

# TOWN OF FAIRFAX

## PERSONNEL POLICY



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# **PERSONNEL POLICY TOWN OF FAIRFAX, VERMONT**

## **Section 1: TITLE AND AUTHORITY**

This policy shall be known as the Town of Fairfax personnel policy. It has been adopted by the Town of Fairfax Selectboard pursuant to 24 V.S.A. §§ 1121 and 1122.

This personnel policy does not constitute a contract of employment. Employment with the Town of Fairfax is at-will and not for any definite period or succession of periods of time. The Town or the employee may terminate employment at any time, with or without notice. The Selectboard reserves the right to amend any of the provisions of this personnel policy for any reason and at any time, with or without notice.

This personnel policy will be administered by the Town Manager or their authorized representative.

## **Section 2: PERSONS COVERED**

This personnel policy applies to full-time and part-time employees of the Town of Fairfax including seasonal employees, paid-on-call staff such as firefighters, the Town Clerk and their assistants, and the Town Treasurer and their assistants. Except by separate written agreement, elected officers, members of Town boards and commissions, volunteers, and persons who provide the Town with services on a contract basis are not covered by this policy.

For purposes of this policy, a full-time employee is an employee who works at least 30 hours per week on a regular and continuing basis. A part-time employee is an employee who works fewer than 30 hours per week on a regular and continuing basis.

Where a conflict exists between this policy and any collective bargaining agreement or individual employment contract, the latter will control.

## **Section 3: EQUAL EMPLOYMENT OPPORTUNITY**

The policy of the Town of Fairfax is to provide equal opportunity to all employees and applicants without regard to race, color, religion, ancestry, sex, sexual orientation, gender identity, age, national origin, place of birth, marital status, disability, veteran's status, HIV status, pregnancy, genetic information, crime victim status, or any other category of person protected under state or federal law.

## **Section 4: PROBATIONARY PERIOD**

All new employees will be required to complete a six-month probationary period. The purpose of this probationary period is to determine whether the employee is suited for the job. During the probationary period, an employee may be terminated at any time at the sole discretion of the Town

Manager. Notwithstanding any other provision of this policy, an employee terminated during the probationary period will have no right to appeal such termination.

### **Section 5: CONDUCT OF EMPLOYEES**

All employees are considered representatives of the Town and as such are expected to conduct themselves in a courteous, helpful, and respectful manner in all their interactions with the public, other employees, and elected and appointed officials. All employees are expected to faithfully execute the duties and responsibilities of their office to the best of their ability and in compliance with the provisions of this personnel policy.

### **Section 6: CONFLICTS OF INTEREST**

Every employee of the Town shall carry out their job in a way that ensures that neither the individual employee nor any other employee of the Town will gain a personal or financial advantage from their work for the Town and so that the public trust will be preserved. All decisions made by Town employees shall be made based on the best interest of the community at large rather than the interests of any particular individual or employee.

An employee shall not participate in any official action if the employee has a conflict of interest in the matter under consideration. A "conflict of interest" shall mean a direct or indirect personal or financial interest of the employee, their spouse, household member, child, stepchild, parent, grandparent, grandchild, sibling, aunt or uncle, brother- or sister-in-law, business associate, employer or employee, in the outcome of a cause, proceeding, application or any other matter pending before the employee or before the Town.

The Town – in recognition of the potential for a conflict of interest to occur in the workplace where a close relative is responsible for supervising or evaluating the work performance of another close relative – prohibits the hiring or transferring of relatives, when doing so will result in a close relative supervising or evaluating another close relative, or a close relative supervising or evaluating the immediate supervision of another close relative.

An employee shall not personally, or through any member of their household, business associate, employer or employee, represent, appear for, or negotiate in a private capacity on behalf of any person or organization in a cause, proceeding, application or other matter pending before the Town.

An employee shall not use resources not available to the general public, including but not limited to Town staff time, equipment, supplies, or facilities for private gain or personal purposes.

An employee may accept a nominal gift or gratuity in connection with an action associated with their official duties on behalf of the Town with an estimated monetary value not exceeding \$20 once per calendar year, with the understanding that employees may not directly or indirectly ask, demand, exact, solicit, accept or receive any gift, gratuity, act or promise beneficial to that individual, or another, which could influence any action or inaction associated with their official duties on behalf of the Town, or create the appearance of impropriety in connection with any actions or inactions associated with their official duties on behalf of the Town. Nor shall any employee authorized to procure or to recommend procurement of materials, supplies or services corruptly, directly or indirectly, ask, demand, exact, solicit, seek, accept, receive or agree to receive for the employee or another person, any benefit or benefits from the person providing or soliciting

the provision of such materials, supplies or services with the exception of items of a de minimis nature valued \$20 or less (such as vendor booth “freebies”).

Employee related problems with conflicts of interest will be investigated under Section 32 herein.

### **Section 7: HOURS OF SERVICE**

The Town Manager will work with department heads to establish work hours for employees. All employees are expected to take a 30-minute lunch break daily. Regular work hours may be changed and employees may be expected to work additional hours that may exceed forty hours in a given week, as circumstances require. All road crew employees are required to be available for work on an on-call basis, especially during the winter months. All Town employees are required to be available for work in the case of an emergency, weather-related or otherwise.

On-call staff are expected to report to work during non-regular work hours as necessary and refrain from any activities that would make them unable to perform their duties. Public Works staff are required to be on-call during the winter months. Utility and Fire Department staff may also be on-call as required in their job descriptions. Employees that have on-call requirements shall provide their supervisor with a telephone number where that can be reached and to respond to the call and travel to work within a reasonable amount of time. An employee on an approved leave of absence is not subject to being on-call.

All employees are expected to be in attendance during the hours established by the Town Manager. All employees shall submit a timesheet weekly to their supervisor prior to the close of business on the last work day of the week. Employees who will be absent from work are expected to notify their supervisor in advance whenever possible. Employees who are calling in sick are expected to notify their supervisor as soon as possible, but no later than 7 a.m.

Despite Vermont’s sometimes challenging climate, employees are expected to be at work during regular business hours or their approved working hours, regardless of the weather conditions unless the Town Manager officially closes or delays the opening of the office due to inclement weather. If there is a delay in opening the Town Offices, the delay will be noted in a call to the phone number employees have provided. Some employees may have different levels of tolerance to winter weather conditions and/or must provide care for family members impacted by weather cancellations. If an employee chooses to arrive late, to leave early, or not come to work at all due to adverse weather conditions, leave time can be used for any work hours missed. Staff with the technological ability to work from home that day may do so. Employees are to notify supervisors as early as possible if any of these conditions apply.

### **Section 8: SAFETY & HEALTH**

It is the policy of the Town to provide a safe workplace for its Employee based on guidelines established by Vermont Occupational Safety and Health Administration (VOSHA) and other available recommendations. Safety and health protection has a high priority in all of our activities. All employees are expected to fulfill the safety and health responsibilities inherent in each job as well as recognize hazards, anticipate possible exposures and risks, and then act to

eliminate or control them. All Employees must adhere to all VOSHA, federal, and state regulations and comply with the Employee Safety Guide (Appendix C).

When an employee or other person has been injured or there has been damage to Town or private property while on the job, a properly completed accident report must be submitted within twenty-four (24) hours of the accident. The employee's supervisor shall be responsible for signing and forwarding the proper completed report to the Town Manager. All employees injured on the job, however slightly, must report the incident/accident immediately to their supervisor. The supervisor must file a "First Report of Injury" form to the Town Manager by the end of the next normal workday. Employees returning to work after being absent due to a work-related injury must report to their supervisor prior to beginning work and may be required to bring a doctor's "return to work" certification, demonstrating that they can safely perform their essential job duties with or without reasonable accommodation, in order to return to work. This notice is required to list any job restrictions and their expected duration.

To help ensure a safe working environment no employee may enter into Town buildings, vehicles, or equipment with any type of weapon. This includes visible and concealed weapons. While this list is not all inclusive, weapons include firearms, knives, tasers, any explosive materials, or any other objects that could be used to harass, intimidate, or injure another individual.

### **Section 9: DRESS CODE**

The Town has established a casual business attire policy; therefore we ask that employees dress in a manner that is appropriate for the job being performed and not distracting to other employees or general public. These are the factors that employees should take into consideration when determining appropriate dress:

- The nature of their work;
- Safety considerations, such as necessary precautions when working near machinery or hazardous work areas (Employee will be required to wear proper safety equipment at all times, without exception for any reason);
- The nature of their public contact, or appearance, if any, and the normal expectations of outside parties with whom they will work;
- The prevailing dress practices of other workers in similar jobs.
- If a uniform/work wear is issued by the Town it is expected that it be worn on the job.

When employee's dress does not comply with established standards, the normal response should be to discuss the matter with the employee. If continued counseling fails to bring the desired response, the supervisor may initiate disciplinary action as provided for herein.

### **Section 10: OUTSIDE EMPLOYMENT**

The primary occupation of all full-time employees shall be with the Town. Employees may not engage in any outside business activities during their normal working hours. Employees are prohibited from undertaking outside employment that interferes with their job performance or constitutes a conflict of interest, as defined in Section 6 of this Policy.

Prior to accepting any outside employment, employees will disclose their intent to do to the Town Manager to ensure that this does not interfere with job performance or create a conflict of interest.

### **Section 11: POLITICAL ACTIVITY & SOLICITATION**

No employee may use their official authority for the purpose of interfering with or affecting the nomination or election of any candidate for public office, or demand or solicit from any individual direct or indirect participation in any political party, political organization or support of any political candidate. Employees are prohibited from using Town facilities, equipment or resources for political purposes and from pursuing political activities while working.

This personnel policy is not to be construed to prevent employees from becoming or continuing to be members of any political party or organization, from attending political party or organization meetings or events, or from expressing their views on political matters, so long as these views are clearly articulated as being those of the individual and not of the Town, and these activities do not interfere with the individual's ability to effectively perform their duties and take place or are expressed during non-working hours. Nor is this personnel policy to be construed as prohibiting, restraining or in any manner limiting an individual's right to vote with complete freedom in any election.

Solicitation for any cause during working time and in working areas is not permitted. Persons not employed by the Town are prohibited from soliciting or distributing literature in the Town working areas. The Town will allow employees to post messages inviting other employees to participate in non-work-related activities in designated non-working areas (i.e. a designated break room). All such postings must be professional and cannot contain offensive or discriminatory language or images, must be dated, and will be posted for no longer than 2 weeks at a time.

### **Section 12: ALCOHOL AND DRUG USE**

The Town intends to maintain a drug-free workplace and workforce. The use of alcohol, marijuana, or illegal drugs and the abuse of prescription drugs are not tolerated in the workplace or at work-related events.

As a Town employee, you are prohibited from working, or presenting yourself for work, while under the influence, or severe after effects, of illegal drugs, controlled substances, marijuana, and/or alcohol. This policy is designed to promote our goal of providing a safe, healthy and productive work environment. This policy covers all employees, including drivers and other employees who also are subject to drug testing programs performed in accordance with Federal Department of Transportation (DOT) requirements.

It is the policy of the Town to prohibit the manufacture, distribution, transfer, display, transportation, sale, dispensation, possession, consumption or use of illegal drugs, controlled substances, and/or alcohol by Town employees at the workplace and/or during working hours. Prohibited behavior includes manufacturing, distributing, transferring, displaying, transporting, selling, dispensing, possessing, consuming, using, or being under the influence of illegal drugs,



controlled substances, marijuana, and/or alcohol during work hours, on work premises, while engaged in work activities away from work premises, or during work-related events.

For the purposes of this policy, the term “illegal drug” includes both: (a) all state and/or federally controlled substances, including look-alike and designer drugs, and drug paraphernalia, and (b) prescription medications that have not been prescribed for current use by an authorized medical practitioner or that are being used contrary to the prescribing medical practitioner’s instructions. Controlled substances include but are not limited to the following substances: marijuana, cocaine, opiates, amphetamines, phencyclidine (PCP), barbiturates, benzodiazepine, methadone, methaqualone, and propoxyphene.

Violations of this policy may subject employees to disciplinary action, up to and including termination of employment and referral for prosecution. The Town also may provide information and recommendation to participate in an appropriate drug assistance or rehabilitation program.

Prohibited Conduct:

The following actions are prohibited in the workplace, on municipal property, while using municipal equipment, or during any time period in which you are on municipality business:

- Possessing, consuming, or using illegal or controlled substances, as defined by federal, state, and local statutes. (Controlled substances may be taken pursuant to a properly issued prescription, provided the controlled substance is taken as and in the amount prescribed and so long as the medication does not adversely affect the employee’s ability to perform the essential functions of their job).
- Distributing, transferring, displaying, transporting, selling, or possessing with the intent to distribute illegal or controlled substances.
- Possessing or using drug paraphernalia except when used for legal substances and in a legally prescribed manner.
- Being under the influence of illegal or controlled substances as demonstrated by actions and/or other evidence.
- Growing and/or manufacturing any illegal drug or controlled substance.
- Possessing or using alcohol or marijuana.
- Being under the influence of alcohol or marijuana.

The limited, responsible consumption of alcohol on or off municipality premises at a Town-sponsored business or social function is permitted, but only if it has been authorized in writing and in advance by the Selectboard. The Town expects all attendees at such a function to behave in a professional manner and in accordance with Town policies.

The Town reserves the right to search and inspect all areas of the workplace and its premises for the purposes of maintaining a safe and healthy workplace.

The illegal use of prescription drugs is also prohibited. If an employee is legally taking prescription drugs that affect the employee’s ability to safely perform any of the essential functions of their job, their supervisor or the Town Manager will determine whether or not the

employee should continue to perform their functions until concerns regarding safety can be addressed. Medical certification may be required.

Employees may be disciplined, up to and including termination, for violations of this policy.

In addition to this policy, employees who operate commercial motor vehicles (CMVs) for the Town are also subject to the provisions of the Town's CMV Drug and Alcohol Policy (see Appendix A).

### **Section 13: TOBACCO USE**

In recognition of the hazards that tobacco poses to the health of employees, and in accordance with 18 V.S.A. §§ 1421 et seq. and §§ 1741 et seq., the Town hereby prohibits employees' use of smoking and tobacco in any form, including electronic cigarettes, in all publicly-owned buildings, offices and enclosed areas, designated smoke-free areas of Town property, and in all Town vehicles. The Town encourages tobacco cessation for employees.

### **Section 14: PERFORMANCE EVALUATIONS**

Employees may be subject to job performance evaluations (see Appendix B) at such times and in such manner as the Town Manager or Town Manager's authorized representative deems reasonable but no less than once a year. The results of such evaluations will be submitted to the employee, the employee's supervisor, the Town Manager and will become a part of the employee's personnel file.

### **Section 15: PERSONNEL RECORDS**

Personnel records will be maintained for each employee of the Town. In accordance with Vermont's Public Records Law, any employee or the employee's designated representative may inspect or copy their personnel file at a mutually agreeable time during regular office hours. The Town reserves the right to have its representative present at the time its files are examined or copied.

### **Section 16: USE OF TOWN EQUIPMENT**

Except as provided in Section 17 and 18, the use of Town equipment or property for personal use is strictly prohibited. Vehicles assigned to specific employees by the Town Manager may be driven home and used for incidental stops between work and home. Employees should have no expectation of privacy regarding anything stored in or on Town-owned property or Town-owned equipment, including but not limited to desks, filing cabinets, lockers, and vehicles. Employees should expect that such areas may be searched at any time to retrieve work-related materials or to investigate violations of workplace rules.

## **Section 17: MILEAGE & TRAVEL**

Employees who use their personal vehicle for business purposes will be reimbursed at the current IRS approved amount per mile for work-related travel. Requests for reimbursement shall be submitted during the last pay period of each month. Travel expenses between an employee's home and primary work location are not reimbursable. Most reimbursed travel will originate from the primary work location, but in cases where time and distance make it advantageous to leave directly from home, the employee's reimbursement will be based on the total work-related miles from office or home whichever is closer to and from their primary work location. The Town Manager may approve the use of town vehicles for travel use based upon availability and town needs.

A request for travel must be submitted to a supervisor or the Town Manager for authorization of travel to a convention, meeting, or other official Town business that takes an employee away from their normal work. Employees are expected to use the most economical arrangements for travel. Documentation for travel, lodging costs, and conference fees is required prior to approval of any such travel. Approved requests for travel allow for the following expenses to be covered or reimbursed with receipts by the Town:

- Conference registration
- Mileage
- Tolls and/or parking fees
- Overnight accommodations
- Public transportation (air fare, cab fare and gratuity, airport shuttle, etc.)

The Town will pay in advance per diem allowances to employees on overnight or out of state travel, according to the GSA per diem rates, after deducting any meals that may be provided as part of the training. A particular travel shall be either reimbursement of reasonable expenses after return, or the per diem system, which may be requested before or after travel. Employees may not request both types of allowances for one trip.

## **Section 18: USE OF TOWN COMPUTER SYSTEM**

For purposes of this policy, "computer system" means all computers and devices and any related hardware, equipment, components, or software, including, but not limited to, host computers, file servers, workstation terminals, laptops, tablets, smartphones, internal or external communication networks, the world wide web (www), the Internet, commercial online services, bulletin board systems, backup systems, and the internal and external e-mail systems accessed via the Town's computer equipment.

All electronic communications regarding Town business should be, to the furthest extent possible, conducted via official Town computer systems. A Town employee should avoid conducting Town business using their personal computer, device, or account.

The Town computer system is to be used by employees for the purpose of conducting Town business. Occasional, brief, and appropriate personal use of the Town computer system is permitted, provided it is consistent with this policy and does not interfere with an employee's job duties and responsibilities.

Employees should have no expectation of privacy or confidentiality regarding anything created, sent or received on the Town computer system. The Town may monitor at any time its computer system without warning or any specific notice to employees including any and all computer transactions, communications and transmissions for any reason including, but not

limiting to ensuring compliance with this policy and evaluating the use of its computer system. All files, documents, data and other electronic messages created, received or stored on the Town computer system are open to review and regulation by the Town and may be subject to the provisions of Vermont's Public Records Law.

Employees may not introduce software from any outside source on the Town's computer system without explicit prior authorization from their supervisor. Employees may be held responsible for any damages caused by using unauthorized software or viruses they introduce into the Town computer system.

Employees who have a confidential password to access the Town's computer system should be aware that this does not mean the computer system is for personal confidential communication, nor does it suggest that the computer system is the property of that person.

Transmission of electronic messages on the Town computer system shall be treated with the same degree of propriety, professionalism, and confidentiality as written correspondence. The following are examples of uses of the Town computer system which are prohibited:

- Communications that in any way may be construed by others as disruptive, offensive, abusive, discriminatory, harassing, or threatening;
- Communications of sexually explicit images or messages;
- Transmission of chain letters or solicitations for personal gain, commercial or investment ventures, religious or political causes, outside organizations, or other non job-related solicitations during or after work hours;
- Access to Internet resources, including web sites and news groups, that are inappropriate in a business setting;
- Any other use that may compromise the integrity of the Town and its business in any way.

Facility security systems such as cameras installed in Town facilities may be accessed by the Department Head in charge of the facility, the Town Manager, and applicable IT staff. Additional access may be granted by the Town Manager as deemed appropriate.

Nothing in this policy will be interpreted or applied in a manner that interferes with employee rights to organize, form, join, or assist labor organizations, to bargain collectively through representatives of their choosing to the extent allowed by law, or to engage in other concerted activities for the purpose of addressing the terms and conditions of employment. Misuse of the Town Computer System can result in disciplinary action, up to and including termination.

## **Section 19: PUBLIC RECORDS**

Any written or recorded information that is produced or acquired by a Town employee in the course of Town business is a public record, subject to Vermont's Public Records Law and may be covered by the State of Vermont's retention rules and disposition schedules for municipal records. Although the Town discourages the use of personal computers, devices, or accounts to conduct Town business (see Section 16, above), the use of a personal computer, device, or account does not prevent an otherwise public record from being subject to public inspection and copying. In the uncommon event that an employee uses their personal computer, device, or

account to conduct Town business, the record created, sent, or received should be forwarded by the employee to the employee's Town computer system, or otherwise captured and retained as a Town record. All employees are required to respond in the manner prescribed by Vermont's Public Records Law regardless of where a Town public record may be stored. All employees must provide any Town public records stored in their personal computers, devices, or accounts that are responsive to a public records request.

## **Section 20: ELIGIBILITY FOR BENEFITS**

The Town offers group insurance and other benefit programs to its eligible full-time employees. Details about those benefits, as they exist on the date of hire are included in Appendix D herein.

Part-time employees who are regularly scheduled to work at least 27 hours a week will receive retirement benefits as described in the benefits attachment.

The Town reserves the right to change insurance carriers, or to add, delete or amend insurance or other benefit programs in its sole discretion. The Town also reserves the right to change the amount or percentage of its contribution to the cost of any group health insurance program. Employees will be provided with advance notice of any change in the contribution rate.

## **Section 21: HOLIDAY LEAVE**

Full- and part-time employees will receive the following paid holiday leave provided they are regularly scheduled to work that day:

- New Year's Day (January 1)
- Martin Luther King Jr.'s Birthday (3<sup>rd</sup> Monday in January)
- Juneteenth (June 19)
- Memorial Day (last Monday in May)
- Independence Day (July 4)
- Labor Day (1<sup>st</sup> Monday in September)
- Veterans' Day (November 11)
- Thanksgiving Day (4<sup>th</sup> Thursday in November)
- Christmas Eve (December 24)
- Christmas Day (December 25)
- New Year's Eve (December 31)

Employees will receive holiday leave pay for the number of hours in the employee's typical work day on which the holiday falls, at the employee's regular rate of pay. Part-time employees will receive prorated holiday leave pay based on the number of hours the employee is regularly scheduled to work. Holiday leave that is not actually worked by an employee will not be included in calculating overtime for that employee.

Holidays falling on a Saturday will be observed the preceding Friday. Holidays falling on a Sunday will be observed the following Monday.

Holidays that fall during an employee's vacation leave will not be charged as vacation leave.

## **Section 22: COMBINED TIME OFF LEAVE**

Full-time employees will receive leave pay at the employee's regular rate of pay. Leave time is based on the anniversary date of hire and benefits are as follows:

- 0-6 month employment = not eligible for leave;
- 6 months employment completed to one year anniversary = 10 days paid leave per fiscal year;
- 1+ years employment 18 days paid leave;
- 5+ years employment 23 days paid leave;
- 8+ years = 28 days leave;
- 15+ years = 33 days leave.

Leave for full-time employees not used by July 1<sup>st</sup> will expire with the exception of up to five (5) days of leave which may be carried over into the next fiscal year as banked leave. Maximum accumulated banked leave time is 15 days (120 hours) of leave. Banked leave time beyond the 15 days must be taken or forfeited at the end of the current fiscal year.

Part-time employees will receive three days of paid leave a year. The number of hours a part-time employee works on a regular work day is what they will receive for hours paid. Part-time employees also acquire one hour of leave for every 52 hours worked. Part-time employees may carry over three (3) days (24 hours) of leave into the next fiscal year. Maximum accumulated time for part-time employees is nine (9) days (72 hours). Time beyond the nine (9) days must be taken or forfeited at the end of the fiscal year.

Employees are strongly encouraged to take an annual leave. Requests for leave of more than a day should be submitted to the employee's supervisor as soon as possible. Employees who wish to take leave the same day are expected to notify their supervisor as soon as possible, but no later than 7 a.m. if they are arriving late or not coming into work.

An employee who separates from employment with the Town normally forfeits leave. However, if the employee leaves the Town in good standing and provides at least two weeks advance written notice of their separation, the Town may pay earned vacation time to the employee.

## **Section 23: BEREAVEMENT LEAVE**

Five days of paid leave in the event of death for each member of the employee's *immediate* family. Immediate family members include the following: parents, parents-in-law, grandparents, siblings, employee's children, step children and spouse/partner. The Town may require supportive documentation from the employee. Paid bereavement leave does not accrue and thus, when not used, is not carried forward into the next year nor compensated upon separation from employment.

## **Section 24: FAMILY AND MEDICAL LEAVE**

The Town reserves the right to designate any qualifying leave of absence granted under this policy as leave under FMLA or the VPFLA. A request for leave must be made to the employee's

supervisor. Where an employee's leave request is covered by the VPFLA and the FMLA, the Town will adhere to the law that provides the most benefits to the employee. If an employee is entitled to leave under both the VPFLA and FMLA, the leave periods will run concurrently.

For the purposes of determining the twelve-month period in which an employee may be entitled to VPFLA and/or FMLA leave, the Town will use a rolling twelve-month period measured backward from the date an employee uses such leave.

In accordance with 21 V.S.A. § 472a, eligible employees may be entitled to take unpaid leave not to exceed four hours in any thirty-day period and not to exceed twenty-four hours in any twelve-month period for the following purposes:

- To participate in preschool or school activities directly related to the academic educational advancement of the employee's child, stepchild, foster child, or ward who lives with the employee, such as a parent-teacher conference;
- To attend or accompany the employee's child, stepchild, foster child, or ward who lives with the employee or the employee's parent, spouse or parent-in-law to routine medical or dental appointments;
- To accompany the employee's parent, spouse or parent-in-law to other appointments for professional services related to their care and well-being; or
- To respond to a medical emergency of the employee's child, stepchild, foster child, or ward who lives with the employee or the employee's parent, spouse or parent-in-law.

Employee shall provide the Town with the earliest possible notice of the intent to take family and medical leave, but in no case later than five (5) days before leave is to be taken, except in the case of an emergency where the required five (5) day notice could have a significant adverse impact on the family member of the employee.

### **Section 25: CRIME VICTIM LEAVE**

In accordance with 21 V.S.A. § 472c, eligible employees who are crime victims may be entitled to take unpaid leave for the following purpose of attending a deposition or court proceeding related to:

- a criminal proceeding when the employee has a legal right or obligation to appear at the proceeding;
- a relief from abuse, neglect, or exploitation hearing when the employee is the plaintiff
- hearings concerning an order against stalking or sexual assault, when the employee seeks the order as plaintiff.

A "crime victim" is a person who has:

- obtained a relief from abuse order against a family or household member;
- obtained a court order against stalking or sexual assault;
- obtained a court order against abuse of a vulnerable adult; or
- sustained physical, emotional or financial injury as the direct result of the commission or attempted commission of a crime or act of delinquency and is identified as a crime victim in an affidavit filed by law enforcement official with a prosecuting attorney. This also includes the victim's child, foster child, parent, spouse, stepchild or ward of the victim

who lives with the victim, or a parent of the victim's spouse, provided that the individual is not identified in the affidavit as the defendant.

At the option of the employee paid leave may be used.

### **Section 26: LEAVE OF ABSENCE WITHOUT PAY**

A request to take unpaid leave from employment for the purpose of attending town meeting, must be made at least five (5) days prior to the date of the town meeting. Such leave will be granted provided that it does not cause an interruption of the essential operation of town government.

Other requests for leaves of absence without pay for any reason other than those covered by federal or state law must be submitted in writing to the employee's supervisor and must set forth the purpose for which the leave is requested. All leave requests must be for a definite period of time and include a specified date of return.

If a leave of absence without pay is granted, the employee may, at the Town's sole discretion, continue the employee's group health plan coverage by paying the required premium in accordance with the payment schedule established by the Town. Other employee benefits such as leave time will not accrue during an unpaid leave period that exceeds 30 days.

### **Section 27: MILITARY LEAVE**

The Town will comply with the requirements of the Uniformed Services Employment and Reemployment Rights Act (USERRA), 38 U.S.C. §§ 4303 et seq., and 21 V.S.A. §§ 491 et seq. Employees who take military leave subject to the provisions of these laws will be granted leave without pay. At the option of the employee, any paid leave accrued prior to the commencement of the leave may be used.

### **Section 28: JURY LEAVE**

The Town will compensate employees at their regular hourly rate (annually for up to 10 days) for their service as jurors or witnesses whether related or unrelated to their status as a Town employee. For extended service, compensation will be determined on a case-by-case basis in consultation with the Town Manager. In accordance with 21 V.S.A. § 499, employees will otherwise be considered in the service of the Town for purposes of determining seniority, benefits, credit towards vacations, sick leave, and other rights, privileges, and benefits of employment.

### **Section 29: OVERTIME, ONCALL, & COMPENSATORY TIME**

In accordance with the federal Fair Labor Standards Act, the Town compensates nonexempt employees at the rate of one and one-half hours for each hour actually worked in excess of forty hours in any workweek. Holidays (excepting holidays from November 1<sup>st</sup> to March 1<sup>st</sup>), sick time, and vacation days do not count as hours worked for purposes of calculating overtime



eligibility. To understand if a position is exempt or nonexempt, please review the job description for the position.

In place of overtime pay, the Town in its discretion may provide nonexempt employees with compensatory time off (“comp time”) subject to the following conditions:

- Comp time is earned at a rate of one and one half hours for each hour worked in excess of forty hours actually worked in any workweek.
- An employee may accrue a maximum of 240 hours of comp time. An employee who has accrued 240 hours of comp time will be paid overtime compensation for additional overtime hours of work.

An employee who has accrued comp time and requests use of comp time will be permitted to use such time off within a reasonable period after making the request, if such use does not unduly disrupt the Town’s operations. Requests for use of comp time must be submitted to the employee’s supervisor, who will have sole discretion to grant or deny the request. Requests for use of comp time will not unreasonably be withheld. Comp time must be used by July 1<sup>st</sup> each year or request payment for unused comp time. An employee receiving payment for accrued comp time will be paid at the regular rate of pay earned by the employee at the time the employee receives such payment. Any comp time not used or converted for pay by July 1<sup>st</sup> each year will be forfeited.

DPW Crew and the Crew Leader will receive oncall pay between December 1<sup>st</sup> and April 1<sup>st</sup> each year as they are required to be on call for service during this time. Oncall pay will be a weekly flat rate paid in addition to regular or overtime pay. Oncall compensation will be reviewed and set each year on July 1<sup>st</sup>.

### **Section 30: EMPLOYMENT HARASSMENT AND DISCRIMINATION**

The Town is committed in all areas to providing a work environment that is free from unlawful harassment and discrimination. Vermont and federal law prohibit employment discrimination or retaliation based on race, color, religion, sex, gender identity, marital status, national origin, age, pregnancy, genetic information, crime victim or veteran status, any other category of person protected under federal or state law, or against a qualified individual with a disability with respect to all employment practices. Vermont law also prohibits discrimination based on sexual orientation, ancestry, HIV status, and place of birth. It is also unlawful to retaliate against employees or applicants who have alleged employment discrimination.

Examples of harassment include the following: insulting comments or references based on a person's race, color, religion, sex, gender identity, marital status, national origin, age, pregnancy, genetic information, crime victim or veteran status, disability, sexual orientation, ancestry, HIV status, place of birth; aggressive bullying behaviors; inappropriate physical contact or gestures, physical assaults or contact that substantially interferes with an individual’s work performance or creates an intimidating, hostile or offensive working environment; retaliation against an employee for complaining about the behaviors described above or for participating in an investigation of a complaint of harassment.

Petty slights, annoyances, and isolated incidents (unless serious) will not rise to the level of illegality. To be unlawful, the conduct must create a work environment that would be intimidating, hostile, or offensive to reasonable people.

The Town will not tolerate unlawful harassment based on a person's race, color, religion, sex, gender identity, marital status, national origin, age, pregnancy, genetic information, crime victim or veteran status, disability, sexual orientation, ancestry, HIV status, place of birth, or membership in a classification protected by law. Likewise, the Town will not tolerate retaliation against an employee for filing a complaint of harassment or for cooperating in an investigation of harassment.

All employees, including supervisors and other management personnel, are expected and required to abide by this policy. Employees who are found to have engaged in harassment may face disciplinary action up to and including termination. Any individual who believes that they have been the target of this type of harassment, or who believes they have been subjected to retaliation for having brought or supported a complaint of harassment, is encouraged to directly inform the offending person or persons that such conduct is offensive and must stop.

Any employee who wishes to report harassment should file a complaint with:

- Sarah Hadd, Town Manager at [townmanager@fairfax-vt.gov](mailto:townmanager@fairfax-vt.gov) or 802-849-6111 ext. 16 or
- Dean Haller, HR Consultant, at [hallerdean@gmail.com](mailto:hallerdean@gmail.com) or 802-343-0913 or PO Box 1, North Hero, VT 05454

A prompt, thorough and impartial investigation will be conducted and confidentiality will be protected to the extent possible. If it is determined that unlawful harassment has occurred, the Town will take immediate and appropriate corrective action. No person will be adversely affected in employment with the Town as a result of bringing a complaint of unlawful harassment.

Complaints of harassment or retaliation may also be filed with the following agencies:

Civil Rights Unit  
Vermont Attorney General's Office  
109 State Street  
Montpelier, VT 05609-1001  
Tel: (802) 828-3657 (voice)  
(888) 745-9195 (Toll Free VT)  
(802) 828-3665 (TTY)  
Fax: (802) 828-2154  
Email: [ago.civilrights@vermont.gov](mailto:ago.civilrights@vermont.gov)  
Online: <http://ago.vermont.gov/about-the-attorney-generals-office/divisions/civil-rights/>

Equal Employment Opportunity Commission  
JFK Federal Building  
475 Government Center  
Boston, MA 02203

Tel: 1 (800) 669-4000 (voice)  
1 (800) 669-6820 (TTY)  
1 (844) 234-5122 (ASL Video)  
Fax: 617-565-3196  
Email: [info@eeoc.gov](mailto:info@eeoc.gov)  
Online: [www.eeoc.gov](http://www.eeoc.gov)

These agencies may conduct impartial investigations, facilitate conciliation, and, if they find that there is probable cause or reasonable grounds to believe unlawful harassment occurred, they may take a case to court.

### **Section 31: SEXUAL HARASSMENT**

Sexual harassment in the workplace is illegal under federal and Vermont law and is strictly prohibited. The Town is committed to providing a workplace free from this unlawful conduct. All employees have the right to work without being subjected to insulting, degrading or exploitative treatment on the basis of their gender. It is against the policies of the Town for any individual, male or female, to sexually harass another individual in the workplace. In accordance with 21 V.S.A. § 495h, the Town has adopted the following sexual harassment policy. All employees are required to read this policy before signing the employee acknowledgement form.

Sexual harassment is a form of sex discrimination and means unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when:

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

Examples of sexual harassment include, but are not limited to, the following when such instances or behavior come within one of the above definitions:

- either explicitly or implicitly conditioning any term of employment (e.g., continued employment, wages, evaluation, advancement, assigned duties or shifts) on the provision of sexual favors;
- touching or grabbing a sexual part of an individual's body;
- touching or grabbing any part of an individual's body after that party has indicated, or it is known, that such physical contact was unwelcome;
- continuing to ask an individual to socialize on or off-duty when that person has indicated they are not interested;
- displaying or transmitting sexually suggestive pictures, objects, cartoons or posters if it is known or should be known that the behavior is unwelcome;
- continuing to write sexually suggestive notes or letters if it is known or should be known that the person does not welcome such behavior;
- referring to or calling a person a sexualized name if it is known or should be known that the person does not welcome such behavior;

- regularly telling sexual jokes or using sexually vulgar or explicit language in the presence of a person if it is known or should be known that the person does not welcome such behavior;
- retaliation of any kind for having filed or supported a complaint of sexual harassment (e.g., ostracizing the person, pressuring the person to drop or not support the complaint, adversely altering that person's duties or work environment, etc.);
- derogatory or provoking remarks about or relating to an employee's sex;
- harassing acts or behavior directed against a person on the basis of their sex;
- off-duty conduct which falls within the above definition and affects the work environment.

It is also unlawful to retaliate against employees for filing a complaint of sexual harassment or for cooperating in an investigation of sexual harassment.

Any individual who believes that they have been the target of sexual harassment, or who believes they have been subjected to retaliation for having brought or supported a complaint of harassment, is encouraged to directly inform the offending person or persons that such conduct is offensive and must stop.

Employees who are found to have engaged in sexual harassment may face disciplinary action up to and including termination.

Any employee who wishes to report sexual harassment should file a complaint with:

- Sarah Hadd, Town Manager at [townmanager@fairfax-vt.gov](mailto:townmanager@fairfax-vt.gov) or 802-849-6111 ext. 16 or
- Dean Haller, HR Consultant, at [hallerdean@gmail.com](mailto:hallerdean@gmail.com) or 802-343-0913 or PO Box 1, North Hero, VT 05454

A prompt, thorough and impartial investigation will be conducted and confidentiality will be protected to the extent possible. If it is determined that unlawful harassment has occurred, the Town will take immediate and appropriate corrective action. No person will be adversely affected in employment with the Town as a result of bringing a complaint of unlawful harassment.

Complaints of sexual harassment or retaliation may also be filed with the following agencies:

Civil Rights Unit  
 Vermont Attorney General's Office  
 109 State Street  
 Montpelier, VT 05609-1001  
 Tel: (802) 828-3657 (voice)  
 (888) 745-9195 (Toll Free VT)  
 (802) 828-3665 (TTY)  
 Fax: (802) 828-2154  
 Email: [ago.civilrights@vermont.gov](mailto:ago.civilrights@vermont.gov)  
 Online: <http://ago.vermont.gov/about-the-attorney-generals-office/divisions/civil-rights/>

Equal Employment Opportunity Commission

JFK Federal Building  
475 Government Center  
Boston, MA 02203  
Tel: 1 (800) 669-4000 (voice)  
1 (800) 669-6820 (TTY)  
1 (844) 234-5122 (ASL Video)  
Fax: 617-565-3196  
Email: [info@eeoc.gov](mailto:info@eeoc.gov)  
Online: [www.eeoc.gov](http://www.eeoc.gov)

These agencies may conduct impartial investigations, facilitate conciliation, and, if they find that there is probable cause or reasonable grounds to believe sexual harassment occurred, they may take a case to court.

### **Section 32: EMPLOYEE DISCIPLINE**

The Town of Fairfax has adopted a progressive discipline process to identify and address employee and employment-related problems. The Town's progressive discipline process applies to any and all employee conduct that the Town in its sole discretion, determines must be addressed by discipline.

Under the Town's progressive discipline process, an employee may be subject to disciplinary action, up to and including termination, for violation of the provisions of this personnel policy and/or failure to maintain an acceptable level of performance. The Town may take prior disciplinary action into consideration when disciplining or terminating an employee. Violations of different rules may be treated as repeated violations of the same rule for purposes of progressive discipline.

Most often, employee conduct that warrants discipline results from unacceptable behavior, poor performance, or violation of the Town's policies, practices, or procedures. However, discipline may be issued for conduct that falls outside of those identified areas. The Town also reserves the right to impose discipline for off-duty conduct that adversely impacts the legitimate interests of the Town. The Town reserves the right in its sole discretion to bypass progressive discipline and to take whatever action it deems necessary to address the issue at hand. This means that more or less severe discipline, up to and including termination, may be imposed in a given situation at the Town's sole discretion.

The Town also retains the right to unilaterally eliminate positions or reduce the work hours of a position or positions due to economic conditions, shortage of work, organizational efficiency, changes in departmental functions, and/or reorganization or reclassification of positions resulting in the elimination of a position or for other related reasons.

The Town will normally adhere to the following progressive disciplinary process, but reserves the right to bypass any or all steps of progressive discipline when it determines, in its sole discretion, that deviation from the process is warranted: (1) verbal warning; (2) written warning; (3) suspension (with or without pay); and (4) termination.

Employees are prohibited from engaging in conduct listed below and may receive discipline, up to and including termination, for doing so. This list has been established to provide examples of behavior that could warrant a range of disciplinary sanctions. Appropriate levels of discipline may be based on the severity of employee conduct. This list is not exhaustive.

- Engaging in any illegal activity.
- Refusing to do assigned work or failing to carry out the reasonable assignments of a supervisor or the Town Manager.
- Being inattentive to duty.
- Falsifying a time card or other record or giving false information to anyone whose duty is to make such record.
- Being repeatedly or continuously absent or late, being absent without notice or satisfactory reason or leaving one's work assignment without appropriate authorization.
- Conducting oneself in any manner that is offensive, abusive or contrary to reasonable community standards and expectations of public employees.
- Engaging in any form of harassment including sexual harassment.
- Misusing, misappropriating, or willfully neglecting Town property, funds, materials, equipment or supplies.
- Unlawfully distributing, selling, possessing, using or being under the influence of alcohol or drugs when on the job or subject to duty.
- Fighting, engaging in horseplay or acting in any manner which endangers the safety of oneself or others. This includes acts of violence as well as threats of violence.
- Stealing or possessing without authority any equipment, tools, materials or other property of the Town or attempting to remove them from the premises without approval or permission from the appropriate authority.
- Marking or defacing walls, fixtures, equipment, tools, materials or other Town property, or willfully damaging or destroying property in any way.
- Failure to search for or disclose public records upon request.
- Willful violation of Town rules or policies.

### **Section 33: EMPLOYEE TERMINATION PROCESS**

The Town of Fairfax has adopted an employment termination process. Most often, employee conduct that warrants termination results from unacceptable behavior, poor performance, or violation of the Town's policies, practices, or procedures. However, termination may result from conduct that falls outside of those identified areas. The Town need not utilize this termination process but may take whatever action it deems necessary to address the issue at hand.

The Town also retains the right to unilaterally eliminate a position and thus terminate employment or reduce the work hours for some or all employees due to economic conditions, shortage of work, organizational efficiency, changes in departmental functions, and/or reorganization or reclassification of positions resulting in the elimination of a position or for other related reasons. In such case, this termination process does not apply.

Probationary employees are not subject to the Town's termination process. Notwithstanding any other provision of this policy, an employee terminated during the probationary period will have no right to appeal such termination.

An employee being considered for termination will be provided with written notice. The notice will contain a brief statement of the reasons termination is being considered and the date, time and place of a pre-termination meeting with the employee's supervisor.

At the pre-termination meeting, the employee will be afforded an opportunity to present the employee's response to the reasons for termination. If the employee declines to attend the pre-termination meeting, the employee may submit a written response to the pre-termination notice not later than the scheduled date of the meeting.

Within seven calendar days of the date of the meeting, the supervisor will provide the employee with a written notice informing the employee whether they have been terminated. If the employee has been terminated, the notice will provide the general reasons therefore and will also inform the employee of the opportunity to request a post-termination hearing before the Selectboard by giving written notice of such request to the supervisor within seven days. The employee will be informed that the employee's failure to make a timely request for a post-termination hearing will result in such hearing being waived.

If a request for a post-termination hearing is made, the selectboard will provide the employee with a notice informing the employee of the date, time, and place of the post-termination hearing before the selectboard. The notice will inform the employee of their right to be represented by counsel, to present and cross-examine witnesses and to offer supporting documents and evidence.

At the post-termination hearing, the employee will be afforded the opportunity to address the basis for termination by hearing and examining the evidence presented against the employee, cross-examining witnesses and presenting evidence on the employee's behalf. The Selectboard will make such determinations as may be necessary in the event of evidentiary objections or disputes. When the hearing is adjourned, the Selectboard, under the authority granted by 1 V.S.A. § 312(e), will consider the evidence presented in the hearing in deliberative session.

The Selectboard will render a written decision within fourteen days after close of the hearing, unless otherwise agreed upon by the parties.

### **Section 34: SEVERABILITY**

If any provision of this personnel policy or the application hereof to any person or a circumstance(s) is held invalid, this invalidity does not affect other provisions or applications of the personnel rules which can be given effect without the invalid provision or application. For this purpose, this personnel policy is severable.

ADOPTED this <sup>19</sup>5<sup>th</sup> day of February, 2024.

**SIGNATURES of SELECTBOARD:**

Bryce Merrill  
\_\_\_\_\_  
\_\_\_\_\_  
Duan Leary  
Stephen Borsato 2/19/24  
\_\_\_\_\_  
\_\_\_\_\_



## **APPENDIX A: Drug & Alcohol Policy for CMV Operators**

### **Introduction**

This policy applies to employees and prospective employees of the Town of Fairfax, VT who operate commercial motor vehicles (CMVs) or who will operate CMVs if they are hired, transferred or promoted. Employees and prospective employees are not subject to this policy by virtue of holding a CDL unless their job duties may require them to operate a CMV.

The policy was developed based on the requirements articulated by the U.S. Department of Transportation (DOT) in Title 49, of the Code of Federal Regulations (CFR).

This personnel policy does not constitute a contract of employment. Employment with Town of Fairfax, VT is at will and not for any definite period or succession of periods of time. The Town or the employee may terminate employment at any time, with or without notice. The selectboard reserves the right to amend any of the provisions of this personnel policy for any reason and at any time, with or without notice.

### **Section 1: Applicability**

This policy applies to all Town of Fairfax, VT employees and prospective employees who operate commercial motor vehicles (CMVs) while engaged in any municipal business. This policy supersedes any provisions in the town's personnel policy regarding the consequences of the possession or use of drugs and alcohol as they pertain to CMV operators.

For purposes of this policy, *Commercial motor vehicle or CMV* means a motor vehicle or combination of motor vehicles as follows:

- Any single vehicle with a gross vehicle weight rating (GVWR) of 26,001 pounds or more.
- A combination vehicle with a gross combination weight rating (GCWR) of 26,001 or more pounds, provided the GVWR of the vehicle(s) being towed is in excess of 10,000 pounds.
- A vehicle designed to transport 16 or more passengers (including the driver).
- Any size vehicle which requires hazardous material placards or is carrying material listed as a select agent or toxin in 42 CFR part 73.

Individuals operating the above vehicles must have a valid commercial driver's license (CDL). Note that emergency vehicles (e.g. fire apparatus are not CMVs).

Each employee who is subject to this policy is required to sign an acknowledgement that they have been provided a copy of this policy. This acknowledgement will be maintained in the town's personnel files as part of the driver qualification file. Given the varied nature of municipal needs, employees who are employed to operate CMVs have the potential to serve in safety-sensitive functions during any part of their job. Therefore, employees are subject to this policy at all times while they are actively working and-during periods when they may be called into work (e.g. to respond to weather-related incidents, respond to emergency situations, etc.). Safety-sensitive functions and other terms are defined herein.

### **Section 2: Responsibility for Employee Information**

The Town Manager or designee is the individual who can provide employees with information regarding this Drug & Alcohol Policy and answer related questions on the pertinent issues. Employees may also obtain information about applicable Federal regulations from 49 CFR.

### **Section 3: Prohibited Conduct**

Conduct listed in this section is prohibited.

- Having a verified positive, adulterated or substituted drug test result.
- Performing safety-sensitive functions after notification of a verified positive, substituted or adulterated drug test result or an EBT alcohol test result indicating a measured alcohol concentration of 0.02% or greater, regardless of when the drug or alcohol was ingested and regardless of whether or not the driver is under the influence of alcohol or using drugs, as defined in federal, state or local law.
- Reporting for duty or remaining on duty any time there is a quantifiable presence of a prohibited drug in the body above the minimum thresholds defined in 49 CFR PART 40, as amended.
- Consuming alcohol while performing safety-sensitive job functions or while on-call to perform safety-sensitive job functions. An on-call employee who has consumed alcohol must acknowledge the use of alcohol at the time that they are called to report for duty.
- Consuming alcohol within four (4) hours prior to the performance of safety-sensitive job functions.
- Misusing or being impaired by authorized or prescribed use of drugs or over-the counter medications which may affect work performance or pose a danger to the safety of the driver or to others. Drivers are required to inform the employer's designated representative of any therapeutic drug use that has the potential to impact the safe operation of equipment or motor vehicles.
- In cases where prescribed medication labeling suggests that machinery operation or driving may be compromised in any way, the driver shall obtain written authorization from the prescribing physician indicating that the driver is able to safely operate a CMV while using the substance. This must be provided to the municipality prior to operation of said CMV while using the prescribed substance(s).
- Reporting to work or remaining on duty requiring the performance of safety sensitive duties while having an alcohol concentration of 0.02% or greater regardless of when the alcohol was consumed.
- Consuming alcohol for eight (8) hours following involvement in an accident or before submitting to any required post-accident drug/alcohol testing, whichever occurs first.
- Engaging in the unlawful manufacture, distribution, dispensing, possession, or use of prohibited substances in the work place including municipal premises, vehicles, while in uniform or while on municipal business.
- Refusal to submit to alcohol or drug testing, as defined in Section 4, below.

### **Section 4: "Testing Refusal" Defined**

Under federal law, a test refusal is considered as a positive test and has the same consequences. An employee or prospective employee is considered to have refused a test when they do any of the following:

- Fails to appear for any test within a reasonable time, as determined by the employer or testing pool administrator, after being directed to do so by the employer;
- Fails to remain at the testing site until the testing process is complete;
- Fails to provide a urine specimen for any drug test required by Part 40 or DOT agency regulations;
- In the case of an observed collection in a drug test, fails to permit the observation or

- monitoring of the collection of a specimen;
- Fails to provide a sufficient amount of urine when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure;
- Fails to provide an adequate amount of saliva or breath for any alcohol test required, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure;
- Fails or declines to take a second test that the employer or collector has directed the employee to take;
- Fails to undergo a medical examination or evaluation, as directed by the medical review officer (MRO) as part of the verification process, or as directed by the DER as part of the "shy bladder" procedures;
- Fails to cooperate with any part of the testing process (e.g., refuses to empty pockets when so directed by the collector, behaves in a confrontational way that disrupts the collection process);
- If the MRO reports that there is verified adulterated or substituted test result.

### **Section 5: Testing**

All testing and specimen collection prescribed under this policy will be done in accordance with federal requirements. Prescribed testing includes: pre-employment, random, reasonable suspicion, post-accident, return to duty, and follow-up, if applicable. Testing shall be conducted in a manner to assure a high degree of accuracy and reliability and using techniques, equipment, and laboratory facilities which have been approved by the U.S. Department of Health and Human Service (DHHS). All testing will be conducted consistent with the procedures set forth in 49 CFR Part 40, as amended. The procedures will be performed in a private, confidential manner, and every effort will be made to protect the employee, the integrity of the drug testing procedure, and the validity of the test result.

### **Section 5a: The Drug Testing Process**

The drug testing process will screen for drugs including marijuana, cocaine, opioids, amphetamines, and phencyclidine. The use of certain over-the-counter medications and other substances may result in a positive test.

After the identity of the donor is checked using picture identification, a urine specimen will be collected using the split specimen collection procedure. Each specimen will be accompanied by a DOT Chain of Custody and Control Form and identified using a unique identification number that attributes the specimen to the correct individual. The specimen analysis will be conducted at a DHHS certified laboratory.

An initial drug screen and validity test will be conducted on the primary urine specimen. For those specimens that are not negative, a confirmatory Gas Chromatography/Mass Spectrometry (GC/MS) test will be performed. The test will be considered positive if the amounts of the drug(s) and/or its metabolites identified by the GC/MS test are above the minimum thresholds established in 49 CFR Part 40, as amended.

The test results from the DHHS certified laboratory will be reported to a Medical Review Officer (MRO). The MRO is a licensed physician with detailed knowledge of substance abuse disorders and drug testing. The MRO will review the test results to ensure the scientific validity of the test and to determine whether there is a legitimate medical explanation for a verified positive, substituted, or adulterated test result. The MRO will:

- Attempt to contact the employee to notify the employee of the non-negative laboratory result and provide the employee with an opportunity to explain the confirmed laboratory test result.
- Review any medical history and/or medical records that have been offered by the employee to determine whether there is a legitimate medical explanation for a non-negative laboratory result. If no legitimate medical explanation is found, the test will be confirmed as a verified positive or a refusal to test and reported to the Town of Fairfax, VT Designated Employer Representative (DER). If a legitimate explanation is found, the MRO will report the test result as negative to the DER and no further action will be taken. If the test is invalid without a medical explanation, a retest will be conducted under direct observation.

Any covered employee who questions the results of a required drug test performed under this policy may request that the split specimen be tested. The employee's request for a split specimen test must be made to the MRO within 72 hours of notice of the original specimen verified test result. Requests after 72 hours will only be accepted at the discretion of the MRO if the delay was due to documentable facts beyond the control of the employee.

The original collected urine specimen is split into 2 specimens (primary specimen and split specimen) prior to testing, expressly for this purpose. The split specimen test must be conducted at a second DHHS-certified laboratory with no affiliation with the laboratory that analyzed the primary specimen. The test must be conducted on the split specimen that was provided by the employee at the same time as the primary specimen. The method of collecting, storing, and testing the split specimen will be consistent with the procedures set forth in 49 CFR Part 40, as amended.

Any covered employee, who elects to have a split specimen tested, agrees to fully reimburse the municipality for all costs associated with the testing. Reimbursement may be recouped via payroll deduction, or any other mutually agreeable method(s).

- If the analysis of the split specimen fails to confirm the presence of the drug(s) detected in the primary specimen, if the split specimen is not able to be analyzed, or if the results of the split specimen are not scientifically adequate, the MRO will declare the original test to be canceled and will direct a retest of the employee under direct observation. The retest must occur as quickly after notification as possible.
- The split specimen will be stored at the initial laboratory until the analysis of the primary specimen is completed. If the primary specimen tests negative, the split specimen will be discarded. If the primary specimen tests positive, the split specimen will be retained for testing if so requested by the employee through the MRO. If the primary specimen is positive, both the primary and split specimens will be retained in frozen storage for one year.

### **Section 5b: Observed Collections**

Consistent with 49 CFR Part 40, collection under direct observation by a person of the same gender with no advance notice will occur in any of the following circumstances:

- The laboratory reports to the MRO that a specimen is invalid, and the MRO reports to the municipality that there was not an adequate medical explanation for the result;
- The MRO reports to the municipality that the original positive, adulterated, or substituted test result had to be cancelled because the test of the split specimen could not be performed;
- The test is a return-to-duty test or a follow-up test;
- The collector observes materials brought to the collection site or the employee's conduct clearly indicates an attempt to tamper with a specimen;
- The temperature of the original specimen was out of range; or
- The original specimen appeared to have been tampered with.

### **Section 5c: The Alcohol Testing Process**

Tests for breath alcohol concentration will be conducted by a trained Breath Alcohol Technician (BAT) using a National Highway Traffic Safety Administration (NHTSA)-approved Evidential Breath Testing device (EBT).

If the initial test results indicate that alcohol is present, a confirmatory test will be conducted at least fifteen minutes after the completion of the initial test and will be performed by a trained BAT using a NHTSA-approved EBT. The EBT will identify each test with a unique sequential identification number. This number, time, and unit identifier will be provided on each EBT printout. The EBT printout, along with an approved alcohol testing form, will be used to document the testing, all results, and to attribute the test to the correct employee.

The test will be performed in a private, confidential manner as required by 49 CFR Part 40, as amended. The procedure will be followed as prescribed to protect the employee, to maintain the integrity of the alcohol testing procedures and ensure the validity of the test result. An employee who has a confirmed alcohol concentration of 0.04% or higher will be considered to have a positive alcohol test and will be in violation of this policy. The consequences of a positive alcohol test are described in Section 6: Consequences of a Positive Test.

An employee undergoing alcohol testing who does not provide a sufficient amount of breath to permit a valid breath test will be directed to obtain an evaluation within 5 days, from a licensed physician who has expertise in the medical condition raised by the employee's failure to provide a sufficient specimen. The results of this evaluation will be reviewed by the MRO to determine the result of the test.

Even though an employee who has a confirmed alcohol concentration of 0.02% to 0.039% is not considered to have had a positive test, the employee shall still be removed from safety-sensitive duties for twenty-four hours.

Subsequent to the required 24-hour removal, the employee will:

- Meet with the Town Manager or designee to review the need to avoid alcohol use from any source during or proceeding work hours.

- If the employee has an alcohol test result of 0.02% to  $\leq 0.039\%$  two or more times within a six-month period, the employee will again meet with a municipal representative from the list above to review the need to avoid alcohol use. The employee will be provided with contact and related information for the EAP program (currently Invest EAP). There is no requirement that the employee access those services.

An alcohol concentration of less than 0.02% will be considered a negative test.

The municipality affirms the need to protect individual dignity, privacy, and confidentiality throughout the testing process. If at any time the integrity of the testing procedures or the validity of the test results is compromised, the test will be canceled. Minor inconsistencies or procedural flaws that do not affect the test result will not result in a cancelled test.

#### **Section 5d: Random Testing**

All municipal CDL drivers are placed in the VLCT PACIF-sponsored Drug & Alcohol Testing Consortium that is operated by the third-party administrator. These employees are subject to random, unannounced testing. There is no discretion on the part of the employer or supervisor in the selection and notification of the individuals who are to be tested. The selection of employees is made by a scientifically valid method of randomly generating an employee identifier from the pool of covered employees.

The dates for administering unannounced testing are randomly selected each quarter, with a minimum percentage of the pool's drivers selected for drug testing, alcohol testing, or both as required by Federal regulations and updated each calendar year.

Random drug tests can be conducted at any time during an employee's shift. Random alcohol tests can be performed just before, during, or just after the performance of a safety-sensitive duty. Employees are required to proceed immediately to the collection site or make themselves immediately available to collectors when they notified that they have been selected for testing.

#### **Section 5e: Reasonable Suspicion Testing**

All covered employees will be subject to a reasonable suspicion drug and/or alcohol test when there is a reasonable suspicion to believe that drug or alcohol use is occurring, has recently occurred, or that the person is under the influence of drugs or alcohol. "Reasonable suspicion" shall mean that there is objective evidence, based upon specific, contemporaneous, describable observations of the employee's appearance, behavior, speech or body odor that are consistent with possible drug use and/or alcohol misuse.

Reasonable suspicion drug test referrals will only be made by a supervisor or other designated individual with employee monitoring and assignment responsibilities who has received "reasonable suspicion training" in accordance with FMCSA regulations. The training ensures that supervisors or other designated employees with similar responsibilities have the skills and knowledge to objectively detect the signs and symptoms of drug and alcohol use in employees covered by this policy.

A reasonable suspicion alcohol test can only be conducted just before, during, or just after the performance of a safety-sensitive job function. A reasonable suspicion drug test can be performed any time the covered employee is on duty.

The Town of Fairfax, VT shall be responsible for transporting the employee who will be tested to a suitable testing site identified by ODT. Transport shall include travel to and from the location and to the individual's residence, as they should not be permitted to work when they may be under the influence of a drug or alcohol.

Supervisors should avoid placing themselves and/or others into a situation which might endanger the physical safety of those present. An employee who refuses an instruction to submit to a reasonable suspicion drug/alcohol test shall not be permitted to finish their shift and will be subject to other employment consequences. Failure to submit to a reasonable suspicion test is prohibited conduct (test refusal), the consequences of which are outlined in Section 6: Consequences of a Positive Test.

A written record of the observations that led to a reasonable suspicion drug/alcohol test shall be prepared and signed by the supervisory individual making the observation. This record shall be prepared prior to the release of the test results. This written record shall be submitted to the Town Manager.

**Section 5g: Post Accident Testing**

All covered employees will be required to undergo post-accident urine and breath testing if they are involved in an accident with a CMV that meets the criteria outlined in the following chart:

If the accident involved any of the following:	Qualifying event: Was a citation issued to the CMV driver?	Must test be performed by employer?
Human fatality	YES	<b>YES</b>
Human fatality	NO	<b>YES</b>
Bodily injury with immediate medical treatment away from the scene.	YES	<b>YES</b>
Bodily injury with immediate medical treatment away from the scene.	NO	NO
Disabling damage to any motor vehicle requiring tow away.	YES	<b>YES</b>
Disabling damage to any motor vehicle requiring tow away.	NO	NO

All post-accident drug and alcohol testing should be completed within 2 hours of the accident.

If an alcohol test required by this section is not administered within two hours following the accident, the municipality will document and maintain a record stating the reason(s) why the test was not promptly administered. If an alcohol test required by this section is not administered within eight hours following the accident, the municipality will cease attempts to administer an alcohol test and will document the conditions that led to the time delay and failure to test. If a drug test required by this section is not administered within 32 hours following the accident, the municipality will cease attempts to administer a controlled substances test and will document and maintain a record stating the reasons the test was not given within the required timeframe.

### **Section 6: Consequences of a Positive Test**

The medical review officer will report positive test results to the DER only after the verifying the test results as outlined in 49 CFR, Part 40 as amended. When the DER is notified of this positive test result, the employee will be immediately suspended from operating CMVs and other safety-sensitive duties for the municipality and will be referred to a Substance Abuse Professional (SAP) for substance abuse assessment and/or treatment.

On the day that the positive test results are received, the employee will be suspended from all duties with pay. Subsequent to that, the employee may be suspended without pay. The employee's length of suspension will run the period of time in which it takes the individual to satisfactorily complete the treatment (as confirmed by the treating SAP), and last for up to 3 months from the date the positive test result was received. After that period, if the employee has not successfully completed treatment, the employee may be terminated.

Any employee who has an initial positive test and has the split sample tested and obtains a negative result will immediately be permitted to return to their normal job duties. An employee who provides written documentation from an SAP that substance abuse treatment has been satisfactorily completed within the 3-month suspension period must fulfill all return to duty testing requirements in Section 7: Return to Duty Testing prior to performing any safety-sensitive duties. Follow-up testing will also be required as directed by the SAP.

An employee who has a second positive test after completing return to duty testing may be terminated.

### **Section 7: Return to Duty Testing**

Covered employees having a positive test will not be permitted to return to duty (to safety sensitive functions) until after a substance abuse professional has determined that the employee has successfully complied with prescribed education and/or treatment. The SAP will authorize the return to duty testing only when the employee is known to be drug and alcohol-free and there is no risk to public safety. The SAP will provide written documentation that the treatment has been completed and that the employee may undergo return to duty testing. The employee will then be allowed to take a return-to-duty test, as directed by the treating SAP.

The employee must have a negative drug test result and/or an alcohol test with an alcohol concentration of less than 0.02 before they may return to duty. For an initial positive drug test, a return to duty drug test is required and an alcohol test is allowed. For an initial positive alcohol



test, a return to duty alcohol test is required and a drug test is allowed. Return to duty testing MUST be performed under direct observation.

### **Section 8: Follow-Up Testing**

After satisfactory completion of return to duty testing, the driver is required to submit to at least 6 follow up tests during the first 12 months after resuming safety sensitive duties. Follow-up testing may be required for up to 60 months unless the substance abuse professional determines that testing is no longer warranted. The number and frequency of follow-up tests will follow the written guidance provided by the treating SAP. All follow-up tests are unannounced and may include testing for drugs and/or alcohol.

Follow-up alcohol testing will be conducted only when the driver is performing or just before performing safety sensitive functions, or just after the driver has ceased performing safety-sensitive functions. Follow-up testing MUST be performed under direct observation.

Follow-up testing is separate from and in addition to random, post-accident, reasonable suspicion, and return to duty testing.

### **Section 9: Employee Information**

Employees are encouraged to seek information regarding the effects of alcohol and controlled substances and their health, employment, and personal life. Such information is available at:

[http://www.samhsa.gov/;](http://www.samhsa.gov/)

<http://www.fmcsa.dot.gov/rules-regulations/topics/drug/drug.htm>

<http://www.investeap.org/>

<http://www.dot.gov/odapc/employee-handbook-english>

### **Section 10: Definitions**

***Accident*** means an occurrence associated with the operation of a CMV, if as a result:

- An individual dies, or
- An individual suffers a bodily injury and immediately receives medical treatment away from the scene of the accident, or,
- One or more vehicles incur disabling damage as the result of the occurrence and are transported away from the scene by a tow truck or other vehicle. For purposes of this definition, ***disabling damage*** means damage that precludes departure of any vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs. Disabling damage includes damage to vehicles that could have been operated but would have been further damaged if so operated, but does not include:
  - damage which can be remedied temporarily at the scene of the occurrence without special tools or parts, or
  - tire disablement without other damage even if no spare tire is available, or
  - damage to headlights, taillights, turn signals, horn, mirrors or windshield wipers that makes them inoperative.

***Adulterated specimen*** is a specimen that has been altered, as evidenced by test results showing either a substance that is not normally found in that type of specimen or showing an abnormal concentration of a substance that is normally found in that specimen.

**Alcohol** means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols contained in any beverage, mixture, mouthwash, candy, food, preparation or medication.

**Alcohol Concentration** is expressed in terms of grams of alcohol per 210 liters of breath as measured by an evidential breath-testing device (EBT).

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

- Has a gross combination weight rating of 11,794 or more kilograms (26,001 or more pounds) inclusive of a towed unit with a gross vehicle weight rating of more than 4,536 kilograms (10,000 pounds); or
- Has a gross vehicle weight rating of 11,794 or more kilograms (26,001 or more pounds); or
- Is designed to transport 16 or more passengers, including the driver; or
- Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations (49 CFR part 172, subpart F).

**Covered Employee** means an employee who performs a safety-sensitive function including an applicant or transferee who will be hired to perform a safety-sensitive function. Employees who operate CMVs are considered to be performing safety-sensitive functions.

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

**Negative test result** for a drug test means a verified presence of the identified drug or its metabolite below the minimum levels specified in 49 CFR Part 40, as amended. An alcohol concentration of less than 0.02% BAC is a negative test result.

**Negative Dilute** is a drug test specimen showing a creatinine level of greater than 5mg/dl and less than 20 mg/dl.

**Non-negative test result** is a test result found to be adulterated, substituted, invalid, or positive for a drug or drug metabolites. Non-negative results are considered a positive test or a refusal to test if the MRO cannot determine a legitimate medical explanation for the result or the refusal.

**Observed Collection** means the donor will provide their sample under the direct observation of either a collector or another individual of the same gender. The donor must raise their shirt, blouse, or dress/skirt, as appropriate, above the waist; and lower clothing and underpants to show the observer, by turning around, that they do not have a prosthetic device. After the observer has determined that the donor does not have a prosthetic device, the donor may return their clothing to its proper position for observed urination.

**Positive test result** for a drug test means a verified presence of the identified drug or its metabolite at or above the minimum levels specified in 49 CFR Part 40, Section 40.87 as amended. A positive alcohol test result means a confirmed alcohol concentration of 0.04% BAC or greater. Any positive test result reported to the DER by the medical review officer is verified by the MRO prior to reporting.

**Primary specimen.** In drug testing, the primary specimen is the urine specimen bottle that is opened and tested by a first laboratory to determine whether the employee has a drug or drug metabolite in their system; and for the purpose of validity testing. The primary specimen is distinguished from the split specimen, defined in this section.

**Prohibited drug** means marijuana, cocaine, opiates, amphetamines, phencyclidine, or MDMA (ecstasy) at levels above the minimum thresholds specified in 49 CFR Part 40, as amended.

**Safety-sensitive function** includes the timeframe that begins when a driver starts work or is required to be in readiness to work until the time they are relieved from work and all responsibility for performing work. Safety-sensitive functions shall include:

- All time at an employer or shipper plant, terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the employer;
- All time inspecting, servicing, or conditioning any commercial motor vehicle at any time;
- All time spent at the driving controls of a commercial motor vehicle in operation;
- All time, other than driving time, in or upon any commercial motor vehicle except time spent resting in a sleeper berth;
- All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded; and
- All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

**Shy Bladder** refers to any time a safety-sensitive employee is unable to provide a 45ml. sample of urine in a single void within a three-hour time period.

**Split specimen.** In drug testing, a part of the urine specimen that is sent to a first laboratory and retained unopened, and which is transported to a second laboratory in the event that the employee requests that it be tested following a verified positive test of the primary specimen or a verified adulterated or substituted test result.

**Substance Abuse Professional (SAP)** means a licensed physician (medical doctor or doctor of osteopathy) or licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission or by the International Certification Reciprocity Consortium/Alcohol and other Drug Abuse) with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol related disorders.

**Verified negative test** means a drug test result reviewed by a medical review officer and determined to have no evidence of prohibited drug use above the minimum cutoff levels established in DOT Rule 49 CFR Part 40 Section 40.87 as revised.

**Validity testing** is the evaluation of the specimen to determine if it is consistent with normal human urine. The purpose of validity testing is to determine whether certain adulterants or foreign substances were added to the urine, if the urine was diluted, or if the specimen was substituted.

**Section 11: Contacts & Information**

**DISA (formerly OCCUPATIONAL DRUG TESTING, LLC)**

Manchester, NH  
800-211-4469

**VLCT/PACIF**

Risk Management Services  
89 Main St. Montpelier, Vermont 05602  
802-229-9111

**INVEST EAP (SAP services)**

108 Cherry Street, Suite 203  
Burlington, Vermont 05401  
MAIN OFFICE: 888.392.0050  
FAX: 802.863-7515  
staff@investeap.org

**Employee Access to Information**

**49 CFR part 40 and 49 CFR part 382 must be available upon request to covered employees and representatives of employee organizations. 49 CFR part 40 is accessible on line at <http://www.dot.gov/ost/dapc>, by fax on demand at 1-800-225-3784 requesting document 151, by phone at 1-866-512-1800, or by writing to U.S. Department of Transportation, Office of Drug and Alcohol Policy and Compliance, 400 Seventh Street SW, Room 10403, Washington, D.C. 20590.**

**Section 12: Drug Cutoff & Testing Limits as per DOT Rule 49 CFR Part 40 Section 40.87**

Initial test analyte	Initial test cutoff <sup>1</sup>	Confirmatory test analyte	Confirmatory test cutoff concentration
Marijuana metabolites (THCA) <sup>2</sup>	50 ng/mL <sup>3</sup>	THCA	15 ng/mL.
Cocaine metabolite (Benzoylecgonine)	150 ng/mL <sup>3</sup>	Benzoylecgonine	100 ng/mL.
Codeine/ Morphine	2000 ng/mL	Codeine Morphine	2000 ng/mL. 2000 ng/mL.
Hydrocodone/ Hydromorphone	300 ng/mL	Hydrocodone Hydromorphone	100 ng/mL. 100 ng/mL.
Oxycodone/ Oxymorphone	100 ng/mL	Oxycodone Oxymorphone	100 ng/mL. 100 ng/mL.
6-Acetylmorphine	10 ng/mL	6-Acetylmorphine	10 ng/mL.
Phencyclidine	25 ng/mL	Phencyclidine	25 ng/mL.
Amphetamine/ Methamphetamine	500 ng/mL	Amphetamine Methamphetamine	250 ng/mL. 250 ng/mL.
MDMA <sup>4</sup> /MDA <sup>5</sup>	500 ng/mL	MDMA MDA	250 ng/mL. 250 ng/mL.

<sup>1</sup>For grouped analytes (i.e., two or more analytes that are in the same drug class and have the same initial test cutoff):

*Immunoassay:* The test must be calibrated with one analyte from the group identified as the target analyte. The cross-reactivity of the immunoassay to the other analyte(s) within the group must be 80 percent or greater; if not, separate immunoassays must be used for the analytes within the group.

*Alternate technology:* Either one analyte or all analytes from the group must be used for calibration, depending on the technology. At least one analyte within the group must have a concentration equal to or greater than the initial test cutoff or, alternatively, the sum of the analytes present (i.e., equal to or greater than the laboratory's validated limit of quantification) must be equal to or greater than the initial test cutoff.

<sup>2</sup>An immunoassay must be calibrated with the target analyte, Δ-9-tetrahydrocannabinol-9-carboxylic acid (THCA).

<sup>3</sup>*Alternate technology (THCA and Benzoylecgonine):* When using an alternate technology initial test for the specific target analytes of THCA and Benzoylecgonine, the laboratory must use the same cutoff for the initial and confirmatory tests (i.e., 15 ng/mL for THCA and 100ng/mL for Benzoylecgonine).

<sup>4</sup>Methylenedioxyamphetamine (MDMA).

<sup>5</sup>Methylenedioxyamphetamine (MDA).

**NOTE: These cutoff limits may be subject to periodic revision by DOT.**

[65 FR 79526, Dec. 19, 2000, as amended at 75 FR 49862, Aug. 16, 2010; 77 FR 26473, May 4, 2012; 82 FR 52244, Nov. 13, 2017]

## APPENDIX B: JOB PERFORMANCE EVALUATION

### Fairfax Annual Employee Evaluation

<b>Employee:</b>
<b>Job Title:</b>
<b>Review period start and end dates:</b>
<b>Reviewer:</b>

Schedule an employee review to coincide with their anniversary date. Notify the employee one month in advance of the review. Provide the following list of questions to the employee to provide a self-review to their supervisor at least one week prior to the review. Sit down with the employee and discuss these questions. After, the supervisor should provide their written response to the employee as a draft. Ask the employee if they would like to sit down to discuss prior to finalizing the review. Once finalized, the employee may submit a written response as well. Follow up with employees informally at least quarterly to discuss how they are progressing to their goals and any other concerns or thoughts they may have.

1. **Current responsibilities:** Review the job description and note any changes needed.
2. **Performance:** Evaluate and discuss the employee's job performance (i.e. job knowledge, productivity, work ethic, problem solving, organization, communication, and teamwork). Base your evaluation upon the position requirements, achievement of employee's goals from last year, and your assessment of the employee's accomplishments.
3. **Areas of exceeding performance.** Note any specific examples.
4. **Areas of improvement needed.** Note specific areas needing attention or improvement.
5. **Goals for year.** Create expectations and two to three goals for the employee for the upcoming review period. Give examples of how these goals can be met (i.e., training or course) and how you will support the employee to accomplish the goals.
6. **Employee comments.** Review the evaluation with the employee and provide them the ability to comment

## APPENDIX C: Employee Safety Guide

Welcome to Town of Fairfax! Our goal is to help you be as safe as possible while you are here. This guide is designed to help you understand our safety programs and safety expectations. Please feel free to ask for help when you are not sure what to do. This guide will give you information about the following topics:

- Think Safe, Work Safe principle
- Fire emergencies
- Medical emergencies
- Evacuations
- Means of egress (exits)
- Personal protective equipment (PPE) requirements
- Hazard communication and working safely with chemicals
- Machine safeguarding
- Control of hazardous energy: Lockout/Tagout
- Maintaining safe walking and working surfaces
- Material handling equipment
- Powered industrial truck operations

Please carefully read the information so you are familiar with our safety processes. Our goal is to have a workplace that is free from recognized hazards and we need your help in maintaining a safe workplace.

### Safety Contacts

**Sarah Hadd, Town Manager - (802) 849-6111 ext. 16**

**Micah Genzlinger, Town Safety Officer – (802) 849-6075**

### 1. First: Safety Awareness

**Getting to Your Work Area:** As you arrive at your work area, take a moment to prepare yourself to work safely: think safe, work safe.

**Machine Operations:** Look at the machine(s) you will be operating and look for some specific safety features. Are all machine safeguards on the machine and are they working properly? Physical safeguards should be attached to the machine. Electric eyes should be tested to make sure they stop machine functions. Two-hand trip devices at the point of operation should be tested to make sure they work properly. Supplies should be in close proximity to the point of operation so you don't have to do a lot of twisting or bending.

**Personal Protective Equipment (PPE):** Does your job require some type of PPE? If you are on the shop floor, standard PPE is safety glasses with side shields and safety shoes with steel toes. What about other types of PPE you need? Do you need to wear gloves? Face shields? If any of these types of PPE are necessary, inspect each type before you put it on to make sure it will provide the right protection throughout the job.

**Surrounding Work Area:** Ask yourself what you have to do to be safe on the job right now and throughout the day. Think about the jobs you will do and what you have to do to do those jobs safely.

## **2. Emergency Actions & Procedures**

Quick Guide

- **Emergency contact: Micah Genzlinger– (802) 582-8997**
- **Medical help is available through: Fairfax Rescue – Call 911**

**Fire Emergency:** Any employee who discovers a fire is to immediately leave the fire area and sound the alarm. This can be done by pulling a wall-mounted fire alarm. After the alarm has been sounded, notify your supervisor immediately so proper action can be taken. **DO NOT ATTEMPT TO EXTINGUISH THE FIRE.** Employees who are trained in fire response and authorized by the facility will respond. Your job is to get out of the immediate fire area.

**Minor Medical Emergency:** All injuries and illnesses must be reported to your supervisor immediately. Small, insignificant injuries, left untreated, can result in more serious or debilitating conditions. When first aid is needed, employees should report the injury to their supervisor and seek medical attention, as needed.

**Serious Medical Emergency:** Potentially life-threatening injuries or illnesses will be handled by calling for emergency medical services. Chest pains, difficulty breathing, unconsciousness, allergic reactions or severe bleeding are some examples of potentially life-threatening injuries or illnesses. Any employee who becomes aware of someone experiencing a potentially life-threatening injury or illness must immediately call 911 for help.

**Blood or Body Fluid Spills:** If there is any type of blood or body fluid spill, do not come in contact with the fluid or make any attempts to clean up those spills. Blood or body fluids may contain pathogenic microorganisms that can cause serious disease. Town of Fairfax has people who are specifically trained and have the knowledge and skill in using spill control kits to take care of a situation.

**Weather Emergency:** The biggest threat aside from winter storms (see Safe Walking Hazards Section) is the potential for a severe thunderstorm or tornado. In the event of a severe storm when a tornado warning or severe storm warning has been issued by the National Weather Service, employees should seek shelter in an interior room without a window wherever possible. During times of high heat index when a National Weather Service heat advisory has been issued, employees should refrain from strenuous activity outdoors or in unconditioned areas whenever possible.

**Emergency Eye Wash Stations:** If you work in an area where exposure to corrosive materials is possible, you should be aware of where the eyewash station is located and how to use it. Prevention is the best guard against exposure to corrosive materials and it is important to wear the proper personal protective equipment and to follow safe work procedures anytime you are working with a corrosive material.

## **3. Evacuation Guides**



When an emergency requires us to evacuate the facility, the alarm system will sound. Employees will take immediate action to leave the building and will quickly move to the designated meeting location outside the building. Again, each work area has their own meeting location and your supervisor will tell you where it is. Once outside, it is very important to check in with your supervisor so they know that everyone is out of the building and safe.

#### **4. Personal Protective Equipment**

**Chemical Protection Gloves:** Gloves used for chemical protection are not good for general tasks. Gloves must be selected based on the chemical hazard because not all chemical gloves guard against all types of chemicals.

**General work gloves,** such as leather gloves, are good for protection against cuts, slivers and blisters, but do not protect against chemicals or electrical shock. Leather gloves are good when handling pallets but not effective with oily parts.

**Cut-resistant gloves** used by machine operators are designed to improve the operator's grip when holding oily metal parts and to protect hands against metal burrs or other cut hazards. They won't provide protection against corrosive chemicals.

**Safety glasses** must have side shields that are mounted to the frame. The glasses themselves should be adjusted so they fit properly around your ears and on your nose. If they continue to slide down your face, they need adjustment.

**Foot Protection:** The Town requires steel-toed safety shoes for all Department of Public Works staff and Utility operators. There can be no open-toed or open-heel shoes worn inside the Public Works or Utility facilities. Other types of street shoes can be worn while in main walking aisles to your safety shoe storage location.

#### **5. Hazard Communication/Chemical Safety**

**Chemical Inventory:** Each Department of the Town maintains an inventory of all the materials that have physical or health hazards. This helps to ensure we have all the necessary SDS. We need your help in keeping the inventory current. Anytime a new material is brought into a Town facility, we need to make sure it is included in the chemical inventory if it has a physical or health hazard.

**Safety Data Sheets (SDS):** SDSs are the most important pieces of information we have concerning the chemicals in use in the Town. These are the documents the chemical manufacturer prepares to inform the end-users (employees) about any hazards associated with a product. There are eight sections on a SDS that provide information such as product identification, scientific information about ingredients, any hazards associated with the product, incompatibilities, potential reactions, handling and storage and what to do if the product spills.

**Labeling Requirements:** It is critically important that every container be labeled so it properly identifies the material inside. Labels must identify the product and any related hazards, such as it being corrosive, flammable or an irritant. Other information identifying PPE is useful to the end-

user. Anyone who takes material from the supply container and puts it into a secondary container must make sure the container is labeled.

## **6. Machine Safeguarding Basics**

**What should be guarded:** Any machine part, function or process that may cause injury must be guarded. A good rule of thumb to follow when determining if something should be guarded is: “If it moves and you can touch it – then guard it.”

**Machine Operations:** All machine operators should be familiar with the machine they are using, the machine safeguarding methods, emergency stop buttons and switches, and how to safely perform routine maintenance functions, such as clearing jams or making other incidental adjustments.

Prior to starting work, machine operators should inspect the machine to make sure all machine safeguards are attached and functioning properly. Machines should not be used if the machine safeguards are not in place or not functioning.

Machine operators must also consider their own personal effects when operating machinery. Long flowing hair can get caught in machine operations. Loose-fitting shirts might possibly become entangled in machine functions, and jewelry - such as bracelets and rings - can catch on machine parts or stock and lead to serious injuries.

## **7. Lockout/Tagout Overview**

**Purpose of Lockout/Tagout:** To prevent the unexpected start-up or activation of a machine or equipment during service and/or maintenance operations that might cause injury. In short – lockout/tagout “kills” all the energy going into a machine before we do any work on that machine. The purpose is to make sure no one is hurt during service or maintenance work.

**When Lockout Is Used:** During all service or maintenance where the employee must remove or bypass machine safeguards and have body parts exposed to the point of operation or another danger zone. Lockout/tagout guards against the **unexpected** energization or start-up of the equipment during all service activities. Service and maintenance activities include installing, adjusting, setting up, inspecting, modifying or servicing machines or equipment in addition to lubricating, cleaning or unjamming, and making adjustments or tool changes.

**Electrical Safe Work Zones:** When service or maintenance work is being performed on live electrical systems, the electrician will establish a work zone around the work. This work zone will be identifiable with safety cones. People should not enter into the work zone nor should they distract the people working inside the work zone.

**Steps to Initiate Lockout/Tagout:** When authorized employees need to lockout equipment, they will follow the steps below, in the order they appear, to systematically de-energize a machine or piece of equipment before doing any service or maintenance work:

1. Notify employees in the immediate area that service/maintenance work will be performed on a particular machine or equipment.
2. Identify all energy control points and necessary equipment for lockout. Refer to the

machine specific procedures.

3. Conduct an orderly shutdown of equipment.
4. Deactivate energy control device(s) from energy source(s).
5. Lockout all the energy control devices with a padlock.
6. Dissipate or restrain stored energy through blocking, bleeding and grounding.
7. Verify isolation from energy by attempting to start/operate machine. This is a very important step and should not be overlooked.
8. Return all energy controls and/or buttons to neutral/off position.

Once these steps are completed, the machine is de-energized and the authorized employee can perform the assigned service or maintenance work.

## **8. Safe Walking & Working Areas**

**Overview of Walking-Working Hazards:** Slips, trips and falls account for many workplace accidents. This is why it is important that we pay close attention to the areas where we walk and where we work to make sure we eliminate the potential for slips, trips or falls. Here is a brief list of some of the more common types of concerns seen more frequently in working areas:

- Cords lying in aisles or other walking areas
- Water or lubricants on the floor
- Material (pallets, boxes, etc.) stored in a walking area
  - Material stored on stairs
  - Poor lighting in walking or working areas
  - Icy surfaces

**Material Storage in Working Areas:** Pallets should not be stored on end because they are not stable in that position. They can easily tip over and create hazards. Four-wheeled carts should also be kept on all four wheels instead of tipped on end. Again, they can tip over and create hazards. Another consideration is boxes, and where and how they are stored. Obviously, boxes are combustible (meaning they can burn) and should not be stored near hot surfaces. It is also important not to store boxes in front of electrical panels.

**Aisles and Passageways:** Aisles and passageways at this facility are used by people and motorized vehicles. This can create some hazards if one isn't always looking out for the other all the time. When you are walking anywhere in the facility, always be mindful of where you are walking and what traffic is in the area. Get in the habit of looking into bubble mirrors when you approach an intersection so you can see when a powered industrial truck might be approaching. If you are operating a powered industrial truck, slow down at intersections and sound the horn if you approach blind areas. If powered industrial trucks are parked in your area, watch your step so you don't trip over forks that are on the ground.

**Keeping Your Area Free from Hazards:** Some of the biggest problems found in walking or working areas center on poor housekeeping issues. As you look at your work area, keep the following issues in mind:

- Sweep floors and work areas so dust and debris don't create hazards.
- Clean up spilled materials immediately.
- Don't let trash overflow in work areas.
- Don't store material in aisles or passageways.

- Pedestrians watch for truck traffic and operators watch for people.
- Stairs should never have material stored on them.
- Alert your supervisor to any icy or spots that may need snow removal or decier.

## **9. Material Handling & Storage**

**Proper Manual Lifting Techniques:** Anytime you are manually lifting anything, there are a few simple rules to follow so you can make a safe lift.

- Make sure you can properly handle the load; if the load is too heavy, too big or too awkward—get help.
- Always lift with your legs and keep your back straight; never lift with your back.
- Avoid twisting and turning your waist while lifting an object. Instead, hold the material in front of you and move your feet instead of twisting your back.

**Using Material Handling Equipment:** Various types of material handling equipment have been installed to help reduce the possibility of injuries associated with manual lifting. Operators need to be proficient with the function of each type of device and understand the uses and limitations of the equipment. When a hoist or lift assist has been incorporated into a job, employees need to use that equipment because it is there to help the employee. If there are questions about the functionality of any material handling equipment, the employee should get help from their supervisor.

**Stacking & Storing:** Never overload a shelf or racking system beyond its rated capacity. Stack material so it is always on a firm base and not leaning in such a way that the stack becomes unstable. When storing material in areas protected by sprinklers, there must be at least 18” of clear space between the top of the stored material and the bottom of the sprinkler head. This is true in all Town facilities.

**Storage Areas:** Space is always at a premium in any manufacturing location. We take steps to make sure we use our space efficiently and safely. Many storage locations are striped off to show where material should be placed. Don’t stack materials in aisles or passageways because they will become a trip hazard. Store pallets and carts flat and not on end. **Important:** Nothing can ever be stored in front of exit doors.

**Cranes & Hoists:** Only trained and competent persons can operate overhead cranes or hoists. Operators must be thoroughly familiar with all aspects of the crane or hoist, the rigging equipment, lifting methods and the load(s) being moved.

**Hoisting Chains & Ropes:** Hoisting chains and ropes must always be free of kinks or twists and must never be wrapped around a load. Loads should be attached to the load hook by slings, fixtures and other devices that have the capacity to support the load on the hook.

**Inspections & Maintenance:** All cranes and hoists must be visually inspected before use. If there are any signs of damage, the equipment cannot be used until fully evaluated by a qualified person. Detailed inspections and maintenance will be performed by qualified individuals. No maintenance work is to be performed on any crane or hoist unless authorized by the company.

## **10. Powered Industrial Trucks**

There are a variety of powered industrial trucks in use at this facility. Forklifts, mules and other motorized vehicles all fall into this category. Whenever people and vehicles share the same working space, safe work methods cannot be overstated enough.

**Qualifications:** The **first rule** of safety for powered industrial trucks is that **no one** can use **any** powered industrial truck until they have been **trained and authorized** by the company to use a particular vehicle. Powered industrial truck training provided to employees will be vehicle-specific and location-specific training. This means that for every type of powered industrial truck the employee may use, the employee will receive specific training on each specific vehicle needed to perform job responsibilities.

**Prior Training & Experience:** Employees with prior knowledge and experience in powered industrial truck operations will be tested on the specific vehicle(s) they will use to verify they have the necessary knowledge and skill. If they are competent in vehicle operations, they will be certified by the company as a qualified operator. Prior training or experience does not automatically authorize an employee as an operator; employees must be certified by the company as a qualified operator.

**General Rules:** There are some very simple rules governing the use of powered industrial trucks that all employees must follow:

- Only qualified and authorized employees can operate a powered industrial truck.
- The traveling speed throughout the facility is a **walking speed**.
- There will never be any riders on any powered industrial truck.
- Horseplay will never be tolerated.
- All vehicles must be inspected before the start of each shift.
- All accidents (property damage only or otherwise) must be reported immediately.
- Pedestrians always have the right of way.
- All installed safety equipment (such as seat belts) on powered industrial trucks must be used whenever the vehicle is operated.

## APPENDIX D: EMPLOYEE BENEFITS

**Human Resources:** The Town of Fairfax utilizes Dean Haller, a human resources consultant, to assist with benefits, providing advice or guidance on employment-related matters, policy interpretation, or just serving as a sounding board. Employees can directly request assistance from the consultant Dean Haller at 802-343-0913 or [hallerdean@gmail.com](mailto:hallerdean@gmail.com) or PO Box 1, North Hero, VT 05454.

**Health Care:** Is available to full-time, permanent employees working thirty (30) hours per week or more and their dependents. If any changes outside of a qualifying event are made during the course of the year (i.e. switching a spouse onto the policy that has maintained other insurance), the change will not take effect until the open enrollment period for the insurance carrier. The Town of Fairfax offers the Blue Cross Blue Shield Gold CDHP health insurance plan. The Town will contribute 95% of the cost of the premium for employees on BCBS Gold CDHP health insurance plan.

The Town will pay the deductible of the health care plan through a health reimbursement arrangement and will offer a buy-out to employees not electing to take the health care plan equal to the deductible of the Gold CDHP plan they would be eligible for as determined by their certificate of health insurance coverage.

Additionally, for those employees opting into the Town's health care plans, the Town also provides \$1000 per employee each calendar year in a health reimbursement arrangement for health care and wellness including but not limited to dental plans or work, vision plans, or other medical expenses not covered by the health insurance.

**Short Term Disability:** Is available to employees working thirty (30) hours per week.

**Long Term Disability:** Is available to employees working thirty (30) hours a week.

**Life Insurance:** Is available to employees working thirty (30) hours a week.

**Uniforms:** The Public Works Supervisor and Crew and Utility Department (water and sewer) are entitled to uniforms. Permanent Public Works employees are entitled annually to a pair of boots up to \$225.

**Municipal Retirement:** All employees that work on a regular basis for not less than 24 hours and for not less than 1040 hours in a year are required to participate in the Vermont Municipal Employees Retirement System (VMERS) public pension plan Group B. Municipal retirement does not apply to seasonal, temporary or special occasion employment. For more information on current employee contribution requirements, vesting, and benefits visit: <https://www.vermonttreasurer.gov/content/retirement/municipal>

**Employee Assistance Program:** The Town sponsors an Employee Assistance Program, available to employees and their family members. You may visit their website at [www.investeap.org](http://www.investeap.org) (request password from supervisor or Town Manager). The Employee

Assistance Program is a confidential counseling resource and referral service intended to help employees address any personal problem that has the potential to affect their ability to work. Personal problems may include family, work related, marital, emotional, medical, financial or legal problems.

**Cell Phones:** There are certain positions that have been designated by the Town Manager as eligible for a cell phone stipend of up to \$40 per month to ensure their ability to communicate Town business. While there are pre-existing Town-owned cell phones, these arrangements are pre-existing and no additional Town-owned cell phones will be added as of 2022. Employees with this stipend are required to ensure the Town has access to a working cell phone line that is answered when called except on leave. Under no circumstances shall an employee use a personal electronic device while engaged in any way in a hazardous activity.

**APPENDIX E: Personnel Acknowledgement**

I, \_\_\_\_\_, acknowledge that:

- A. I received a copy of the Town’s personnel policy on \_\_\_\_\_(date) and I have familiarized myself with its contents;
- B. I have had the opportunity to ask questions to ensure my understanding of the policy;
- C. I understand that the language used in this personnel policy is not intended to create, nor should it be construed to create, a contract of employment between myself and the Town;
- D. I understand that this policy replaces any and all prior versions and that the Town reserves the right to add, amend or discontinue any of the provisions of this policy for any reason or none at all, in whole or in part, at any time, with or without notice. Any changes will be conveyed to employees in a timely fashion after Selectboard adoption.

\_\_\_\_\_  
Employee’s Signature

\_\_\_\_\_  
Date