployment but shall be given no preference or advantage over other qualified applicants. If rehired, they shall be considered as a new employee who must serve the required Probationary Period and who has no seniority rights from their previous Town employment.

Section 3.7 – Retired MainePERS Rehire

A. Eligibility:

- a. Employee will notify the Town in writing no less than 90 days of their intention to retire/rehire.
- b. Employee must have completed the requirements of MainePERS service and separate from service and retire through MainePERS.
- c. Employee will be paid for all qualified accrued time at time of separation.
- d. Employee is subject to rehire at the discretion of the Department Head, and approval of the Town Manager, at which time the Town Manager will provide a written agreement to rehire the employee after separation. This agreement will define a starting and ending point for the employee in the contract.

B. Program Conditions:

- a. Re-hired employee will receive the pay level that was reached at the time of separation. Also, they will continue with the accrual rates for PTO, annual and sick time, scheduled step increases.
- b. Re-hired employee will earn annual time at their separation level starting at zero. Any hours earned will be paid out to the employee upon at their current rate of pay upon separation.
- c. Re-hired employees will pay 2.5% of the required contribution for MainePERS as a

payroll deduction. The Town agrees to cover the remaining 2.5%. If in the future if percentage contribution amounts increase, the Town will cover a maximum of 2.5%.

Section 3.8– Performance Management

Performance management should be viewed as discussions to aid the employee’s professional development. They should include regular, ongoing sessions with employees throughout the year. Such discussions may be documented as warranted.

Section 3.9 – HIPAA (Health Insurance Portability and Accountability Act)

The Town of Berwick sponsors group healthcare plans that are subject to the Health Insurance Portability and Accountability Act (HIPAA). On the basis of that law, privacy regulations apply to certain Protected Health Information (PHI), including names, phone/fax numbers, email addresses, medical record numbers, health insurance beneficiary numbers, social security number, dates directly related to individual, unique characteristics, account numbers, certificate or license numbers, serial numbers, fingerprints, restricting who is allowed to access health information and under what circumstances. HIPAA also sets standards for protecting health data to make it harder for health information to be accessed by individuals who had no right to view the information. Employees are encouraged to complete a HIPAA form if they wish a family member etc. to be able to get their medical information or be allowed to communicate with medical providers on the employee’s behalf.

Chapter 4 - Conditions of Employment

Section 4.1 – Employee Conduct and Public Relations

All employees are expected to conduct themselves in a professional and courteous manner when dealing with the public or outside agencies. In addition, each employee shall strive to maintain courtesy, respect and understanding for one another. All employees become representatives of the Town and must conduct themselves with the highest ethical standards at all times, both at work and in their personal lives. Expression of derogatory statements regarding Town officials and policies of the Town is considered unbecoming conduct and is prohibited. The work rules and standards of conduct are important to the Town, and employees are expected to follow them in performing their job and the Town’s business. Deviation from them may subject the employee, appointee or official to corrective action.

Such behaviors include, but are not limited to:

In addition, the following examples may constitute or contribute to evidence of bullying in the workplace:

- Shouting at persons in public or in private.
- Using obscene language or gestures.
- Not allowing the person to speak or express himself or herself (i.e., ignoring or interrupting).
- Personal insults and use of offensive nicknames.
- Public humiliation in any form.
- Constant criticism of matters unrelated or minimally related to the person’s job performance or description.
- Ignoring or interrupting an individual at meetings.
- Public reprimands.
- Spreading rumors and gossip regarding individuals; or
- Encouraging others to disregard the supervisor’s or designee’s instructions.

While not a complete list, the examples below illustrate additional types of workplace infractions or misconduct that may result in disciplinary action, including termination. (Workplace means wherever an employee conducts Town business, regardless of location.)

- Theft or inappropriate removal or possession of property
- Working under the influence of alcohol, illegal substances, or other intoxicants
- Possession, distribution, sale, transfer or use of alcohol, illegal substances, or other intoxicants in the workplace
- Fighting or threatening violence in the workplace
- Boisterous or disruptive activity in the workplace
- Negligence or improper conduct leading to damage of Town or citizen property.
- Insubordination or other disrespectful conduct
- Violation of health and safety rules
- Sexual or other unlawful harassment
- Violation of employee leave policies
- Improper or unauthorized use of Town property, including tampering with records, information, or equipment.
- Unauthorized disclosure of confidential information
- Violation of personnel policies.
- Unsatisfactory performance or conduct
- The inability to work well with others and/or follow reasonable directions or instructions.

Section 4.2 – Off Duty Conduct & Employment

Full-time employment with the Town is considered an individual's primary employment. Generally, the Town regards the off-duty activities of employees to be their own personal matter. However, certain types of off-duty activities by employees may represent concerns to the Town. For that reason, the following is established with the intent to specify conditions and guide employees.

- Employees who engage in, or are associated with illegal or inappropriate conduct, the nature of which adversely affects the Town or their own ability or credibility to carry out their employment responsibilities, may be subject to disciplinary action including termination.
- Employees may engage in off duty employment provided that such employment does not conflict with the employee's work schedule or job performance. If there is any question about whether any outside employment may conflict with their obligations to the Town, the employee is expected to notify and speak to the Town Manager prior to engaging in such outside employment.
- Officials shall not disclose confidential information acquired in the course of official duties or use such information to further personal interests.
- Employees will demonstrate the highest standards of personal integrity, honesty, and conduct in all activities in order to inspire public confidence and trust in Town employees. Employees will not engage in activity, directly or indirectly, inconsistent with the conscientious performance of town duties.
- Employees will not engage in activities that adversely affect public trust and confidence. Such conduct includes, but is not limited to, criminal conduct, such as acts of domestic violence, child abuse or neglect, illicit or illegal drug or alcohol use, operating motor vehicles under the influence and other inappropriate off-duty personal conduct.

Section 4.3 - Harassment and Discrimination

Employees are entitled to work in an environment free of discriminatory intimidation, whether it is based on race, color, sex, marital status, age, religion, national or ethnic origin, physical or mental

disability, veteran status, sexual orientation, gender identity, or any other protected class under federal and/or state law.

The Town is committed to ensuring this entitlement and achieving the dual goals of prompt notice of possible harassment and fair, impartial evaluation of any allegations.

Sexual harassment and other illegal harassment (collectively referred to as "Harassment") of employees is prohibited and will not be tolerated by the Town.

The Town is committed to preventing and eliminating harassment of employees through education and by encouraging employees to report any concerns or complaints about harassment. Prompt corrective measures will be taken to stop harassment whenever and wherever it occurs. Each employee is personally responsible for compliance with this policy.

Harassment is defined as deliberate or repeated unsolicited comments, gestures, or physical contact of an offensive or sexual nature that is unwelcome. Each employee must learn to recognize this form of discriminatory behavior and to distinguish it from purely social relationships that do not adversely affect the work environment. Behavior may constitute harassment when:

- Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment.
- Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual.
- Such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Examples of harassment may be a series of incidents or a single occurrence and include the following:

- Unwelcome sexual advances, gestures, comments, or contact.
- Threats.
- Offensive jokes.
- Subjecting employees to ridicule, slurs, or derogatory actions.
- Displaying offensive posters/pictures/publications.
- Basing employment decisions or practices on submission to harassment.
- Refusal to cooperate with employees in performing work assignments; or
- Inequitable disciplinary actions and work assignments.

Harassment, such as the examples above, can take place between members of the same sex as well as members of the opposite sex.

Supervisory Responsibilities

Supervisors have additional responsibilities to ensure that the work environment is free from harassment. Every supervisory employee acts as an agent of the Town and has an affirmative responsibility to promptly take all steps necessary within the scope of their job to prevent discrimination and harassment from occurring in the workplace. Lack of intervention and corrective action by supervisors may be perceived by both perpetrators and victims as condoning harassing behavior. Corrective action is required whether the victim makes a formal complaint. In accordance with policy, supervisors should process any observed or reported harassing behavior confidentially and expeditiously. Reports of harassing behavior must be thoroughly investigated to establish facts associated with the situation.

Reporting Procedure

Any supervisor or Department Head receiving a complaint of harassment will immediately report it to Human Resources.

It is the employee's responsibility to speak with the supervisor, Department Head, or Human Resources at once if they believe they are being subjected to sexual harassment. Any employee who believes they are being harassed by a Department Head, supervisor, co-worker, employee, citizen, or vendor should promptly take the following actions:

- a) Confront the harasser and ask them to stop. If you feel uncomfortable with confronting the harasser as outlined here, skip to Step b below.
- b) Immediately contact your immediate supervisor, Department Head, or Human Resources
- c) All complaints will be handled in a timely manner by your immediate supervisor, Department Head, or Human Resources. Information concerning your complaint will be given on a need-to-know basis only. Management personnel needed for participation in the investigation, the alleged harasser and possible witnesses may be contacted and thereby learn of the complaint. Employees should, if possible, avoid discussing the complaint during the resulting investigation except for discussions necessary to conduct the investigation and make a decision. The purpose of this provision is to encourage the filing of valid complaints by protecting the privacy of the complaining employee to the extent possible, as well as to protect the reputation of any employee who might wrongfully be charged with sexual harassment.
- d) The Town will investigate all complaints promptly. If substantiated, the Town will determine remedies to be given and the sanctions to be imposed. All employees are expected to cooperate with an investigation.

There will be no retaliation against any employee who files a complaint of discriminatory behavior or participates in any proceedings concerning harassment. Any person found to have retaliated against another individual for reporting harassment will be subject to disciplinary action, up to and including termination of employment.

Employees may file a complaint of sexual harassment with the Maine Human Rights Commission at 19 Union Street, Augusta, Maine 04333, (207) 624-6290 and the EEOC – 1-800-669-3362.

It is not required that any of the above procedures be utilized first or in any particular sequence, nor is it required that any procedure be exhausted before the other is used. There will be no retaliation against any employee who files a complaint of discriminatory behavior or participates in any proceedings concerning harassment.

Section 4.4 – Personal Appearance Standards

Employees shall dress appropriately for their position and maintain reasonable standards of neatness and cleanliness. Employees are expected to dress in a manner consistent with the nature of work performed. If there are questions as to what constitutes proper attire, employees should consult with their supervisor or Department Head. Employees who are inappropriately dressed, in the opinion of supervisory personnel, may be sent home and required to return to work in acceptable attire. Under this circumstance, employees will not be paid for the time away from work. If an accommodation is sought, the employee should speak to a supervisor in advance.

Section 4.5– Gifts and Solicitations

It is important for every employee of the Town to avoid the appearance of impropriety; therefore, no employee shall be permitted to accept any gift, gratuity, entertainment, loan, or any other item of monetary value from any individual, business, corporation etc. within or outside Town employment whose interests may be affected by the employee's performance or nonperformance of their official duties. For the purpose of this Policy, the term "gift" shall include any kind of personal consideration or cash payment. This does not include:

- fund-raising efforts for the benefit of charitable causes or other departmental programs
- door prizes or free samples/handouts from vendors at conferences/conventions.
- small seasonal gifts given to the Town/all employees with a de minimis value.
- small token of appreciation/thank you gifts in recognition of time and attentiveness.
- Wellness Incentive items, prizes, and grant funding

Section 4.6 – Business Activities or Solicitations

No employee shall engage in any business other than their regular duties during work hours.

Section 4.7 – Attendance and Lateness

Employees are expected and required to report to their designated work location and be ready to work at the prescribed time work activity is to commence. Tardiness, unexcused absences, or failure to report as required may result in disciplinary action. In the event an employee cannot report to work as scheduled, the employee shall notify their supervisor as soon as practical of the absence. In all cases of an employee's absence or tardiness, the employee shall provide their supervisor with a legitimate reason for the absence and, if applicable, the probable duration of absence. If circumstances render the absence duration speculative or unknown, the absent employee will be required to call their supervisor daily to report the status of absence. Excessive absenteeism or lateness regardless of reason(s), which renders an employee insufficiently available for work, will be evaluated on a case-by-case basis to determine the merits of correctional action and may be disciplined, up to and including termination.

Definition of absence: An employee is absent when they fail to report for and remain at work as scheduled. Lateness is a short absence at the beginning of the workday. Leaving early, even with permission, before the scheduled shift ends, is also an absence. Absence, then, includes all time lost from the work schedule, whether avoidable or unavoidable, voluntary, or involuntary.

Notification of an employee's absence from another employee or relative is not acceptable, except under emergency conditions.

Failing to report an absence properly may be grounds for disciplinary action, including dismissal.

Section 4.8 - Political Activity

While on duty, employees may not engage in political activity. For purposes of this Section, political activity means to advocate expressly for or against any candidate for any County, State, Federal or Town of Berwick elective office or political cause; to communicate, organize, assist or advocate for or against any candidate for any County, State, Federal or Town of Berwick elective office or political cause; and/or to knowingly solicit or receive a political contribution for any candidate for any County, State, Federal or Town of Berwick elective office or political cause. Employees may not use Town facilities, equipment or supplies for purposes of political activity regardless of whether they are off duty nor or use the influence of their employment capacity.

This Section is not to be construed to prevent Town employees from becoming, or continuing to be, members of any political organization, attending meetings of political organizations, donating personal time or resources to a political cause, expressing their views on political matters, voting with complete freedom in any election, or carrying out the duties and responsibilities of an employee's position.

Section 4.9 – Conflict of Interest

No town employee who is authorized to make purchases shall have any interest either directly or indirectly in any contract with the town or outside service provider. No employee will award any type of contract or proposal in which they have a direct or indirect interest other than through a sealed bid process or written approval by the Town Manager.

Section 4.10 - Technology Use

Technology resources, computer information systems and networks are an integral part of business at the Town. The Town provides technology resources to employees to support them in accomplishing their work- related tasks.

All systems, programs, networks, and technology that are owned or issued by the Town are Town property, and employees shall have no reasonable expectation of privacy while utilizing such systems or technology.

The following directives have been established in order to protect the Town's technology investment, safeguard the information contained within these systems, and reduce business and legal risk. Employees are expected to abide by all Federal, State, and local laws (including Copyright Law), statutes and ordinances as well as Town policies and directives when using technology resources.

Technology Resources

Technology resources includes, but are not limited to, any desktop computer, laptop computer, tablet computer, desk phone, cell phone, smart phone, fax machine, photocopier, internet, e-mail, digital camera, printer, GPS units, 2-way radios, surveillance drone, network file servers or any related software or hardware used to communicate or to create, assemble, transmit, receive or in any way manipulate or store data and information used as part of the employee's assigned job responsibilities.

Access to technology resources is provided to employees for the benefit of the Town and its citizens. Employees are able to connect to and utilize a variety of business information tools and resources. The following guidelines have been established for using assigned technology resources.

Acceptable Town Use of Technology Resources

Employees are responsible for ensuring that any technology resource is used in an effective, ethical, productive, and lawful manner. Examples of acceptable use are:

- Accessing Internet based resources to obtain business information from commercial/governmental Web sites.
- Accessing internal network server-based databases and files for information as needed and/or required as part of their job responsibilities.
- Using e-mail, texts, and phones for business communication.
- Using any supplied technology resource in a manner specified by the employee's supervisor as part of the employee's execution of their normal job responsibilities.

Acceptable Personal Use of Technology Resources

The Town recognizes that the use of technology resources greatly improves an employee's efficiency both at work and outside of work. Therefore, limited personal use of the Town's technology resources is acceptable. All acceptable personal use is defined below. All personal use must comply with the provisions outlined in this policy. This use must not interfere with the employee's daily work or others' daily work. It also must not interfere with the operation or performance of the Town's computer network.

- E-Mail: Limited use of the Town's e-mail system is allowed under this policy. Reading, composing, and sending of personal e-mail should take place during planned break periods or before/after work. All policy directives (described below) addressing the unacceptable use of the Town's e-mail system apply unconditionally to this use.
- Phone/text use: An occasional brief (less than 2 minutes) personal phone call/text is allowed under this policy. Otherwise, all personal phone calls, texting and social media activity should take place during planned break periods or before/after work.
- Printing and photocopying: Occasional use of printers and photocopiers is allowed under this policy. This activity should take place during planned break periods, with prior permission from the employee's Department Head, who shall first make the determination that such use shall not be excessive.
- Internet use: Personal use of internet access is allowed under this policy but must take place during planned break periods or before/ after work. All use shall comply with all standards and directives contained in this policy.

Any personal use of any of the Town's technology resources as defined in this Handbook not specifically referenced in this Acceptable Use section, must be approved by the employee's Department Head, who will review the request with the Town Manager.

Unacceptable Town Use and Personal Use of Technology Resources

Employees must not use the Internet for purposes that are illegal, unethical, or harmful to the Town. Examples of unacceptable use are:

- Sending or forwarding chain e-mail. Sending the same non-business-related message to more than five recipients or more than one distribution list.
- Spam shall not be created or forwarded.
- Conducting personal business matters during working hours using Town technology resources.
- Transmitting any material content that is offensive, harassing, fraudulent, indecent, profane, intimidating or otherwise unlawful may not be sent by e-mail, voice mail or any other form of electronic communication, or displayed on or stored in the Town computers or telecommunication resources.
- The Town forbids using any Town electronic communications resources or technology resource for any unauthorized or illegal purpose.
- File downloads from the Internet are permitted only for the purpose of fulfilling normal job duties and responsibilities.
- File downloads to a computer not primarily assigned to you is prohibited. File downloads used for upgrading the operating system components, application programs, Town programs and drivers must be approved by the Town Manager in advance and must be installed by a member of the Technology Company.

Employee Responsibilities

Employees may not use the Town's computer systems in a way that disrupts the use by others. An employee who uses the Internet, e-mail or any other technology resource shall:

- Be responsible for the content of all text, audio, or images that they place or send or receive over the Internet or is stored on the Town's network. All communications should have the employee's name attached.
- Not transmit copyrighted materials without permission of the copyright holder.
- Abide by all Town policies dealing with security and confidentiality of Town records.
- In the event of transmittal of nonpublic information, employees must ensure that information is delivered to the proper person who is authorized to receive such information for a legitimate use and must be done with the knowledge and prior approval of the employee's supervisor.
- Not forward any privileged e-mail from an attorney representing the Town without permission from the attorney and the Town Manager.

Security

Viruses can be transmitted via e-mail messages (especially through file attachments), USB memory devices, CDs, networks, DVDs, hard drives, the internet, and through music sharing or streaming use. In short, viruses can infect your computer through the same technologies that allow data to move from computer to computer. It is the employee's responsibility to:

- Not knowingly introduce a computer virus into Town computers.
- Not use or install any remote media storage device of unknown origin.
- Never open any email or attachment within an email without ensuring safety.
- Any employee who suspects that their workstation has been infected by a virus shall contact the Town Manager immediately.

It is Town policy to protect computer hardware, software, data, and documentation from misuse, theft, unauthorized access, and environmental hazards.

Monitoring

The Town has the right, but not the duty, to monitor any and all aspects of the employee's use of technology resources, including but not limited to, employee e-mail, voice mail, cell phone, texts, and web activity. **Employees should have no expectation of privacy in anything they create, access, send, receive, or disseminate in any manner as a result of using the Town's technology resources that are provided to assist employees in the performance of their work duties.**

Internal and external e-mail, voice mail, text messages and other electronic communications are considered business records and may be subject to Maine's Freedom of Access Act and/or discovery in the event of litigation. Employees must be aware of this possibility when communicating electronically within and outside the Town.

Disposition upon Employee termination

When an employee leaves the employ of the Town for any reason, the Town reserves the right to review and retain all communications, (including, but not limited to, e-mail, voicemail, and computer files) of or relating to the departing employee for any reason. Any employee who

leaves the employment of the town shall not delete, modify, take, or retain any communications (including, but not limited to, e-mail voicemail, software, and computer files). Employees are prohibited from gaining, or attempting to gain, access to another employee's e-mail or computer files without the employee first obtaining authorization from a supervisor or Department Head. Employees who leave employment with the Town have no right to the contents of their e-mail messages and are not allowed access to the e-mail system. Supervisors or Department Heads may access an employee's e-mail if employees are on leave of absence, vacation, or are transferred from one department to another department, and it is necessary for the Town's business purpose.

Section 4.11 - Social Media Policy

At the Town of Berwick, we understand that social media can be a fun and rewarding way to share your life and opinions with family, friends, and co-workers around the world. However, the use of social media also presents certain risks and carries with it certain responsibilities. To assist you in making responsible decisions about your use of social media, we have established these guidelines for appropriate use of social media. This policy applies to all employees who work for the Town.

Guidelines

In the rapidly expanding world of electronic communication, *social media* can mean many things. *Social media* includes all means of communicating or posting information or content of any sort on the Internet, including to your own or someone else's web log or blog, journal or diary, personal web site, social networking or affinity web site, web bulletin board or a chat room, whether associated or affiliated with the Town, as well as any other form of electronic communication.

The same principles and guidelines found in the Town's policies and three basic beliefs apply to your activities online. Ultimately, you are solely responsible for what you post online. Before creating online content, consider some of the risks and rewards that are involved. Keep in mind that any of your conduct that adversely affects your job performance, the performance of fellow employees or otherwise adversely affects employees, citizens, the public, suppliers, people who work on behalf of the Town may result in disciplinary action up to and including termination.

Know and follow the rules.

Carefully read these guidelines, the Town of Berwick's Statement of Ethics Policy, the Town's Technology Policy, and the Discrimination & Harassment Prevention Policy, and ensure your postings are consistent with these policies. Inappropriate postings that may include discriminatory remarks, harassment, and threats of violence or similar inappropriate or unlawful conduct will not be tolerated and may subject you to disciplinary action up to and including termination.

Be respectful.

Always be fair and courteous to fellow employees, citizens, the public, suppliers, or people who work on behalf of the Town. Also, keep in mind that you are more likely to resolve work-related complaints by speaking directly with your co-workers or bringing your concerns to a supervisor and/or the Town Manager than by posting complaints to a social media outlet. Nevertheless, if you decide to post complaints or criticism, avoid using statements, photographs, video, or audio that reasonably could be viewed as malicious, obscene, threatening or intimidating, that

disparage employees, citizens, the public, or suppliers, 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, religion, or any other status protected by law or Town policy.

Be honest and accurate.

Make sure you are always honest and accurate when posting information or news, and if you make a mistake, correct it quickly. Be open about any previous posts you have altered. Remember that the Internet archives almost everything; therefore, even deleted postings can be searched. Never post any information or rumors that you know to be false about the Town, its citizens, the public, employees, suppliers, etc.

Post only appropriate and respectful content

- Maintain the Town's Confidentiality policy. Do not post internal reports, policies, procedures, or other internal confidential communications.
- Do not create a link from your blog, website, or other social networking site to a Town website without identifying yourself as a Town employee.
- Unless specifically authorized to do so, never appear in any social media posting wearing a Town uniform, insignia, showing a town vehicle, or in or on Town property.
- Express only your personal opinions. Never represent yourself as a spokesperson for the Town unless you have been specifically authorized to do so. If the Town is a subject of the content you are creating, be clear and open about the fact that you are an employee and make it clear that your views do not represent those of the Town's, fellow employees, citizens, suppliers, the public or people working on behalf of the Town. If you do publish a blog or post online related to the work you do or subjects associated with the Town, make it clear that you are not speaking on behalf of the Town. It is best to include a disclaimer such as "The postings on this site are my own and do not necessarily reflect the views of the Town of Berwick".

Using social media at work

Refrain from using social media while on work time or on equipment we provide unless it is work-related as authorized by your Department Head or Town Manager or consistent with the Town Technology Policy. Do not use the Town of Berwick's email addresses to register on social networks, blogs or other online tools utilized for personal use.

Retaliation is prohibited.

The Town of Berwick prohibits taking negative action against any employee for reporting a possible deviation from this policy or for cooperating in an investigation. Any employee who retaliates against another employee for reporting a possible deviation from this policy or for cooperating in an investigation will be subject to disciplinary action, up to and including termination.

Media contacts

Employees should not speak to the media on the Town's behalf without the express consent of the Town Manager. All media inquiries should be directed to the Town Manager.

Section 4.12- Cell Phone Use

Cell phone access:

Town provided cell phones are town property and subject to review of all calls in-coming and outgoing as well as text, internet access, photographs and any other usages or applications. It must be understood that all usage can be reviewed under the Freedom of Information Act (FOIA) whether Town or personal use and applies to both incoming and outgoing cellular calls. Personal phones not provided by the Town can also receive a FOIA request for any usages for Town business. Be aware that once sent you no longer have control of any voicemail, text, email, photo etc. that you leave on another device, and it could remain accessible and able to be shared forever.

Cell phone usage:

- Employees may carry and use personal cell phones while at work on a sporadic basis. If employee use of a personal cell phone causes disruptions or loss in productivity, the employee may become subject to disciplinary action per personnel policy.
- If an employee is operating a Town vehicle and receives a call on a cell phone, the employee may answer so long as they are not using a hand-held phone or other answering device, but only to ask the caller to hold. The employee must pull to the side of the roadway, into a parking lot or other safe location to respond to the call. Failure to follow this policy may result in disciplinary action per personnel policy.
- Employees shall not violate the state statute regarding the use of any electronic multi-media devices.

Section 4.13 – Vehicle Use Policy

The Town recognizes that certain employees are required to be "on-call" during off-duty hours. This policy is intended to assure that these employees are able to have the vehicles at their disposal necessary to fulfill the duties of their positions while at the same time ensuring only those uses authorized by the Town are permitted.

Authorized Use of Town Vehicles

Employee's privilege to operate a vehicle on official business extends only if the driver operates the vehicle in a safe manner. Proper care in the operation of the assigned vehicle, including the use of seat belts, hands free, obeying the speed limit and rules of the road, shall always be exercised.

Town-owned vehicles shall be driven for official use and work purposes only. Personal use of Town-owned vehicles is not permitted. Non-Town personnel are not permitted in Town vehicles under any circumstance, unless expressly authorized by their Department Head. Unauthorized use will result in disciplinary action.

Town Vehicles shall not be taken home overnight, except as follows:

Police Department

- Marked Vehicles Employees whose positions require that they be available during off-duty hours to respond to stakeouts, surveillance sites, fires, or emergency calls, may with the prior approval of the Town Manager or the Town's Police Chief, use the Town's marked police vehicles while on-call during off-duty hours, even if such use involves personal matters.

Marked police vehicles used during off-duty hours shall be used exclusively within the Town's municipal boundaries, except those employees who live outside the Town's municipal boundaries may also use such vehicles to travel to and from the employee's home and de minimis personal use but for no other use outside the Town's municipal boundaries.

- **Unmarked Vehicles** This provision applies only to the Town's law enforcement officers who, for purposes of this provision, including the Town's full-time police detectives, arson investigators, and other law enforcement officers who satisfy all of the following requirements: are involved in investigatory or crime prevention work, are authorized to carry firearms and regularly do so, execute search warrants, and are authorized to make arrests (other than merely a citizen's arrest). All such full-time law enforcement officers whose positions require that they be available during off-duty hours to respond to stakeouts, surveillance sites, fires or to emergency calls may, with prior approval of the Town Manager or Police Chief use the Town's unmarked law enforcement vehicles while "on call" during off-duty hours, even if the use of the vehicle involves personal matters.
- Unmarked law enforcement vehicles used during off-duty hours may be used both within and outside the Town's municipal boundaries while the employee is off-duty but "on call". Any personal use of an unmarked law enforcement vehicle by an employee at a time when they are off-duty and not "on call" is prohibited unless the prior approval of the Town Manager or Police Chief is obtained, in which case the employee must maintain a legible daily log book that tracks the extent to which the vehicle is used for personal use during off duty hours when the employee is not "on call" other than for commuting to and from work and de minimis personal use. The Town's Finance Director shall provide the employee with the form of the logbook to be used, and the employee shall return either a complete photocopy or the original logbook to the Town's Finance Director at the end of each calendar quarter.

Based on the daily logbook maintained by the employee, the Finance Director shall report the employee's personal use of the vehicle while not "on call" as a taxable fringe benefit to the Internal Revenue Service and the Maine Bureau of Taxation. If the employee fails to maintain a legible daily log book of their off-duty use of an unmarked law enforcement vehicle, then all of such off-duty use of the vehicle, whether "on call" or "off call", will be deemed to be personal use that is reportable as a taxable fringe benefit.

Fire Department

- **Marked Vehicles** Employees whose positions require that they be available during off-duty hours to respond to fires or emergency calls, may with the prior approval of the Town Manager or the Fire Chief, use the Town's marked fire vehicles while "on call" during off-duty hours, even if such use involves personal matters.

Marked fire vehicles used during off-duty hours shall be used exclusively within the Town's municipal boundaries, except those employees who live outside the Town's municipal boundaries may also use such vehicles to travel to and from the employee's home and de minimis personal use but for no other use outside the Town's municipal boundaries.

Public Works

- Director of Public Works is authorized to take home a Town marked vehicle to allow them, during off-duty hours, to respond to emergency calls for service. Because commuting to and from work is a taxable benefit under IRS regulations, the commuting miles and de minimis personal use will be treated as personal use and taxed as a taxable fringe benefit.

We will include the \$3.00 per day non-cash taxable fringe in these employees' gross income, quarterly, based on the number of workdays for the quarter. Any other personal use of the Town's vehicles during off-duty hours is strictly prohibited.

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Use of Employee Vehicles

Employee Vehicles: The Town does not permit the use of personal vehicles for Town use without specific written approval by the Department Head. This option can be utilized during emergencies, when a needed vehicle is out for repair, or when a large job requires additional transportation. The employee will be reimbursed at the current IRS mileage rate the day of the usage. Documentation (approval letter, mileage start and end readings, check request by Department Head) must be provided for reimbursement.

Driver Guidelines and Reporting Requirements

- Town vehicles are to be driven by authorized employees only, except in the case of repair testing by a mechanic. Employees must have a valid and current driver's license to operate a Town vehicle, or a personal vehicle with current auto insurance while on Town business.
- Employees are expected to drive in a safe and responsible manner and to maintain a good driving record.
- Employees whose jobs require them to have licenses (Class A, CDL, Equipment Licensure, etc.) as a condition of employment or in order to perform their jobs must maintain sure licensure at all times during their Town employment. Employees who lose or voluntarily relinquish such licensure may be subject to disciplinary action, up to and including termination of employment.
- Any employee who has a driver's license revoked or suspended shall immediately notify the Department Head by 9:00 a.m. eastern time the next business day, and **immediately discontinue operation of the Town vehicle**. Failure to do so may result in disciplinary action, including termination of employment. Any notices from any licensing authority or court regarding an employee's licensure must be turned over to the Town within 24 hours of receipt.
- All accidents in Town vehicles, regardless of severity, must be reported to the police and to the Department Head. Accidents are to be reported immediately (from the scene, during the same day, or as soon as practicable if immediate or same day reporting is not possible). Accidents in personal vehicles while on Town business* **must** follow these same accident procedures. Accidents involving the employee's personal injury must be reported to the Department Head for a first report of injury, which will be sent to Human Resources for Workers' Compensation purposes. Failing to stop after an accident and/or failure to report an accident may result in disciplinary action, up to and including termination of employment.
- Drivers must report all ticket violations received during the operation of a Town vehicle, or while driving a personal vehicle for Town business*, within 72 hours to their Department Head.

- Motor Vehicle Records will be obtained on all drivers prior to employment and will be reviewed annually. A driving record that fails to meet the criteria stated in this policy or is considered to be in violation of the intent of this policy by the Town Manager, will result in a loss of the privilege of driving a Town vehicle until such time as the driver meets any required criteria.
- Criteria that may indicate an unacceptable record includes but is not limited to: Three or more moving violations or chargeable accidents within a year or any combination of accidents and moving violations. Chargeable means that the driver is determined to be the primary cause of the accident through speeding, inattention, etc. Contributing factors, such as weather or mechanical problems, will be taken into consideration.

C. Driver Safety Rules

- Driving on Town business and/or driving a Town vehicle while under the influence of intoxicants and other drugs (which could impair driving ability) is forbidden and is sufficient cause for discipline, up to and including termination of employment.
- No driver shall operate a Town vehicle when their ability to do so safely has been impaired by illness, fatigue, injury, or prescription medication.
- The State of Maine requires that all drivers and passengers operating or riding in a city vehicle must wear seat belts. No unauthorized personnel can ride in Town vehicles unless expressly authorized by the Town Manager or Department Head.
- Drivers are responsible for the security of the vehicles assigned to them. The vehicle engine must be shut off, ignition keys removed, and vehicle doors locked whenever the vehicle is left unattended.

D. Definitions

Town Business: Town business is defined as driving at the direction, or for the benefit, of the employer. It does not include normal commuting to and from work.

Personal Use: Personal use includes but is not limited to doctors' appointments, personal errands, picking children up from school or daycare, etc. Personal use of a Town vehicle is prohibited unless expressly authorized by the Town Manager or the employee's Department Head.

Moving Violations: A violation of the Maine motor vehicle statutes for which points may be assessed.

Section 4.14 – Time Clocks

The Town has software in place for employees with internet connection to clock in and out on their computers. These times are approved by the Department Head and then utilized for payroll. Employees without internet access utilize a time clock. The Town uses the 7-minute rule: 1-7 minutes are rounded down to the closest quarter hour; 8-14 minutes are rounded up to the closest quarter hour. Abuse of time clocks, including failure to clock in/out or clocking in for another employee, may be grounds for discipline, up to and including termination of employment.

Chapter 5 – Hours

Section 5.1 - Work Schedule

The work schedule and workweek per department shall be determined by the Town Manager in consultation with the Select Board. The normal workweek shall be:

- Town Office employees 37.5 hours/week
- Library Department employees 37.5 hours/week
- Police Department employees 40.0 hours/week
- Public Works Department employees 40.0 hours/week
- Recreation Department employees 40.0 hours/week
- Fire Department FF/EMT employees 42.0 hours/week
(while fulfilling 24-hour shifts)

Section 5.2 – Time and Attendance Records

Any intentional misrepresentation of hours worked constitutes theft and can result in disciplinary action or termination of employment. Time sheets are a legal document and must represent an accurate and true report of hours worked and time off and include the employee's signature. The Department Head, or designee, reviews time cards and compiles the information onto a coversheet to be submitted to the Finance Office by noon on Monday. If corrections are needed, the Department Head will initial next to the change. An employee on annual leave needs to complete documentation prior to the leave; if the employee is out on sick leave the Department Head will complete documentation in the employee's absence.

- The accuracy of time sheets is the responsibility of both the employee and Department Head.
- Calculation corrections may be done in the Finance Office during proofing of timecards.
- If an error is found in payroll the employee must see the Department Head to identify the error. The Department Head will contact payroll to inform them, or to assist with research of the error. If an error is confirmed a correction will be made on the next regularly scheduled weekly pay period. In certain circumstances the correction may be made sooner than the next regularly scheduled weekly payroll at the discretion of the Town Manager.

Section 5.3 – Lunch, Rest Periods, Breaks

Rest breaks may be granted at the Department Head's discretion as a principle of sound personnel management, not as a right of employment. Breaks of 15 minutes may be allowed, with Manager approval. Break time may not be taken at the beginning or end of a work shift, immediately before or after lunch, accumulated, nor be applied towards an alternative work schedule. On a regular 8-hour assignment, employees will receive a lunch break of 30 minutes. Review Union contracts for department specifics. Maine Statue Title 26, Chapter 7:601 Rest Breaks.

Employees shall not consume alcoholic beverages and/or illegal or legal recreational drugs while on rest and/or lunch periods. Employees found in violation of this policy will be subject to disciplinary action up to and including termination of employment.

Section 5.4 - Normal Work Hours

The hours of work, the starting and quitting time, and 30-minute lunch periods will be established within each department with the Town Manager's approval. The hours of work, the starting and quitting time, or the scheduling of lunch periods may be changed by the Department Head, subject to approval by the Town Manager.

- The Town Manager will be kept informed of employees' schedules/changes.

- It is understood that salaried employees who are exempt employees and not entitled to overtime pay shall accomplish the work assigned to the position regardless of the hours required to do the work.
- It is the responsibility of each Department Head to ensure that the department's work hours/schedule are adhered to by all employees.

Section 5.5 - Overtime

Any time actually worked in excess of 40 hours of a work week shall be compensated for by overtime pay (or compensatory time with Department Head approval) at time and one-half rate. Any hourly employee who works unauthorized hours or overtime will be compensated for such time worked, and may also be subject to disciplinary action, up to and including termination of employment.

Section 5.6 - Compensatory Time

With the approval of the Department Head, an employee who earns overtime may be granted compensatory time in lieu of overtime pay. An employee may accumulate up to 40 hours of comp time, after which all overtime shall be paid as wages. In order to take compensatory time, an employee must make a request at least one (1) day in advance and must receive written permission from the Department Head.

- Compensatory time must be used within sixty (60 days) of earning the time unless approved in advance by the Town Manager.
- The Town reserves the right to instruct employees to take compensatory time off if in the best interests of the Town.
- Exempt employees are not eligible to accumulate compensatory time.
- Department Heads and other FLSA-exempt employees occupy positions of responsibility, accountability, and discretion. They may be required to work outside the normal schedule of working or office hours and are compensated, in part, on the basis of accomplishing the tasks demanded of the position without regard for the specific number of hours worked. They are also expected to be accountable for their time, be available to the public and other staff, and generally to conform to normal operating hours.
- Exempt employees may be authorized administrative leave or time off with pay if unusual demands require excessive hours of work beyond the normal work week. Employee must attain written approval from the Town Manager to take the time and:
 - a. it cannot interfere with the operations of their department or office.
 - b. there are no other priorities which should be completed which, if not completed, might interfere with the operations of another department.
- Non-exempt earned compensatory time will be paid at 100% at time of separation. Exempt employee administrative leave will not be paid at the time of separation.

Section 5.7 Pay Periods

- The payroll period shall run from Monday at 0000 hours through Sunday 2359 hours. Paychecks are direct deposited the following Thursday at 9 am unless unavoidable delays are caused by unforeseen or uncontrollable circumstances.
- When a payday falls on a holiday, employees will be paid on the last workday prior to the holiday, unless unavoidable delays are caused by unforeseen or uncontrollable circumstances.

Chapter 6 - Behavior

Section 6.1 – Personnel Records

The Town Manager (or designee) shall be responsible for maintaining appropriate records on each employee in accordance with all applicable laws. Any employee may review their file(s) in the presence of a staff member with responsibility for the files, during normal business hours upon request to the Town Manager. Any employee may copy anything in their file with a signed acknowledgement that they have done. This document shall then be retained in the file as evidence that the information was copied by the employee. A personnel file shall contain hiring and employment records, performance evaluations, records of disciplinary action, commendations, and other pertinent information. Employee personnel files are considered confidential documents. Only those persons with the right to know or the need to know may have access to the personnel files.

- Change of Status: Employees are responsible for keeping their personnel records up to date by notifying the Finance Office in writing of any personal information changes to the following information: name, address, telephone number, marital status (for benefits and tax withholding purposes only), address and telephone, plus numbers of dependents and spouse or former spouse (for insurance purposes only), beneficiary designations for any plans, and persons to be notified in case of emergency. Failure to do so may delay or have an adverse effect on the timely receipt of correspondence being mailed, insurance coverage, and/or accurate assessment of premium rates. The Town will not be responsible for an employee's error or omission in this regard.
- Records: No department nor employee can release the address, telephone number, Social Security number, or date of birth of any employee, officer, or appointed official as shown in the personnel records (except upon request from law enforcement agencies) without the prior consent of that employee, officer, or appointed official. The exemption of personnel records from public disclosure is governed by applicable statutes. In general, requests for personnel information or records should be referred to and handled by the Town Manager.
- References: It is the Town's position to verify only dates of employment, title, and salary for general verifications of employment. All requests for information will be handled responsibly, and only qualified personnel will be involved. Information will be given to duly authorized requests from law enforcement agencies, including investigators, summonses, subpoenas, and judicial orders. The Town need not inform an employee that personal information has been disclosed to law enforcement agencies if it concerns an investigation into the employee's on-the-job conduct, especially when an employee's actions endanger other employees or Town security or property. All requests for reference about current, retired, or terminated employees must be referred to the Human Resources Department. No supervisor is authorized to give any information about current or former employees without the prior approval of Human Resources.

Section 6.2 – Promotions

To the extent possible and in the best interest of the Town, Town employees shall be given the opportunity for advancement. Present employees will be given consideration in filling a vacancy and may be given training opportunities to qualify them for promotion(s). It is recognized, however, that from time to time it will be necessary to fill a position through an outside search. The Town Manager shall determine when and if an outside search should be conducted to fill a vacancy. All promotions to Department Head positions made by the Town Manager are subject to confirmation by the Select Board.

Section 6.3 - Discipline and Corrective Action

Whenever, in the supervisor's judgment, employee performance, attitude, work habits, or personal conduct is unsatisfactory, the supervisor shall inform the employee promptly and specifically of such lapses. Supervisors should avoid waiting to discuss deficiencies and should provide counsel and assistance to employees with the goal of correcting the work or behavior. If appropriate and justified, a reasonable period of time for improvement may be allowed before initiating disciplinary action.

- The Town generally follows the principles of progressive discipline; however, Department Heads may determine the appropriate level of discipline, taking into consideration the particular incident and any local, state, and federal laws, rules and/or guidelines. The Town may immediately and without notice advance to greater discipline depending on the circumstances and an employee's past disciplinary history.
- Unpaid suspension, demotion, and dismissal shall only be carried out with the prior knowledge of Human Resources and authorization of the Town Manager. Employees shall be provided with advance notice of such action being contemplated, with a copy to the Town Manager, and a meeting shall be scheduled to provide the employee with an opportunity to respond to charges justifying discipline before an unpaid suspension, demotion, or dismissal is imposed. When prudent, a Department Head who recommends an employee for an unpaid suspension, demotion, or termination may initially place the employee on paid administrative leave pending a decision.
- All discipline, including verbal warnings, must be documented appropriately. All final disciplinary notices shall specify the action taken, the reason(s) therefore, and the extent and duration of the penalty. This notice shall be given to the employee at the time of the disciplinary action. Final written decisions of discipline are considered public records; therefore, details of a workplace investigation should be placed in a confidential file and should not be included on the notice of final discipline.

Any employee who feels they have been treated unfairly shall have access to the grievance procedure as outlined in these rules and regulations.

Some illustrations of unacceptable behavior include, but are not limited to:

- Improper use/abuse of paid leave/sick time
- Neglect of duty, disorderly conduct, theft, engaging in political activity during work hours
- Unauthorized late arrival or early departure from work, chronic or excessive absenteeism or tardiness
- Willful or negligent violation of Town policies, directives, expectations, safety rules, procedures
- Insubordination
- Conduct that discredits the employee or the Town or willful misrepresentation of the Town.
- An employee's inability to follow orders and reasonable instructions, or to get along with fellow employees.
- Conviction of a crime, including convictions based on a plea of not guilty or of a misdemeanor involving conduct that is regarded as immoral, the nature of which reflects the possibility of serious consequences related to the continued employment of the employee.

- Loss of professional licenses or accreditation that are required for the position are grounds for termination.
- Falsifying documents, or unauthorized removal or destruction of Town records or documents
- Discourteous treatment of the public or other employees, including harassing, coercing, threatening or intimidating others.
- Violation or neglect of safety rules or contributing to hazardous conditions.
- Failure to notify the Town Manager or a Department Head of knowledge of an employee's lack of a proper license (valid and/or required class) to operate Town equipment or vehicle.
- Inefficiency, incompetence, or negligence in the performance of duties, including failure to perform assigned tasks or training, or failure to discharge duties in a prompt competent and reasonable manner.
- Refusal or inability to improve job performance in accordance with written or verbal direction after a reasonable trial period.
- Careless, negligent, or improper use of Town property, equipment, or funds, including unauthorized removal or use for private purpose or use involving damage or unreasonable risk of damage to property.
- Unauthorized release of confidential information or official records.
- Use of alcohol or illegal drugs on the job

Disciplinary action may consist of the following progressive levels; however, the Town reserves the right to process to great disciplinary action depending on the attendant circumstances:

1. Non-Disciplinary Counseling or Corrective Action – discussion to explain an actual performance deficiency and emphasizing expected standards. The Department Head shall make every attempt not to ignore minor deficiencies, but rather to correct them including training or the review of procedures. Counseling shall be documented by the Department Head and placed in the employee's personnel file. Such counseling is not considered to be discipline.
2. Verbal Warning – A verbal warning is a spoken statement by the Department Head to an employee, usually pointing out an unsatisfactory element of job performance and is intended to be corrective or cautionary. A verbal reprimand informally defines the area needing improvement and informs the employee that failure to improve may result in more serious actions. Verbal warnings shall be documented by a written record which will be placed in the employees' personnel file. Such verbal warnings are not considered to be discipline.
3. Written Warning - A written reprimand is the first level of formal discipline. The written reprimand shall be issued by the Department Head. The written reprimand shall contain a statement of the cause for the action, improvement or corrective action required of the employee, time frames for such action, and possible results of the employee's failure to comply. An employee receiving a written reprimand may respond to that action and a copy of the response shall be attached to the reprimand. A copy which shall be signed by both the employee and Department Head shall be given to the employee and the Town Manager for placement in the employee's personnel file.
4. Temporary Relief from Duty - Under certain circumstances, it may be necessary to provide paid administrative leave to restrict an employee immediately from performing duties at the worksite. **Paid administrative leave, in and of itself, is not discipline.** The circumstances usually involve potential danger to the employee, co-workers or the public, or the employee's inability to discharge assigned duties satisfactorily. Because of the need

for immediate action, the decision to relieve an employee from duty is typically the responsibility of the Department Head with Town Manager approval. In these situations, the following procedure is to be followed:

- The Department Head will prepare a written statement of the charges and the action taken and the reasons for such action, with any supporting evidence.
 - The Department Head and Human Resources will review all evidence to determine disciplinary direction.
5. Suspension – A suspension is the temporary removal of an employee from duty, generally without pay including not being allowed to draw from accrued leave, personal time, comp time or sick time, nor will the suspension include payment for holidays that land within the suspension period. A suspension shall be used when all other means have been tried without success and it is believed that suspension will bring about the required improvement in the employee’s behavior or performance, or when the cause is sufficiently serious to warrant such action. Employees will be provided a letter of suspension which will state the effective date, length of duration, reasons for action (including a statement of the particular facts which evidence each performance deficiency, and identification of each performance deficiency), and a notice to the employee of their rights to appeal the action.
6. Dismissal - **Dismissal can only be done by the Town Manager.** An employee may be removed or discharged from employment with the Town when the employee’s work or misconduct warrants, or the individual loses job qualifying licenses or accreditations, after the employee receives cause, notice and a hearing. Employees will be provided a pre-disciplinary notice; letter of discharge, which will state the effective date; reasons for action, including a statement of the particular facts with evidence of the reason(s) for discharge; a notice to the employee of their rights to appeal the action.

The filed copy will be signed by the employee showing that they viewed the document (or noted that they refused to sign). Such notice shall specify the action taken, the reason therefore, and the extent and duration of the penalty. This notice shall be given to the employee at the time of the disciplinary action. If desired that affected employee can submit a rebuttal document within 3 days that will be attached to the disciplinary document. Any employee who feels that they have been treated unfairly shall have access to the grievance procedure as outlined in this policy.

Section 6.4 - Grievance Procedure

- A. Employees having complaints or problems related to department issues that do not fall within the definition of grievance as outlined in this section are encouraged to first discuss the issue with their immediate supervisor. If the nature of the problem is such that the employee feels they cannot discuss it with their supervisor or Department Head, the employee may bring the matter directly to Human Resources, or Town Manager for further guidance.
- B. The term “grievance” under this section means any dispute between an employee and management concerning the effect, interpretation, application, or claim of breach of violation of Town of Berwick Employment Rules and Regulations.
- C. Excluded from consideration of grievance are those matters pertaining to hiring, promotion of personnel, and compensation adjustments, except that regular employees may appeal performance evaluations.

- D. Every attempt should be made to resolve any dispute as soon as possible to the satisfaction of all parties.
- E. Steps in the grievance procedure shall be as follows:
1. Every reasonable effort should be made for an oral agreement between the individual and their supervisor or Department Head.
 2. If an oral agreement is not reached, the aggrieved may within five (5) working days file a written complaint to the supervisor or Department Head. The Department Head or supervisor shall make a careful inquiry of the facts and circumstances of the complaint and shall make a determination of the merits of the complaints and give a written reply within five (5) working days.
 3. If the individual is dissatisfied with the Department Head or supervisor's written decision, the aggrieved may, within five (5) working days, make a formal written appeal to the Town Manager. The Town Manager will, upon receipt of the written appeal, return a formal written decision within five (5) working days. In all cases the decision of the Town Manager will be final and binding.
 4. If a Department Head has a grievance, they shall follow steps 1-3, however, they shall be provided a further appeal. If the individual is dissatisfied with the Town Manager's written decision, the aggrieved may, within five (5) working days, make a formal written appeal to the Select Board. The Select Board will, upon receipt of the written appeal, review the appeal and return a formal written decision within five (5) working days after their first meeting following receipt of the written appeal. There shall be no formal meeting with the Select Board. The decision of the Select Board will be final and binding.

Section 6.5 – Violence in the Workplace

Violence or the threat of violence will not be tolerated in any Town work location. It is the goal of this organization to have a workplace free from acts or threats of violence. It is the shared obligation of all employees, customers, citizens, individually and together, to prevent and/or defuse actual or implied violent behavior (verbal or physical) at work. All Town employees are expected to treat one another, all customers, and all citizens, with mutual respect and to value each other on the job.

Workplace violence is any behavior which is sufficiently severe, offensive, or intimidating to cause an individual to reasonably fear for their personal safety and/or property; such behavior creates a hostile, abusive, or intimidating work environment. Any behavior that is personally offensive, threatening or intimidating will not be tolerated.

Any person who engages in a violent or threatening manner, either verbal or physical in nature, will be removed from the premises as quickly as safety permits. At the Town's discretion, employees and/or the public may be barred from Town premises pending the outcome of an investigation. Any employee who engages in such behavior may be suspended and/or terminated.

Violent behavior on the job includes, but is not limited to threats, threatening physical or aggressive contact directed toward another person, intentional destruction, or threat of destruction of Town or another person's personal property, expressing intent to cause physical harm or emotional duress, surveillance, stalking, veiled threats, of physical harm or similar intimidation.

Response to Imminent Threats and/or Acts of Violence: Take personal safety precautions. Contact the Police, if necessary, and report the behavior/incident to the Department Head, HR Consultant or Town Manager.

Chapter 7- Wellness

Section 7.1 – Safety

Employees of the Town are our prime asset. It is Town policy to provide all employees with a safe and healthy environment in which to work. To this end, a Town Safety Committee was established to promote safe working habits and practices, eliminate, or minimize hazardous working conditions, provide safety education and accident training, conform with applicable safety standards and requirements promulgated under federal, state, and local laws. This policy applies to all Town facilities.

A. Responsibilities

1. The success of the program depends upon the participation and support of all employees at all levels. Strict observance of all safety procedures is required of everyone, regardless of position with the Town.
2. Those employees who supervise others are responsible to ensure that all employees under their supervision are thoroughly acquainted with, and follow, all safety policies and procedures and that all required employee safety notices, reports, logs, material safety data sheets, etc., are posted in appropriate areas. Supervisors must survey work areas and activities for unsafe conditions and/or unsafe operations that may exist and take action to remedy the situation. Supervisors must also report all injuries and accidents to the Town Manager or HR Generalist immediately. They must also participate in safety meetings.
3. All employees are responsible for using prudence in all their functions, commensurate with the work at hand, report any unsafe condition of any equipment or material which they consider to be unsafe, and any unusual or developing hazards. Employees must warn others who may be endangered by a known hazards or by failure to observe safety precautions, of any unusual or developing hazards (immediately reporting to their supervisors any accident, injury or evidence of impaired health occurring in the course of work), make proper use of all safeguards and protective equipment provided them and at all times, observe the safety rules and instructions governing equipment, and participate in safety meetings.
4. Employees who fail to follow reasonable and prudent safety guidelines shall be subject to disciplinary action.

Section 7.2 – Smoking and Tobacco Use

Purpose:

Studies have shown that smoking and other tobacco use cause serious health problems in humans. Further, improperly disposing of smoking materials has been determined to be a fire hazard. The purpose of this Policy, therefore, is to safeguard the health and safety of employees and members of the public and to reduce the effects or other hazards caused by tobacco use.

Policy:

Smoking and other tobacco use by employees and the Public, including electronic smoking matter, is restricted by the guidelines set forth below. The policy is designed to protect all persons from unwanted exposure and the harmful effects of tobacco products.

Procedures:

1. Smoking and other tobacco use (described under “Definition”) by employees is prohibited in or nearby all Berwick owned and operated vehicles, boats, buildings, and facilities.
2. All Town properties with buildings for public or employee use will have a designated smoking area away from any doorway, entryway, or window of any town building.
3. Town owned properties that may be used for town or town sponsored public activities may be posted with a designated smoking area for seasonal or temporary periods of time.
4. In addition to the above prohibitions, smoking and other tobacco use is also prohibited in the following areas:
 - Within 100 feet of any fuel island and/or fuel storage facility.
 - In any town owned vehicle or piece of equipment.
 - In personal vehicles used on town business when the vehicle is occupied by more than one person.
 - Memorial Field (recreation property at the end of Sweetser Street)
5. Signs and lettering will be posted on all Town buildings stating, “No Smoking.”
6. Smoking and other tobacco use on breaks by employees is also governed by collective bargaining agreements.

Definition:

Smoking and Tobacco use – smoking and tobacco use is defined as the smoking, vaping, or use of any tobacco products, including but not limited to, cigarettes, cigars, spit and smokeless tobacco, chew, snuff, snus, vaporizers, Dab Pens, electronic cigarettes, electronic nicotine delivery systems (ENDS), electronic smoke delivery systems (ESMs) and other non-FDA approved nicotine delivery devices.

Responsibility:

It is the responsibility of those who choose to use tobacco materials to do so following the guidelines above. It is the responsibility of supervisors to monitor adherence to this policy. All employees will sign documentation showing that they have read and understand this policy. This documentation will be kept in their personnel file.

Anyone not adhering to this policy may be considered insubordinate and face disciplinary action as outlined in the Personnel Policy.

All employees of, and contractors with the Town of Berwick are expected to comply with this policy. Non-compliance with this policy will result in corrective action.

Smoking Cessation:

Employees who are interested in quitting the use of tobacco products should review their Medical Benefits Covered Expenses document regarding *Nicotine Replacement Therapy*.

Section 7.3 – Lactation Accommodations

The Town believes that it is in the best interests of the employee, her workplace, and the potential health of her child that the Town support lactation accommodation as part of our efforts to help employees experience work-life balance.

All women who breastfeed their child, and who need to express milk during the working day, will work with their supervisor and Human Resources to determine how best to accommodate the needs of the mother while still accomplishing the performance of her job.

- **Time for Lactation Accommodation:** Supervisors may consider flexible working arrangements. Women may use their break and lunch time to express milk. Breaks to express milk should not last longer than 30 minutes. If an employee needs to take more than two breaks during the workday to express milk, the employee will need to use unpaid or personal time.
- **Environment for Lactation Accommodation:** Human Resources will work with each nursing mother to determine a private area (excluding bathrooms) in which they may express milk. Milk should be placed in cooler-type containers and may be stored in nearby refrigerators.

Section 7.4 – Alcohol and Drug Use & Abuse

The possession, sale, or use of alcohol or illegal drugs on the employer's premises is strictly prohibited and is grounds for immediate dismissal. If an employee is unable to effectively perform their duties or causes disruptions in the workplace due to the influence of drugs or alcohol, disciplinary action may be taken.

Pursuant to Public Law 100-690 Title V, Subtitle D, the Town of Berwick has established the following policy:

The unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Town of Berwick's workplace. As a condition of employment with the Town of Berwick, all employees will abide by the terms of the policy and notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction. The Town of Berwick, within 30 days of receiving notice, with respect to any employee who is so convicted, will take one of the following actions:

- Taking appropriate personnel action against such an employee up to and including discharge; and/or
- Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency.

Reasonable suspicion. **All** employees who exhibit to two (2) supervisors who have received supervisory drug training, signs, and symptoms of alcohol and/or drug abuse while on the job, prior to reporting to work or just after work will be required to submit to an alcohol and/or drug test. The supervisors shall document the specific facts, symptoms observations by completing a "Reasonable Suspicion Record" form. If an employee suspects a supervisor of substance abuse the employee will notify the DER, or the Town Manager of their suspicions. If an employee suspects the Town Manager of substance abuse, the employee will notify the Chair of the Select Board. The DER or Town Manager/Chair of Select Board will act in accordance with the appropriate sections of this policy. All employee reports will be kept strictly confidential. Anonymous complaints will not be investigated.

Return-to-work. An employee who previously tested positive must submit to an alcohol test and drug test to return to duty. The results must be negative to return to work.

Section 7.5 – Employee Assistance Program

The Town of Berwick cares about employee health – both physical and emotional. For that reason, the Town provides, at no cost, an Employee Assistance Program (EAP). This service connects with the best mental health and counseling services to fit individual needs. From work/life resources and mental health assistance, to legal and financial advice, the Anthem EAP connects with a variety of professionals.

With just one phone call, day or night, a compassionate ear can be reached with access to helpful resources. All services provided are confidential and will not be shared with the Town of Berwick.

You may also access information, benefits, educational materials, and more by phone at 1-800-647-9151 or online at www.anthemeap.com and enter **MMEHT to log in**. Services are available to all employees and their household members at no cost.

Chapter 8 - Leave

Section 8.1 - Holidays

All full-time employees shall be granted the following holidays with regular pay. Regular part-time employees shall be granted the holidays that are within their regular schedule in proportion to their normal workday hours.

New Year's Day	January 1st
Martin Luther King Day	3 rd Monday in January
President's Day	3 rd Monday in February
Patriot's Day	3 rd Monday in April
Memorial Day	Last Monday in May
Juneteenth	June 19
Independence Day	July 4 th
Labor Day	1 st Monday in September
Indigenous Peoples' Day	2 nd Monday in October
Veteran's Day	November 11 th
Thanksgiving Day	4 th Thursday in November
Day After Thanksgiving	4 th Friday in November
Christmas Eve	December 24 th
Christmas Day	December 25 th

A person on unpaid family medical leave, leave of absence, and/or extended sick leave shall not be entitled to holiday pay. Employees receiving workers' compensation or disability leave shall not earn holiday pay. Temporary, reserve, per diem, on call FF and seasonal employees shall not be entitled to paid holidays.

Employees shall be paid straight time at their regular hourly rate for their normal work hours as holiday pay. In no case shall overtime be paid as part of holiday pay. All full-time hourly employees who work on a holiday shall be paid the overtime rate for all hours worked in addition to the holiday pay. Exempt employees who work on a holiday may take off an alternate day for the holiday worked with Town Manager approval.

To receive holiday pay, the employee must work the full scheduled day before and after the holiday or have approved/scheduled time off. An unplanned/unauthorized absence, such as calling in sick, unless accompanied by a physician's statement, forfeits the employees' right to holiday payment.

If a regular holiday falls on a Saturday, it shall be observed the preceding Thursday for those working four (4) ten (10) hour days. For those working five (5) eight (8) hour days, it shall be observed the preceding Friday. If a holiday falls on a Sunday, it shall be observed on the following Monday unless otherwise regulated by law.

Additional Holidays may be approved by the Select Board.

Section 8.2 – Paid Time Off (PTO) (Non-union)

Purpose: The purpose of Paid Time Off (PTO) is to provide employees with flexible paid time off from work that can be used for such needs as vacation, sick, personal, or other absences.

Guidelines for Use

- PTO accrual starts at the date of hire.
- All employees will accrue PTO weekly in hourly increments based on their length of service as defined below. PTO is added to the employee's PTO bank when the weekly paycheck is issued. PTO taken will be subtracted from the employee's accrued time bank in 15-minute increments.
- PTO is not earned in pay periods during which unpaid leave is taken.
- To take PTO requires two days of notice to the Department Head unless the PTO is used for legitimate, unexpected illness or emergencies. (Use the Paid Time Off form to request PTO.)
- PTO will be calculated for qualifying employees working 20 or more hours per week.

Paid Time Off (PTO) Exceptions

- Employees who miss more than three consecutive unscheduled days shall be required to present a doctor's release that permits them to return to work.
- Under the Town's Family and Medical Leave Act (FMLA) policy, all accrued PTO time is taken concurrently with FML.

Specific Eligibility for Paid Time Off (PTO): PTO is prorated based on the number of hours worked on an employee's regular schedule. Note the two examples below:

<u>Years of Service:</u>	Hours earned per week	
	<u>40-hour work week</u>	<u>37.5-hour work week</u>
• 0 – 4 years	3.54 hours	3.32 hours
• 5 – 9 years	4.31 hours	4.05 hours
• 10 – 19 years	5.10 hours	4.76 hours
• 20 – 29 years	5.85 hours	5.49 hours
• 30 + years	6.62 hours	6.21 hours

Each employee may carry a maximum 720 hours of accrued PTO over into a new anniversary year. Employees are responsible for monitoring and taking their PTO over the course of a year so that they do not lose time accrued when the current anniversary year ends.

If extenuating circumstances prevented the employee from taking scheduled PTO, this PTO may be carried over and taken in the first half of the next anniversary year with the written approval of the Department Head and Town Manager.

Separation: Employees are paid for the PTO they have accrued at separation to a maximum of their years of service:

0 – 4 years	80 hours maximum
5 – 9 years	120 hours maximum
10 – 19 years	160 hours maximum
20 – 29 years	200 hours maximum
30 + years	240 hours maximum

Employees who give two weeks' notice of employment termination may be required to work their last day of employment without utilizing PTO. This is due to employment benefit coverage/termination date.

PTO complies with the Maine Earned Paid Leave Law effective 1-1-2021.

Section 8.3 – Military Leave

The Town complies with state and federal law, governing the rights of employees who are entitled to leave and other rights and obligations applying to their military service, including military reserve training and active duty. In accordance with state and federal law, all employees will be granted time off from work for annual training obligations or active service in the Military (as defined below). Employees engaged in active military service will be placed on military leave of absence status. Employees receiving orders for military training or service should notify their supervisor of the dates of their military service as far in advance as possible unless military necessity prevents such notice. Employees should present the orders for training and/or service to their supervisor as far in advance as possible.

Military leave and rights to re-employment after such leave are available to employees under the terms and conditions of applicable Federal and State law, as may be amended from time to time.

Military Leave with Pay

Employees (including employees who hold acting capacity and project appointments) are allowed up to 17 workdays in each calendar year without loss of pay or benefits when engaged in any form of military duty. The employee must furnish the Department Head with an official statement signed by authority giving the employee's rank, pay, and allowance during the employee's seventeen (17) day period. The Employer will pay the difference, if any, between the employee's regular pay and military leave pay up to seventeen (17) days per calendar year.

Military Leave without Pay

When military service exceeds the 17 workdays authorized for military leave with pay, the employee shall be placed on unpaid military leave. Employees may use, but are not required to use, accrued PTO, annual, sick, vacation, comp. time, etc. when entering unpaid military service. Provisions for the optional use of accrued PTO, annual, sick, vacation, comp. time, etc. also apply to employees who are called to active state duty by the Governor. Employees should determine which paid leave they wish to use and a fixed amount to use each pay period with Human Resources and Payroll prior to going out on leave.

PTO, annual, vacation, sick, and holidays will not accrue once paid leave has been exhausted, consistent with the Town's leave policies.

However, the use of military leave will not be considered a break in service when vesting or eligibility to participate in benefit programs is being determined. Seniority of position is not affected.

Maintenance of Benefits

An employee shall be entitled to maintain group health insurance coverage on the same basis as if they had continued to work at the Town. To maintain uninterrupted coverage, the employee will be required to continue paying their share of insurance premium payments. If an employee is receiving concurrent PTO, annual, vacation, sick, or compensatory time, the premium will be deducted from the paycheck, as is normally the practice. The Town will bill for benefits premiums in the case that the employee is unpaid. Employees may opt for an automatic ACH withdrawal to cover benefits costs.

Re-Employment

The guiding principle of the USERRA and Maine law is that an employee performing military service is not to suffer any detriment in employment and should be treated as if they had not left employment. Employees who enter military service retain reemployment rights under both the *Uniformed Services Employment and Reemployment Rights Act of 1994* and Maine law. Exceptions are narrowly restricted to persons who hold temporary, non-recurrent employment. Although certain criteria are required for an employee to exercise their reemployment rights, denial of reemployment to a returning service member should be considered an extraordinary situation. Human resource professionals should be consulted if any adverse action is contemplated.

An employee who enters military service on a short-term basis would generally be returned to the position that they left. Employees who enter military service on a long-term basis would be returned to the position that they left or be returned to a position of like status and pay for which they are qualified. Human Resources should be consulted if denial of reemployment for any reason is contemplated.

Upon the completion of service (less than 31 days, including weekend drills) employees are also entitled to reasonable time for return travel, and an eight-hour period of rest, before returning to work. The allotted time to apply for reemployment increases incrementally, depending upon the length of service. Human Resources should be consulted in unusual situations.

Section 8.4 - Jury Duty

An employee will be granted special leave, as required, for jury duty or performance of other civic duty requiring appearance in court or before another public body. The Town shall compensate a full-time employee called for jury duty at their regular rate of pay. Employees called for jury duty will sign over to the Town any jury pay received and will provide documentation for the time spent in court. Mileage tolls and parking reimbursements shall be retained by the employee unless the employee accepts a mileage reimbursement from the Town. Employees excused from Jury duty or released early are expected to return to work.

Section 8.5 - Bereavement Leave

Special leave with pay shall be granted to regular and part-time regular employees for up to one (1) week for absence caused by the death of a member of the immediate family. "Immediate family" means spouse, domestic partner, parent, grandparent, child, brother, sister, mother-in-law, father-in-law, stepchild or a relative or ward living in the employee's home. Special exceptions to this rule may be made by the Town Manager. Additional days of bereavement may be awarded with the Town Manager's approval and taken as PTO days.

Section 8.6 – Leave for Victims of Domestic Violence

Leave may be granted to an employee who is a victim of domestic violence, assault, sexual assault, or stalking who needs to prepare for and attend court proceedings, receive medical treatment, or obtain necessary services to remedy a crisis, as per Maine law. Leave may also be granted to an employee to assist a daughter, son, parent, or spouse who needs medical treatment as a result of being a victim of violence or assault. Documentation of the family relationship may be required.

Leave for victims of domestic violence will be charged to the PTO and compensatory leave time accruals. The Town will continue its contributions toward the employee's health insurance premiums as long as the employee portion of the health insurance premiums remain paid. The Town will pay its portion of the insurance premium for a maximum of 12 weeks (3 months).

Section 8.7 – Family Medical Leave (FML)

Family and Medical Leave will be provided consistent with the Federal Family Medical Leave Act or the Maine Family Medical Leave Act, whichever is applicable. FML will run concurrently with all other leave and leave benefits, including but not limited to Workers' Comp., and Short-Term Disability, and will while the employee is using their own accrued leave (such as PTO, annual, sick, vacation, and compensatory time).

Federal FMLA (Family Medical Leave Act)

The Family and Medical Leave Act (FMLA) entitles eligible employees of covered employers to take unpaid, job-protected leave for specified family and medical reasons.

Covered Employers

The FMLA only applies to employers that meet certain criteria. A **covered employer** is a:

- Private-sector employer, with 50 or more employees in 20 or more workweeks in the current or preceding calendar year
- Public agency, including a local, state, or Federal government agency, regardless of the number of employees it employs; or
- Public or private elementary or secondary school, regardless of the number of employees it employs.

Eligible Employees

Only eligible employees are entitled to take FMLA leave. An **eligible employee** is one who:

- Works for a *covered employer* (The Town of Berwick).
- Has worked for the employer for at least 12 months.
- Has at least 1,250 hours of service for the employer during the 12-month period immediately preceding the leave; and
- Works at a location where the employer (Town) has at least 50 employees within 75 miles (in the Town of Berwick all employees work within a 75-mile radius of the Town Hall)

The 12 months of employment do not have to be consecutive. That means any time previously worked for the same employer (including seasonal work) could, in most cases, be used to meet the 12-month requirement. If the employee has a break in service that lasted seven years or more, the time worked prior to the break will not count unless the break is due to service covered by the

Uniformed Services Employment and Reemployment Rights Act (USERRA), or there is a written agreement, including a collective bargaining agreement, outlining the employer's intention to rehire the employee after the break in service. See "FMLA Special Rules for Returning Reservists".

Leave Entitlement

An eligible employee shall be entitled to twelve (12) workweeks of unpaid leave during a twelve (12) month period for one or more of the following reasons:

- the birth or placement of a child for adoption or foster care.
- to care for a spouse, child, or parent who has a serious health condition.
- for a serious health condition* that causes the employee to be unable to perform the essential functions of their job; or
- For any qualifying exigency arising out of the fact that a spouse, child, or parent is a military member on covered active duty or call to covered active-duty status.
- a serious health condition, which shall be defined as an illness of a serious and long-term nature resulting in recurring or lengthy absences. Treatment of such an illness would occur in an inpatient situation at a hospital, hospice, or residential medical care facility, or would consist of continuing care provided by a licensed health care provider.

*A serious health condition means an accident, injury, impairment, or physical or mental condition that involves either inpatient care or continuing treatment by a health care provider.

When both spouses are employed by the Town, they are each entitled to twelve (12) work weeks of family leave for the birth or placement of a child for adoption or foster care, and to care for a parent who has a serious health condition.

An eligible employee may also take up to 26 workweeks of leave during a "single 12-month period" to care for a covered servicemember with a serious injury or illness, when the employee is the spouse, child, parent, or next of kin of the servicemember. The "single 12-month period" for military caregiver leave is different from the 12-month period used for other FMLA leave reasons.

Intermittent Leave

Under some circumstances, employees may take FMLA leave on an intermittent or reduced schedule basis. That means an employee may take leave in separate blocks of time or by reducing the time they work each day or week for a single qualifying reason. When leave is needed for planned medical treatment, the employee must make a reasonable effort to schedule treatment so as not to unduly disrupt the employer's operations.

The Town may, in its discretion, allow an employee to take intermittent leave or work a reduced schedule because of the birth, adoption, or placement of a child. The Town will review the individual circumstances involved, considering the needs of the Town, the employee's length of service, number of requests, duties, workload, and the employee's job performance.

Employee Accruals

The Town of Berwick requires employees, to "substitute" (run concurrently) accrued PTO, sick, vacation, and compensatory time, to cover all the FML leave period. If an employee is receiving another benefit during this leave, such as workers' compensation or short-term disability, the

employee may choose to use accrued PTO, sick, vacation, and compensatory time to bring them up to their regular weekly pay. At no time shall an employee receive double payment for any leave or be entitled to receive more than 100% of their normal weekly pay.

Notice

Employees generally must request leave 30 days in advance when the need for leave is foreseeable. When the need for leave is foreseeable less than 30 days in advance or is unforeseeable, employees must provide notice as soon as possible and practicable under the circumstances.

If the Town acquires knowledge that a leave may be for a FMLA-qualifying reason, the Town will provide the employee with notice concerning their eligibility for FMLA leave and their rights and responsibilities under the FMLA. The Town will also notify employees whether leave is designated as FMLA leave and the amount of leave that will be deducted from the employees' FMLA entitlement.

Certification

In the event an employee is requesting a leave, or the employer has acquired information the employee is going to be on leave, the Town may require certification in support of the leave from a health care provider. The employee must provide a copy of the certification to the Town in a timely manner (Fifteen calendar days will be allowed to provide the certification to the Town.)

When a medical leave is not foreseeable, employees must provide the required certification within 15 calendar days after the Town's request for certification unless it is not practical under the circumstances to do so. Failure to provide the required medical certification may result in the denial of foreseeable leaves until such certification is provided. In the case of unforeseeable leaves, failure to provide the required medical certification within 15 days of being requested to do so may result in a denial of the employee's continued leave. Any request for an extension of the leave also must be supported by an updated medical certification.

Calculation of Leave

Eligible employees can use up to twelve (12) weeks of leave during any twelve (12) month period. The Town will use a rolling twelve (12) month period, measured backward from the date an employee uses any FMLA leave. Each time an employee uses leave, the Town computes the amount of leave the employee has taken under this policy, subtracts it from the twelve (12) weeks, and the balance remaining is the amount the employee is entitled to take at that time. For example, if an employee has taken five (5) weeks of leave in the past twelve (12) months, they could take an additional seven (7) weeks under this policy.

Maintenance of Benefits

An employee shall be entitled to maintain group health insurance coverage on the same basis as if they had continued to work at the Town. To maintain uninterrupted coverage, the employee will be required to continue paying their share of insurance premium payments. The payment arrangement shall be made with the Finance Director or designee. If an employee is receiving concurrent PTO, sick, vacation, or compensatory time, the premium will be deducted from the paycheck, as is normally the practice. If an employee is not receiving concurrent PTO, sick, vacation, or compensatory time, the employee will be required to pay for their share of benefits on a weekly or monthly basis.

If the employee informs the Town that they do not intend to return to work at the end of the leave period, the Town's obligation to provide health benefits ends.

PTO, annual, vacation, sick, and holidays will not accrue once paid leave has been exhausted, consistent with the Town's paid leave policies. However, the use of family or medical leave will not be considered a break in service when vesting or eligibility to participate in benefit programs is being determined. Seniority of position is not affected.

Job Restoration

Upon return from FML leave, an employee shall be restored to their original job or to an equivalent job with equivalent pay, benefits, and other terms and conditions of employment.

Employees taking leave due to the employee's serious health condition are required to obtain medical certification that the employee is able to resume work prior to returning from leave.

Employees accepting employment elsewhere while on FML may be disciplined, up to and including discharge.

Maine Family Medical Leave

Covered Employers

The Maine Family Medical leave requirement applies to employer who meet the following criteria: Private employer that employs 15 or more employees at one location in the State of Maine

The State, including the executive, legislative and judicial branches, and any State department or agency that employs any employees.

Any Town, Town or municipal agency that employs 25 or more employees.

Any agent of an employer, the State, or a political subdivision of the State

Eligible Employees

Only eligible employees are entitled to take Maine Family Medical Leave. Eligible employees are: Employees who have worked for the Town for 12 consecutive months. No minimum hours required.

Leave Entitlement

An eligible employee shall be entitled to ten (10) workweeks of unpaid leave during any two years for one of the following reasons: (The two-year period in which leave may be taken is determined by a twenty-four-month period measure from the date of an employee's first FML leave begins.)

- Employee's serious health condition
- Birth of the employee's child or the employee's domestic partner's child
- Placement of a child 16 years of age or less with the employee or with the employee's domestic partner in connection with the adoption of the child by the employee or the employee's domestic partner
- A child, domestic partner's child, parent, domestic partner, sibling, or spouse with a serious health condition
- The donation of an organ of that employee for a human organ transplant
- The death or serious health condition of the employee's spouse, domestic partner, parent, sibling, or child if the spouse, domestic partner, parent, sibling, or child is a member of the state military forces as defined in Title 37-B, Section 102, or the United States Armed Forces, including the National Guard and Reservices, dies or incurs a serious health condition while on active duty.

Intermittent Leave

Under some circumstances, employees may take FMLA leave on an intermittent or reduced schedule basis. That means an employee may take leave in separate blocks of time or by reducing

the time they work each day or week for a single qualifying reason. When leave is needed for planned medical treatment, the employee must make a reasonable effort to schedule treatment so as not to unduly disrupt the employer's operations.

The Town may, in its discretion, allow an employee to take intermittent leave or work a reduced schedule because of the birth, adoption, or placement of a child. The Town will review the individual circumstances involved, considering the needs of the Town, the employee's length of service, number of requests, duties, workload, and the employee's job performance.

Employee Accruals

The Town of Berwick requires employees, to "substitute" (run concurrently) accrued PTO, annual, sick, vacation, and compensatory time, to cover all the FML leave period. If an employee is receiving another benefit during this leave, such as workers' compensation or short-term disability, the employee may choose to use accrued sick, vacation, and compensatory time to bring them up to their regular weekly pay. At no time shall an employee receive double payment for any leave.

Notice

An employee may request the leave in writing with 30 days' notice, and complete an Application for Family and Medical Leave, except in the case of a medical emergency or sudden illness. The Town may also declare the leave. For events that are unforeseeable 30 days in advance, but are not emergencies, the employee must notify the Town as soon as they learn of the need for the leave, ordinarily no later than one or two working days after the employee learns of the need for the leave. FMLA leave request forms and medical certification forms can be obtained from the Human Resources office.

Certification

An employee may also be required to provide medical certification during the leave, along with periodic updates on their status and intent to return to work. If their leave was requested because of their own serious health condition, the employee will be required to provide medical certification of their availability to return to work.

When a medical leave is not foreseeable, employees must provide the required certification within 15 calendar days after the Town's request for certification unless it is not practical under the circumstances to do so. Failure to provide the required medical certification may result in the denial of foreseeable leaves until such certification is provided. In the case of unforeseeable leaves, failure to provide the required medical certification within 15 days of being requested to do so may result in a denial of the employee's continued leave. Any request for an extension of the leave also must be supported by an updated medical certification.

Calculation of Leave

Eligible employees can use up to twelve (10) weeks of leave during any twenty-four (24) month period. The Town will use a rolling twenty-four (24) month period, measured backward from the date an employee uses any FML leave. Each time an employee uses leave, the Town computes the amount of leave the employee has taken under this policy, subtracts it from the twelve (10) weeks, and the balance remaining is the amount the employee is entitled to take at that time. For example, if an employee has taken five (5) weeks of leave in the past twenty-four (24) months, they could take an additional five (5) weeks under this policy.

Maintenance of Benefits

Employees taking leave under the Maine FML may continue their benefits during their leave at the employee's expense. PTO, annual, vacation, sick, and holidays will not accrue once paid leave has been exhausted, consistent with the Town's leave policies.

Job Restoration

When an employee returns from Maine FML, they will be restored to the same or an equivalent position unless:

- Employment with the Town would have terminated if no leave had been taken;
- Employee has given notice of their intent to terminate employment during their FMLA leave; or
- Employee, with or without reasonable accommodations, cannot safely perform the essential functions of the job to which they may be restored.

Employees accepting employment elsewhere while on FML may be disciplined, up to and including discharge.

Section 8.9 - Leave Without Pay (LWOP)

A regular employee may be granted a leave of absence without pay by the Town Manager on recommendation of the Department Head. Such leave will not exceed one year in length. All leave considerations are subject to Town Manager approval. Prior to receiving the leave of absence, the employee must first utilize all leave benefits they are entitled to such as PTO, vacation, comp time, and sick time. During an unpaid leave of absence, employees will be responsible for paying 100% of the cost towards their employee benefits, and the Town will discontinue its contribution towards an employee's retirement account. The granting of the leave shall protect the employee's existing continuous service for the leave period but shall not count as service time for Maine Public Employee Retirement System or the future accrual of sick leave and PTO/vacation, nor will the employee receive pay for municipal holidays. Employees may not perform any work while on an unpaid leave of absence. This includes use of Town e-mails and work-related calls.

If an employee is found to have accepted other full-time employment during LWOP or if an employee fails to return to work at the end of their approved LWOP the employee will be considered to have resigned.

Chapter 9 - Benefits

Section 9.1 – Federal FICA

All employees participate in the federal Social Security & Medicare Program with the required employee and Town contributions.

Section 9.2 – Deferred Compensation Plan (Mission Square)

All full-time employees are eligible to participate. The total contribution by an employee may not exceed federal limits. The Town will match any employee contribution up to 4% of their annual wages/salary with exceptions:

- If the employee is participating in both Maine State Retirement (not the Special Plan 1C) and in the Deferred Compensation Plan, the Town will contribute to the Deferred Compensation Plan with a 2% maximum matching contribution. Employees who choose to participate in the Maine State Retirement System Special Plan 1C (20-year retirement plan for emergency services personnel) may also contribute to the Deferred Compensation Plan, with no contribution/match from the town.

Section 9.3 – Section 125 Cafeteria Plan

The Town may offer a cafeteria plan as set forth in Section 125 of the Internal Revenue Code to allow benefit-eligible employees to select and pay for Town offered health benefits through pre-tax payroll deduction. Some of the qualified health benefits include medical insurance, dental insurance, vision insurance, flexible spending accounts, and retirement plan. By default, the Town will deduct these benefits on a pre-tax basis, however, employees may choose not to make such premium contributions on a pre-tax basis by submitting a written request to Human Resources.

Section 9.4 - Health Insurance

The Town provides health insurance through Maine Municipal Association Employees Health Trust with the employer paying 85% of the premium regardless of benefit level. The Select Board reserves the right to select a different health insurance plan or plans if it chooses but it will retain the current level of coverage or provide equivalent coverage. The Select Board shall also set the maximum level of Town participation up to and including the family level of coverage.

- Employees working a minimum of 37.5 hours per week can participate.
- Employee contributions shall be taken through payroll deduction.
- Employees who may lose their alternative health insurance coverage may join the Town's plan on the first day of the month following the Health Trust's receipt of the application. Application must be accompanied by a certificate of health showing prior coverage.
- Employees not enrolled in Town approved Health Insurance who can prove Insurance Coverage from another eligible source shall receive a "buy out" payment of \$3,600 through the payroll process in two installments of \$1,800 during the second pay period in July and \$1,800 during the second pay period in January. Payment will be made in the arrears to avoid payback. "Buy out" payments are subject to income tax.

Section 9.5 - Life Insurance

All full-time employees are eligible to participate. The amount provided is equal to one times the employee's annual salary. Employees who qualify for this benefit may purchase additional life insurance as may be made available by the insurance carrier with such additional insurance being paid for by the employees through payroll deduction.

Section 9.6 - Dental & Vision Insurances

All full-time employees are eligible to participate in the Maine Municipal Health Trust Dental Plan and the Vision Plan at their expense, provided a minimum number of employees participate in the program to meet program requirements. Employees who are interested should obtain more information and carefully evaluate the details before deciding whether to participate.

Section 9.7 – Workers' Compensation

The Town of Berwick provides Workers' Compensation Insurance coverage for all employees.

Section 9.8 - Maine Public Employees Retirement System (MPERS)

All full-time or regular part-time employees who work more than twenty (20) hours per week are eligible to participate. The Town and employee contribution is established by the Maine Public Employees Retirement System and determined annually. Employees must decide to join or not during the hiring process. Once a position is taken to enroll it cannot be changed for the duration of employment. Employees will be allowed to opt into MainePERS annually during the open enrollment period between September 1st and November 1st.

Section 9.9 - Income Protection

An income protection plan is available for those regular employees who work 30 hours or more per week. The amount of income protection insurance available is either 40%, 55% or 70% of employee's salary. Cost of this coverage is at the expense of the employee. The maximum coverage available is \$1,000 per week.

Section 9.10 - Unemployment Compensation

The Town provides unemployment compensation benefits to those who are eligible for these benefits under Maine law.

Chapter 10 – Payroll

Section 10.1 – Longevity Pay

All full-time non-union employees shall be entitled to receive longevity pay, which is given to provide an incentive for employees to remain with the Town. Longevity Pay is based on years of service worked for the Town of Berwick. Longevity pay shall be paid at an hourly rate and any years of service adjustments will be included in the beginning of each Fiscal Year.

<u>\$ PER YR</u>	<u>SERVICE</u>	<u>HOURLY INCREASE (1950 hrs./yr.)</u>	<u>HOURLY INCREASE (2080 hrs./yr.)</u>
50	1 YR OF SVC	\$ 0.03	\$ 0.02
100	2 YRS OF SVC	\$ 0.05	\$ 0.05
150	3 YRS OF SVC	\$ 0.08	\$ 0.07
200	4 YRS OF SVC	\$ 0.10	\$ 0.10
250	5 YRS OF SVC	\$ 0.13	\$ 0.12
300	6 YRS OF SVC	\$ 0.15	\$ 0.14
350	7 YRS OF SVC	\$ 0.18	\$ 0.17
400	8 YRS OF SVC	\$ 0.21	\$ 0.19
450	9 YRS OF SVC	\$ 0.23	\$ 0.22
750	10 YRS OF SVC	\$ 0.38	\$ 0.36
825	11 YRS OF SVC	\$ 0.42	\$ 0.40
900	12 YRS OF SVC	\$ 0.46	\$ 0.43
975	13 YRS OF SVC	\$ 0.50	\$ 0.47
1050	14 YRS OF SVC	\$ 0.54	\$ 0.50
1500	15 YRS OF SVC	\$ 0.77	\$ 0.72
1600	16 YRS OF SVC	\$ 0.82	\$ 0.77
1700	17 YRS OF SVC	\$ 0.87	\$ 0.82

	SVC				
1800	18 YRS OF SVC	\$	0.92	\$	0.87
1900	19 YRS OF SVC	\$	0.97	\$	0.91
2000	20 YRS OF SVC	\$	1.03	\$	0.96

- \$50 for each year of service for years 1 to 9
- \$75 for each year of service for years 10 to 14
- \$100 for each year of service for year 15 and more

The maximum longevity pay shall be \$2000.

Union members have longevity pay calculated into their hourly wage. Refer to Union Contracts.

Section 10.2 – Deductions

The Town offers several payroll deductions options to its employees. No deduction will be made without written authorization from the employee. Revocations must also be in writing. Additional options must be recommended by the Town Manager and approved by the Select Board.

- Insurance Provider additional coverages
- Police Benevolent Association payments

Chapter 11 – Reimbursement

Section 11.1 - Mileage Reimbursement

The Town shall reimburse employees who use their vehicles for approved municipal purposes at the per mile rate established by the IRS. The Town will reimburse employees for the cost of tolls and parking charges upon presentation of the proper documentation. Employees must provide appropriate documentation for reimbursement.

Section 11.2 - Meals & Lodging Reimbursement

If an employee is required to be away from their normal workplace for more than 24 hours, the Town will reimburse the employee the cost of meals, upon presentation of the proper documentation. When necessary, the Town will also pay for an employee's lodging costs when approved in advance by the Town Manager. Employees must provide appropriate documentation for reimbursement.

Section 11.3 – Education Reimbursement

Job related courses or training will be reimbursed at 75% of the tuition cost upon satisfactory completion of the course or acceptance by the Town Manager. This reimbursement will be provided based on approved education funding per fiscal year and upon prior recommendation of the Department Head and approval of the Town Manager. Level of education seeking funding will be reviewed by the Department Head and Town Manager to ensure it is a benefit to the Town. Final approval will be made by the Town Manager.

Reimbursement may be requested following each approved credit course or program by submitting a tuition receipt and evidence of satisfactory completion to the office of the Town Manager. To

ensure proper budgeting for tuition reimbursement, employees shall notify their Department Head and the Town Manager of any interest in education during budgetary development.

A participant in the education reimbursement option will need to sign an Education Contract showing class, dates, completion expectation, credit hours, cost, time requirement away from work (if any) and the need to retain a 3.00 average. Also included is the documented understanding that if the employee leaves the Town of Berwick within 1 year of completing a class, the Town is to be reimbursed 100% for the Town contribution, within 2 years of taking the class 75%, within 3 years of taking the class 50%, and within 4 years of taking the class 25%. Reimbursement can be taken at separation through payroll/accruals. The clock starts at the completion of each class. Details are clarified during the creating of the Education Contract so all parties are in agreement of the expectations. This contract will be reviewed periodically for adjustments if needed, and advance payments are considered to be a loan to the employee. A signed contract guarantees approval.

Chapter 12 - Separation

Section 12.1 - Layoff

A Layoff is a reduction in the work force due to either a decrease of work or a lack of funds with which to pay the employee(s) for doing the work. If a layoff becomes necessary in any department, the following order shall be followed: any seasonal or temporary employees in that department shall be laid off first, probationary employees in that department shall be laid off next, regular-part-time employees in that department shall be laid off next, full-time employees in that department shall be laid off last and in reverse order of date of hire i.e. The most recent hired would be the first to be laid off. Employees facing layoff will be given at least two weeks' notice. Seniority shall not accumulate during periods of layoff. The employee's right to recall shall expire at the expiration of one year from the layoff date.

If, within the one-year timeframe, the manager proposes to fill a vacancy created by layoff either temporary or permanent, or where a position has been abolished and subsequently recreated, the person who had filled that position shall be sent correspondence by certified mail, advising the employee that he may resume the position with the town. If interested the past employee must respond within 7 days and be available for work within two weeks.

The Manager may refuse to reemploy anyone laid off due to information from an updated background check, lack of qualifications for the position, or previous disciplinary action.

Section 12.2 - Elimination of Positions

The Select Board reserves the right to abolish any position at any time, and the elimination of a position shall automatically constitute the discharge of the employee from that position without reflecting any discredit upon the employee, however, if that same position is recreated within one year, the person discharged due to the elimination shall be reemployed if available.

Section 12.3 - Termination

It is the Town's Policy to retain and develop employees. However, there will be times when termination may become necessary for the best interests of the employee or the Town. When a termination is recommended to the Town Manager or when termination action is proposed to be taken by the Town Manager, the employee shall be provided with a written notice which shall state the reason(s) for the proposed termination, and which shall provide the employee with an opportunity for a meeting as provided for in the section on Disciplinary Action. The Town Manager

has the discretion to place an employee being terminated on paid leave prior to the date of the termination.

Section 12.4 - Resignation

An employee may resign from Town service in “good standing”. “Good standing” shall mean the submittal of a written notice 14 calendar days in advance of the last day of actual work. Failure of a resigning employee to comply with this rule may be cause for denying future employment with the Town. The Town Manager may permit a shorter period of notice if extenuating circumstances exist. The effective date of the employee’s termination with the Town is considered to be the last day actually worked.

Upon separation from service in the Town shall pay all wages owed as well as earned and/or pro-rated PTO, if any, on the next regular pay day.

Section 12.5 - Continuing Health Care Coverage (COBRA)

An employee whose coverage ends under the Town’s group health insurance plan may be entitled to continuation of coverage under the plan at the employee’s expense. Coverage for dependents may also be continued if they are already covered under the plan. This results from the 1985 federal Consolidated Omnibus Budget Reconciliation Act (COBRA). Full information on this coverage is available from the Town’s group health insurance plan provider upon its receipt of the employee’s termination notice from the Town. Information is also available in the health plan booklet. A sixty-day election period applies.

Section 12.6 - Final Separation

- A. Return of Property. The employee shall return all Town owned properties such as tools, keys, uniforms etc. before being issued their final check.
- B. Sign Notice of Continuing Health Care Coverage. The employee must sign a notice of receipt of information of COBRA benefits available.
- C. Exit Interview. The employee may be invited to participate in an exit interview with the HR Consultant if the employee is retiring, resigning, or being laid off and is willing to do so.
- D. References. If the employee wishes the Town to provide future references (other than confirming the time and dates of employment and the rate of compensation) he shall provide a written authorization to allow for the providing of such references. This authorization shall be retained in the employee’s personnel file.

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If any provision of these personnel policies is invalid, the validity of the remaining provisions of these personnel policies shall not be affected thereby. If the application of these personnel policies or any of its provisions to any person or circumstance is held invalid, the application of these personnel policies and its provisions to other persons or circumstances shall not be affected thereby. If any provision of these personnel policies is held invalid by reason of any conflict with federal or state law, the provisions of the applicable federal or state law shall automatically become incorporated within these personnel policy(ies) in place of the invalid provision(s).

Effective Date

This Policy shall be fully effective with regard to any of its changes from the previous Policy on the date it is signed. Employees will not lose accrued benefits if they have already been earned as of the effective date. Employees who have achieved current benefits through prior actions by the Select Board shall not be affected but each such special situation shall be reduced to a writing, which shall be placed in each employee Personnel File. **PERSONNEL POLICY**

ACKNOWLEDGMENT - Please sign and date acknowledgement and return to the Human Resources contact person.

This is to acknowledge that I have reviewed and understand the Town of Berwick Personnel Policy adopted October 5, 1999, amended January 1, 2024, including appendix. I document this understanding by signing below:

Print Name

Signature

Date



APPENDIX: SUBSTANCE ABUSE TESTING PROCEDURE

The Town of Berwick is committed to a drug and alcohol-free workplace. In order to ensure the safety of its employees and the general public, as well as be in compliance with Federal Regulations, the Town has adopted this policy. The specific regulation which mandates alcohol and substance testing is Title 49 of the Code of Federal Regulations (CFR), Parts 382 and other pertinent pages of federal law.

The Town Manager or designee has been designated by the Town of Berwick Select Board as the Designated Employer Representative (DER). In this function, the Town Manager or designee will be responsible to answer any questions from drivers, employees, or the public in general. The DER will handle all information on all tests as confidential. The DER may provide such information as necessary to enable the appropriate supervisor to take proper actions as warranted. The DER may also release test information to the Town's Substance Abuse Professional to use to evaluate and recommend appropriate follow-up.

Program Objectives

1. To provide employees with access to confidential counseling and/or rehabilitation programs and to detect illegal and unauthorized substance abuse and contraband in the workplace.
2. To reduce the opportunities for accidents and injuries and prevent damage to property.
3. To maintain and improve productivity, ensure quality, and to minimize employee absenteeism and tardiness.
4. To maintain the highest levels of service to the public and our environment, thereby enhancing public health, safety, and welfare.

Scope of the Program

This policy will apply to all regular full-time, part-time, and temporary employees who are required to hold a Commercial Driver's License (CDL) for their position. Compliance with this policy will also be required of successful job applicants who will be hired contingent on passing both drug and alcohol tests. In addition, all non-CDL employees will be required to be tested based on reasonable suspicion and return to work. See below:

Substances Tested

The following substances will be tested to determine their presence:

1. Alcohol
2. Marijuana
3. Cocaine
4. Amphetamines
5. Phencyclidine (PCP) and
6. Opiates

Compliance with Regulations

All CDL employees subject to alcohol and drug testing must be in compliance with this policy at all times while working for the Town. This will include all time spent operating commercial vehicles, as well as time spent maintaining or repairing these vehicles.

Prescription Drug Use

Employees covered by this policy may use prescription drugs and "over the counter" medications provided:

1. The prescription drugs or their generic equivalent have been prescribed to the employee within the past 12 months by an authorized medical practitioner.
2. Employees do not consume prescribed drugs more often than as prescribed by the employee's physician, and do not allow any other person to consume the prescribed drug.
3. Any employee who has been informed that the medication could cause any adverse side effects while working shall inform their supervisor prior to using these substances. The Town at all times reserves the right to have a licensed physician determine if use of a prescription drug or medication by an employee produces an adverse effect. If such a finding is made, the Town may contact the employee's doctor (with permission) to determine if other medications are available which would not seriously affect the employee's ability to work safely. If an appropriate substitute medication is not available, the Town may have to limit or suspend the employee's work activities to non-safety sensitive duties.
4. Any over the counter medications are taken according to package instructions and/or the advice of the employee's doctor. Any precautions indicated (such as the potential for a product to cause drowsiness) shall be discussed by the employee with their supervisor before performing safety sensitive duties.

Tests Required

All CDL employees who come under this policy shall be tested for alcohol and/or controlled substances under the following circumstances, and **all** employees will be tested based on reasonable suspicion (#4) and return to work (#5):

1. Pre-employment or pre-use. Alcohol and drug tests will be conducted when an offer is made to hire an employee for a CDL position. The offer for employment will be contingent on the applicant passing these tests. This includes existing employees who are applying for CDL positions.
2. Random. Testing will be conducted on a random unannounced basis. The number of annual drug tests shall equal 50% of the number of CDL required positions while the number of annual alcohol tests shall equal 25% of the CDL required positions. The Town has entered into an agreement with a Third-Party Administrator (TPA) to randomly select the CDL employees for testing and then notify the Program Administrator of the person or persons chosen. The Town retains the right to participate in a random pool with other employers or conduct the random sample using only Town CDL holders.
3. Post-accident. Employees will be alcohol and drug tested following all accidents involving a fatality. The employee will also be tested if they receive a summons for a "moving traffic violation" and must receive medical treatment away from the accident scene, or the employee receives a violation, and a vehicle must be towed regardless of responsibility.

Alcohol tests will be performed as soon as possible. If the alcohol test cannot be performed within 8 hours, the employer will abandon all attempts for alcohol testing.

4. Reasonable suspicion. All employees who exhibit to two (2) supervisors who have received supervisory drug training, signs, and symptoms of alcohol and/or drug abuse while on the job, prior to reporting to work or just after work will be required to submit to an alcohol and/or drug test. The supervisors shall document the specific facts, symptoms observations by completing a "Reasonable Suspicion Record" form. If an employee suspects a supervisor of substance abuse the employee will notify the DER, or the Town Manager of their suspicions. If an employee suspects the Town Manager of substance abuse, the employee will notify the Chair of the Select Board. The DER or Town Manager/Chair of Select Board will act in accordance with the appropriate sections of this policy. All employee reports will be kept strictly confidential. Anonymous complaints will not be investigated.
5. Return-to-work. An employee who previously tested positive must submit to an alcohol test and drug test to return to duty. The results must be negative to return to work.
6. Follow-up. An employee who previously tested positive and has returned to duty must submit to a combination of at least six (6) alcohol and drug tests during the first year after returning to work. Follow-up tests will be unannounced and may continue for up to sixty (60) months after returning to work, not to exceed twelve (12) a year. * Random alcohol testing must be conducted just before, during or just after a driver's performance of safety-sensitive duties. Random drug testing does not have to be conducted in immediate time proximity to performing safety-sensitive functions. An employee is considered to be performing a safety sensitive function when they are actually performing, ready to perform or immediately available to perform any safety sensitive function.

Testing Procedures

The Town is contracted with a TPA to do the Town's alcohol and substance abuse testing. When an employee has been randomly selected, they will be notified by their appropriate supervisor and will proceed directly to the testing area. The Town will call the collection facility to notify them that the employee is en route. All randomly selected individuals must comply with the testing.

Sampling for substance abuse shall only be conducted in a medical facility supervised by a licensed physician or nurse. Employees and job applicants for CDL positions shall not be required to provide a urine sample while being observed, directly or indirectly, by another individual. Employees shall leave any personal belongings including any unnecessary clothing, coat, jacket, or similar outer garment outside the collection area.

All specimen samples shall be collected, sealed, and stored in compliance with the National Institute on Drug Abuse (NIDA) guidelines as required by Federal Law, and transported to a licensed and certified laboratory for actual testing. Additionally, the chain of custody requirements for these samples shall be in accordance with NIDA guidelines and Federal Law in order to protect the sample from being tampered with and to verify the identity of each sample and test results. When the sample is first collected, a portion of the sample shall be segregated according to federal regulations. In the event there is a positive test with the first sample, the segregated sample may be requested by the employee for testing within seventy-two (72) hours after the employee is notified by the Medical Review Officer (MRO) of the positive test to confirm the accuracy of the results. This request should be made to the MRO. The employee shall pay the cost of testing the

segregated sample. If the employee is aware of a situation that may have led to the positive test, such as taking of prescription drug or other medicines, they should make the fact known to the MRO at the time the urine sample is provided or within the required time after notification of a positive test.

The Town shall utilize the services of an MRO to interpret any confirmed positive test. An MRO is a licensed physician who is responsible for receiving the laboratory results. The MRO has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's medical history and any other medical information. The MRO shall discuss an employee's test results with the employee prior to notifying the Town. Once the employee has been notified and the MRO is satisfied with the accuracy of the test results, the Town shall be notified.

All alcohol testing will be conducted with a Breath Testing Device (EBT), which will be administered by the same medical facility as the substance testing. Two (2) breath tests are required to determine if a person has an unacceptable 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 within fifteen (15) minutes. The employee and the individual conducting the breath test shall complete the alcohol testing form to ensure that the results are properly recorded. Any individual who conducts the testing must be trained to operate the EBT and be proficient in the breath testing procedures.

Prohibited Conduct

During the time that the Town's CDL employees are performing their work, they shall not do any of the following:

1. Report to work and/or remain on duty with an alcohol concentration of 0.02 or greater.
2. Possess any alcohol.
3. Use any alcohol.
4. Use any alcohol within four hours prior to going on duty.
5. Use any alcohol within eight (8) hours after an accident which has required the CDL employee to be tested for alcohol concentration.
6. Refuse to submit to a required alcohol and/or controlled substance test.
7. Report to or remain on duty when using any controlled substance, except when used under a physician's orders and when the physician has informed the CDL employee in writing that the use will not affect the safe operations of a commercial vehicle. In the case of a written warning by the physician, the employee shall report this to their supervisor immediately.
8. Report to or remain on duty if the employee has tested positive for controlled substances.

Failure to comply with these rules is a violation of this policy and will result in disciplinary action or referral to a certified rehabilitation program by the Town's SAP.

Refusal to Test

Failure to submit to testing will automatically be considered a verified positive test and they will have to follow the procedures outlined in this policy. Specifically, the following circumstances will be considered a refusal to test:

1. Failure to report to the designated testing area within thirty (30) minutes of being notified to submit to a required test.
2. Failure to accurately provide a sufficient sample to be tested, either breath or urine as the case may be, unless medically determined impossible to do so.

Disciplinary Action

Any employee who violates this policy may be subject to disciplinary action up to and including dismissal. Factors to be considered in determining the appropriate disciplinary response include but are not limited to the following: employee's work history, length of employment, current job performance and existence of past disciplinary actions.

Specific actions which may be subject to dismissal include, but are not limited to the following:

1. Refusal to submit to a rehabilitation/counseling program after testing positive.
2. Failure to successfully complete a rehabilitation/counseling program after receiving a positive test.
3. The employee has substituted, adulterated, diluted, or otherwise tampered *with* their urine sample.
4. While on Town premises, the employee was caught drinking alcohol or using, manufacturing, distributing, selling, or possessing any illegal or unlawfully obtained substances or drugs.
5. The use of alcohol while on Town premises. This includes a conviction for driving while intoxicated (OUI) during work hours.
6. Failure to contact the Town's approved Substance Abuse Professional (SAP) within five (5) regular working days after being notified of a confirmed (MRO certified) positive test for the use of an unauthorized substance.

Any permanent employee who tests positive the first time for either alcohol (blood alcohol concentration of .04 or greater) or substance misuse will be suspended until their "return to work" tests are negative, unless the Town, at its discretion, is temporarily able to use the employee in a non-safety sensitive capacity. During this suspension the employee will be allowed to use accrued sick vacation, or personal time. They will be offered an opportunity for rehabilitation. The employee will enter a rehabilitation/counseling program deemed most appropriate by the Town's Substance Abuse Professional. Except to the extent that costs are covered by the employee's group health plan, the costs of the public or private rehabilitation/counseling program shall be equally divided between the Town and the employee. The Town may assist the employee in meeting their share of the expenses by setting up a payroll deduction plan. The offer of rehabilitation does not apply to job applicants, temporary or probationary employees.

Employees who test positive a second time will be suspended immediately without pay and terminated after being notified of the second confirmed (MRO certified) positive test for the use of an unauthorized substance.

Employees who are found to have an alcohol concentration of 0.02 or greater, but less than 0.04, will immediately be placed on unpaid leave for a minimum of twenty-four (24) hours.

NOTE: During the period the Town is awaiting an employee's test results due to a past accident or reasonable suspicion circumstance, the employee's duties will be suspended, and the employee will be placed on paid administrative leave until the Town is advised that the substance abuse test

is negative or positive. If the employee receives a confirmed positive, the amount of time they were on paid administrative leave will be deducted from their paid sick or vacation leave.

Employee/Applicant Rights and Responsibilities

It is the responsibility of each employee to seek help before alcohol and/or drug problems lead to disciplinary action. In the event of a positive test result, employees and applicants shall have the opportunity to present an alternative explanation for the test result by contacting the Medical Review Officer (MRO). This shall be done no later than five (5) days after notification of the results. No further action will be taken if there is a justified explanation, or there is a reasonable doubt as to the accuracy of the result or chain of custody for the sample.

Any employee or job applicant with a positive test result may also, upon written request within five (5) working days, have the right to any information relating to the test results and procedures.

Any permanent employee who tests positive for a first offense, and cannot provide a satisfactory explanation, will be offered SAP referral to a certified rehabilitation program.

An employee who receives their first confirmed positive test (alcohol concentration of .04 or greater) result will be suspended or at the Town's discretion temporarily assigned to a non-safety sensitive position and will be permitted up to six (6) months in a rehabilitation program designed to enable the employee to avoid future use of a substance abuse. The employee will enter a rehabilitation program deemed most appropriate by the Town's Substance Abuse Professional.

The employee shall not have their pay and benefits reduced while participating in a rehabilitation program, provided that the employer is not required to pay for periods in which the employee is unavailable for work for purposes of rehabilitation or if they are certified by a physician to be medically unfit for duty. For these periods, the employee may use accrued vacation and sick leave.

Upon successfully completing the rehabilitation/counseling program, as determined by the rehabilitation or treatment provider in consultation with the Town, the employee is entitled to return to their previous job with full pay and benefits. The exception would be if conditions unrelated to the employee's previous test make the employee's return impossible.

Any subsequent second offense positive test will result in immediate suspension without pay and termination after being notified of a second confirmed (MRO certified) positive test for the use of an unauthorized substance.

Confidentiality of Information

Unless the employee or applicant consents, all information acquired by the Town in the testing process is confidential and may not be released to any person other than the employee or applicant who is tested, DER, or designees as well as the SAP or Rehabilitation Provider. The foregoing shall not prevent the release of information that is required or permitted by State or Federal Law, or the use of information in any grievance procedure, administrative hearing or civil action relating to the imposition of the test or the use of the test results.

Any employee who wishes to seek personal and confidential advice on alcohol and/or controlled substances should contact a supervisor.